

Application for an enforceable undertaking

June 2019

Part 4, Health and Safety at Work Act 2015

The commitments in this application are offered to WorkSafe New Zealand by

Name of entity or, partnership or individual applying for this undertaking

Trevelyan's Pack and Cool Limited

Application for an enforceable undertaking

Part 4, Health and Safety at Work Act 2015

The commitments in this application are offered to WorkSafe New Zealand by

Name of the person or persons who will be signing this undertaking in section 4:

James Edward Trevelyan

On behalf of:

Trevelyan's Pack and Cool Limited

Name of the entity giving this undertaking (if an individual or sole trader, leave blank - complete in all other cases)

Trevelyan's Pack and Cool Limited

This enforceable undertaking is given on the day and date that it is accepted and signed by WorkSafe. The undertaking and its enforceable terms will operate as a legally binding commitment on the part of the person from the date it is given.

Do not refer to the victim by name in this document. Please refer to the victim/worker/employee/volunteer/or other term as appropriate.

WorkSafe respects your privacy and is committed to protecting personal information. The information provided in this document is for the purpose of an undertaking given to WorkSafe under Part 4 of the *Health and Safety at Work Act 2015*. This information will be managed within the requirements of both the *Privacy Act 1993* and the *Official Information Act 1982*.

There is an expectation that WorkSafe will generally publish the undertaking in full on its website.

TERM	DEFINITION
Contravention	An action which offends against the <i>Health and Safety at Work Act 2015</i> and/or any Regulations made under it. It includes both health and safety contraventions. A contravention also includes an alleged contravention.
HSMS	A Health and Safety Management System.
Person	An individual who or a legal entity which has a duty under the <i>Health and Safety at Work Act 2015</i> and can give a written undertaking. The term includes individuals, each partner in a partnership, corporations, trustees of trusts, and crown organisations.
Health and Safety legislation	<i>Health and Safety at Work Act 2015</i> and associated regulations.
Enforceable undertaking	An enforcement pathway that allows a duty holder to voluntarily enter into a binding agreement with WorkSafe. The agreement outlines actions the duty holder will undertake to address the contravention. It is expected to deliver activities which benefit workers, the wider industry or sector and/or the community as well as acceptable amends to any victim(s).

1. General information

1.1 Details of the person/persons/entity giving the undertaking

Name of person(s) making this undertaking: (in all cases complete with the name(s) of those who are signing this undertaking under Section 4)

James Edward Trevelyan

Name of entity: (if applicable, leave blank if an individual)

Trevelyan's Pack and Cool Limited

Type of legal entity: (complete in all cases, for example individual, sole trader, partnership, trust, company, etc)

Company

Nominated contact person: (the same person listed above/one of those listed above)

Peter Rowlands

Physical address:

310 No 1 Road
RD 2
Te Puke
3182

Postal address: (if different from physical address)

As Above

Work phone: 07 573 0085

Mobile phone: XXXXXXXXXX

Email: peter.rowlands@trevelyan.co.nz

Industry: Horticulture

Workers (enter numbers):

Full-time: 227 Part time: 13 Casual: 1400

Description of the products and services provided by the business or undertaking:

Trevelyan's Pack and Cool Limited operates within the Kiwifruit & Avocado (Horticulture) industry providing an integrated service of orchard management, fruit picking, fruit packing, storage, and loadout of pallets for shipping.

Comments:

Trevelyan's Pack & Cool Limited was established in 1976.

Additional information to support this application is presented in Appendix A.

Trevelyan's Pack & Cool Limited are able to confirm that no internal labour costs have been included in this submission.

1.2 Detail of the contravention

Trevelyan's Pack and Cool Limited has been charged with an offence under the Health & Safety at Work Act 2015 (Act). This charge relates to an incident on 25th April 2022 where a worker suffered a serious harm injury.

WorkSafe alleges Trevelyan's Pack & Cool Limited breached the duty imposed under sections 36(1)(a), 48(1) and (2)(c) of the Health and Safety at Work Act 2015.

The alleged contraventions are that Trevelyan's Pack & Cool Limited, being a Person Conducting a Business or Undertaking (PCBU) having a duty so far as reasonably practicable, to the health & safety of its workers who work for the PCBU, while the workers are at work in the business or undertaking, did fail to comply with that duty and that the failure exposed workers to a risk of death or serious injury arising from the interaction between worker and mobile plant.

The particulars of the charging document state that it was reasonably practicable for Trevelyan's Pack & Cool Limited to have:

1. Conducted an adequate risk assessment of the traffic management at the site, including the West Canopy.
2. Developed, documented and implemented an adequate traffic management plan, including the West Canopy.
3. Implemented physical separation of pedestrians and moving plant in front of coolstore entrances.
4. Communicated and trained workers in the traffic management plan.
5. Monitored, enforced compliance with, and reviewed the ongoing effectiveness of the traffic management plan.
6. Ensured pre-start meetings were held at a location isolated from the moving plant.

1.3 Detail the events surrounding the contravention

Details of the event are also supported by figures in Appendix A, Section 1.3.

In summary:

On the morning of 25th April 2022, a toolbox talk (Haka meeting) took place for loadout forklift operators under the West Canopy (see figure 1). At this time all forklifts were parked in different locations within the loadout area and as yet no trucks had arrived onsite.

On completion of the meeting, an operator (referred to as Operator 1) travelled by forklift to Coolstore 15 (see figure 2) to converse with two further forklift operators. These two forklift operators had reversed and parked their respective forklifts outside Coolstore 15 and were, at that time, seated on their forklifts.

Concurrently, the 'now' injured operator (referred to as Operator 2), reverse parked his forklift next to Coolstore 27 (see figure 2), dismounted his forklift and began walking towards the loadout office to meet with the team lead and clarify his tasks for the day.

Operator 2 had walked approximately 100 meters towards the loadout office before crossing behind Operator 1's forklift. Operator 2 maintained a distance of approximately one metre from Operator 1's left hand side, and this was measured to be approximately at an angle of 33 degrees (see figure 3).

Operator 1 checked over his right hand shoulder before putting the forklift into reverse and reversing out.

Due to Operator 2 entering into Operator 1's blind spot, Operator 1 did not notice Operator 2 travelling on foot which resulted in a collision between the two whereby Operator 2's foot was crushed on impact under the wheel of Operator 1's forklift.

After hearing Operator 2 shout, Operator 1 stopped and drove the forklift off the affected foot area. Loadout staff and other forklift operators present administered immediate first aid until further medical services arrived. Operator 2 was subsequently taken to Waikato Hospital to receive the medical care required.

1.4 Detail any enforcement notices issued that relate to the contravention as detailed in term 1.2

DATE	NOTICE TYPE	NOTICE NUMBER	CONTRAVENTION OR PROHIBITED ACTIVITY	ACTION TAKEN IN RESPONSE TO NOTICE
28 / 04 / 2022	Non Disturbance Notice			Isolated forklift
02 / 06 / 2022	Improvement Notice		Section 36(1)(a)	Engaged TMP competent person
DD / MM / YEAR				

1.5 Detail the rectifications to the workplace or work practices made as a result of the contravention (1.2), events (1.3) and the enforcement notices issued (1.4)

The rectifications and improvements listed below have been implemented in accordance with the improvement notice issued to Trevelyan's Pack & Cool Limited and on the advice of a H&S consultant engaged following the incident.

1. TPCL site traffic management plan risk assessment was reviewed with full engagement from the workforce and management.
2. Vanguard consultancy was engaged to provide a comprehensive traffic management plan for the TPCL site (recommended by WorkSafe), with the following actions taken based on recommendations made in their report:
 - The traffic management plan was updated to include recommendations and distributed internally.
 - The forklift manual was reviewed and updated to include recommended relevant traffic management plan information.
 - The induction booklet was updated to include recommended traffic management plan information for all staff.
 - Induction media and materials were updated to include recommended relevant traffic management plan information.
3. Physical barriers have been installed in site locations as indicated by risk assessment.
4. Signage has been upgraded with red paint used to highlight outdoor walkways in operational areas, and clear signage to indicate walkways for restricted personnel only. Employees have been trained and informed in changes to signage using TPCL communication channels and induction.
5. All forklift toolbox (pre-start) talks now conducted in an area isolated from moving plant equipment.
6. Nominated staff trained and competent to deliver WorkSafe forklift training and certification.

Other on-going improvement initiatives that have been delivered or are in the process of being delivered across the site since the event include:

1. Enhancement of access control measures to all coolstores.
2. Increased attendance of health & safety team members at forklift haka (pre start) meetings with records of attendance retained.
3. Installation of electronically controlled pedestrian doors to prevent unauthorised access into the operations yards at Shed 1.
4. Increased engagement, consultation and communications with forklift team in all aspects of their operating area.
5. The review and redesign of the Shed 0 operational yard to reroute pedestrian walkways.
6. The removal of portacom offices from the Shed 0 operational area to eliminate potential blind spots and reducing pedestrian traffic through the area.
7. Installation of physical barriers in front of all truck driver safety zones at Loadouts and Shed 0.
8. Installation of protective barriers in front of the coolstore office.
9. Removal of the Orders Preparation Team from the loadout area.

1.6 Total amount of money spent on rectifications

A total of \$94,411.75 has been spent to date on rectifications, this has been expended in the following areas: \$11,451.70 on the repainting of walkways and appropriate signage across the site. \$10,350 on Traffic Management (TM) consultancy fees. \$49,975.72 on barriers and installation costs following the TM consultancy recommendations. \$11,753.72 for electronically controlled pedestrian doors to limit access to operational areas. Additionally, \$11,175.13 has been spent on updating inductions for staff and contractors alike. There is also an approved spend of \$20,000 for water filled traffic and pedestrian barriers to provide a safer working environment in the main operating yard to facilitate temporary traffic management.

1.7 Detail the injury sustained or illness suffered by victim(s) or other(s) as a consequence of the contravention or, (as applicable) the *potential* for fatal injury or future fatal illness

As a result of the incident the victim suffered a severe injury to the left foot which resulted in a left below knee amputation.

1.8 Detail any offer of amends or payments made to the victim(s) who sustained injury or suffered illness (the total monetary amount here is also to be included in the table at 3.12.3)

Describe the victim(s) relationship to you/the entity in question: (eg employee(s)/shareholder/director/family member/contractor, etc. If the relationship has more than one dimension, for example a family member who is also an employee and a director and/or shareholder of the business, or an employee who is a shareholder (etc) – then please describe this)

The injured party was employed as a seasonal Forklift Operator on a 'Less Than 6 Month Fixed Term Agreement' signed on 27 February 2022, with his first day of employment commencing on 7 March 2023. Termination of the agreement was due on 30 June 2022.

Detail offer of amends or payments:

The event has had a profound impact on Trevelyan's Pack and Cool Limited in numerous ways. Recognising its duty to support the victim both physically and emotionally, the company has made payments to support the injured person, totaling \$24,557.29, made up of the following:

[REDACTED]

Further support has been provided through regular contact, namely via home visits and phone communication with the Wellness Co-ordinator at Trevelyan's Pack & Cool Limited.

Trevelyan's Pack & Cool Limited is offering further amends of \$98,470.50, to be paid within 14 days of the EU being ratified, which will comprise the following:

[REDACTED]

Total Reparation Value: \$123,028.09 [REDACTED]

1.9 Detail any consultation with the victim(s) as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution

The Managing Director, Head of Health & Safety (H&S), Head of Human Resources (HR), and the Wellbeing Co-ordinator have all visited and maintained effective communications with the injured party since the incident. The concept and benefits of an enforceable undertaking (EU) have also been explained to the injured party.

On Wednesday 11 October 2023, the Managing Director informed the injured party in writing that the company were seeking WorkSafe's acceptance of our submission of an EU, which he supports.

It additionally outlined the reasons for the EU submission and stated that Trevelyan's Pack and Cool Limited are seeking to support higher standards of health & safety in the workplace for the benefit of its workers, the industry/sector and wider community.

1.10 Detail any consultation with unions/sector/industry as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution

Whilst there are no unions within the industry, Trevelyan's Pack & Cool Limited has actively consulted with the kiwifruit industry regarding the enforceable undertaking and specifically the Kiwifruit Industry Health & Safety Forum at its meeting on 4th October 2023, with unanimous support offered. This support was recorded in meeting minutes.

Trevelyan's Pack & Cool Limited has also actively engaged with other post-harvest facilities during the trial of an artificial intelligence (AI) pedestrian detection system fitted to forklifts. Refer to Appendix 1, Section 3.3

1.11 Detail the support provided or proposed by the person to the victim(s), other(s)

DATE	DESCRIPTION OF SUPPORT	COMMENTS
29 / 04 / 2022		
10 / 05 / 2022		
24 / 05 / 2022		
25 / 05 / 2022		
05 / 06 / 2022		
14 / 06 / 2022		
08 / 07 / 2022		
21 / 09 / 2022		
17 / 01 / 2023		
23 / 03 / 2023		
DD / MM / YEAR		
DD / MM / YEAR		

1.12 Detail any current HSMS implemented and maintained by the person

Describe how health and safety risks are managed, including types of procedures or policies or standards:

Trevelyan's Pack & Cool Limited operates DoneSafe as its Health & Safety Management System (HSMS) to assist with its compliance, regulatory, and legal obligations. DoneSafe is used in conjunction with Safe365, which is software that enables the business to assess, manage and improve its health and safety performance in alignment with the Health and Safety at Work Act (2015) and AS/NZS 4081.

Trevelyan's Pack & Cool Limited also operates a Document Management System (DMS) that provides control and maintains a record of all changes made to its documentation. An example of documents and records maintained on the DMS and DoneSafe include:

- Polices - DMS
- Procedures - DMS
- Risk Assessments - DMS
- Leadership & Working Participation - DMS
- Support & Communications - DMS
- Hazardous Substances - DMS
- Roles & Responsibilities - DMS
- Employee Participation - DMS
- Emergency Plans - DMS
- Incident Reporting & Investigation - DoneSafe
- Workplace Inspections - DoneSafe
- Environment & Health Inspections - DoneSafe
- Contract Management - DoneSafe
- Training & Supervision - DoneSafe
- Fitness for Work - DoneSafe
- Audits & Improvements - DoneSafe
- Maintenance - SharePoint

1.13 Detail the level of auditing undertaken on the HSMS, including compliance audits and audit frequency

The business currently conducts and maintains records for the following compliance audits that are conducted as listed below:

Food Safety & H&S - Monthly Inspection
Risk Management Audit - Bi Monthly
Building Warrant of Fitness: Compliance Schedule - Annual
Health and Safety (Hazardous Substances) - Annual
Fire and Emergency (Evacuation scheme) - 6 monthly
Coolstore Emergency Door Inspections H&S - 6 Monthly
Fire Hoses Visual Inspection - Monthly
Fire Extinguishers & Fire Blankets - Monthly
Fire Safety - Annual
Electrical Tag and Test - Annual
Working at Height Equipment - 6 Monthly
Orchard Contractor Safety Inspection Audit - All orchard contractors are audited over a 3 month seasonal period.

1.14 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking

Trevelyan's Pack and Cool Limited (TPCL) has consulted with the injured party, its workforce (including an internal Operational Steering Group), and the wider industry through the Kiwifruit Industry Health & Safety Forum, with regard to this submission for an enforceable undertaking. The Industry Health & Safety Forum recorded its unanimous support for the enforceable undertaking application in its minutes dated 4 October 2023.

Trevelyan's Pack and Cool Limited plans to consult and maintain regular and effective communication with all stakeholders from commencement to completion of the enforceable undertaking, including the injured party, TPCL workforce, kiwifruit industry/sector, wider community.

2. General terms

The person acknowledges and commits to the general terms set forth in the sub-terms below.

2.1 Acknowledgement that WorkSafe alleges a contravention occurred as detailed in term 1.2

Trevelyan's Pack and Cool Limited acknowledges that WorkSafe alleges a contravention occurred.

2.2 Statement of regret that the contravention occurred

Trevelyan's Pack and Cool Limited deeply regrets the injury suffered as a result of the incident and fully acknowledges the impact that it has had on the injured party, its workforce, and the wider industry.

As a business, Trevelyan's Pack & Cool Limited is fully committed to its obligations under the Health & Safety at Work Act 2015 and deeply regret that on this occasion it has failed to ensure the safety of its workers.

Trevelyan's Pack & Cool Limited considers the enforceable undertaking an opportunity for reparation and will thereby actively support the injured party, improve the health and safety of its workforce and wider industry both generally and specifically regarding risks associated with forklifts. Additionally, it will support and offer benefit to the amputee community and invest in building health and safety capability into the NZ workforce.

Trevelyan's Pack and Cool Limited is committed to ensuring the injured party has the best recovery possible and intends to learn from this event and improve health and safety outcomes for all stakeholders involved in this enforceable undertaking.

2.3 Statement of the reasons why, on balance, the person considers this undertaking is the most appropriate response to the contravention

Trevelyan's Pack and Cool Limited understands the stated purpose of an enforceable undertaking in WorkSafe's policy is to benefit the workers or the workplace, the wider industry or sector, and the community; while also considering the nature of the misconduct, submission from any interested party (including the injured party), history of compliance and current commitment to remedy the misconduct.

Trevelyan's Pack and Cool Limited believes the intent, scope, expenditure, industry engagement and community benefits proposed will provide greater benefits than could be achieved by way of a prosecution through the courts.

In submitting this enforceable undertaking, Trevelyan's Pack & Cool Limited have considered the views of the injured party, its workforce, wider industry, and the amputee community and have attempted to balance potential benefits recognising:

1. The injured party.
2. The workforce, through worker engagement for those working in at-risk environments around forklifts.
3. How we as a business may build on this submission through the introduction of its forklift training team certified by Competenz & WorkSafe.
4. By improving and raising awareness throughout industry on forklift practices and the associated risks
5. Through supporting the wider Waikato and Bay of Plenty amputee community with funding to support emotional and mental recovery and wellbeing.
6. Through continued reference to the formal criteria of the enforceable undertaking to improve health and safety.

In summary Trevelyan's Pack and Cool Limited:

1. Acknowledges the magnitude of the event for the victim and the seriousness of the injury caused.
2. Has fully cooperated with WorkSafe during its investigation of this event.
3. The proposed enforceable undertaking will benefit its workforce to the value of \$136,500 through the installation of artificial intelligence (AI) equipment onto its forklifts and the continued training of its leaders to improve health and safety practices.
4. The proposed enforceable undertaking will benefit industry to the value of \$175,500 through the installation of artificial intelligence (AI) equipment onto its forklifts.
5. The proposed enforceable undertaking will benefit the community to the value of \$48,000 through the donation of funds to the Amputee Society of Waikato, Bay of Plenty, and Districts to support, emotional and mental recovery and wellbeing.
6. It will also offer funding of \$30,000 for three scholarships with the Health & Safety Association New Zealand (HASANZ).

Trevelyan's Pack and Cool Limited believes this proposal achieves tangible benefits to its workforce, industry, and the community, which are not addressed elsewhere.

2.4 Statement of commitment that the behaviour, activities and other factors which caused or led to the contravention has ceased and will not reoccur

Trevelyan's Pack and Cool Limited acknowledges the importance of learning from the incident and is committed to ensuring, so far as is reasonably practicable, that the behaviour, activities, and other factors which caused or led to the alleged contravention have ceased and will not reoccur.

Trevelyan's Pack and Cool Limited is committed to implementing a raft of specifically targeted interventions across the organisation aimed at upskilling safety literacy and reducing exposure to workplace risk by its employees.

These measures will be evaluated in a timely and appropriate manner to assess whether the interventions and procedural changes implemented lead to improved safety outcomes as planned.

An iterative cycle of PLAN-DO-CHECK-ACT will be used to ensure the interventions implemented at and by Trevelyan's Pack and Cool Limited have the intended outcome of improving worker and workplace safety and thereby ensure the behaviour, activities and other factors which caused or led to the alleged contravention have ceased and do not reoccur.

2.5 Acknowledgment of the policy published by WorkSafe for the acceptance of an undertaking

(write the name of the person(s) or entity giving the undertaking)

Trevelyan's Pack and Cool Limited

has read and understood the Enforcement Undertaking Operational Policy.

2.6 Acknowledgement that this undertaking will be published and publicised in full

(write the name of the person(s) or entity giving the undertaking)

Trevelyan's Pack and Cool Limited

acknowledges that the undertaking will, if accepted, be published on WorkSafe's website in full and referenced in WorkSafe material.

2.7 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities

(write the name of the person(s) or entity giving the undertaking)

Trevelyan's Pack and Cool Limited

has the financial ability to comply with the terms of this undertaking and have provided evidence by way of

(type of evidence provided)

A copy of our 2022 financial report is attached at Appendix B. It is requested that this document be treated as commercial in confidence with this undertaking to support this declaration.

In the event of impending receivership, liquidation or sale of the entity, (write the name of the person(s) or entity giving the undertaking)

Trevelyan's Pack and Cool Limited

will advise WorkSafe of the relevant circumstances and its capacity to comply with the outstanding terms of this undertaking.

2.8 Statement outlining any relationship between the person and any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking

Trevelyan's Pack and Cool Limited, its workforce and the wider industry will derive benefits from the introduction of artificial intelligence equipment onto its forklifts and from nominated staff / leaders attending specific leadership training.

2.9 Statement regarding Intellectual Property

(write the name of the person(s) or entity giving the undertaking)

Trevelyan's Pack and Cool Limited

grants WorkSafe a perpetual, non-exclusive, worldwide and royalty-free licence to use, for any purpose, all Intellectual Property Rights in relation to any material developed as a result of this undertaking. This licence includes the right to use, copy, modify and distribute the materials.

2.10 Acknowledgement that the person may be required to provide a statutory declaration

(write the name of the person(s) or entity giving the undertaking)

Trevelyan's Pack and Cool Limited

acknowledges that it may be necessary for WorkSafe to obtain a statutory declaration outlining details of any prior convictions (safety related) outside of New Zealand and that it will provide such declaration if required by WorkSafe

2.11 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking

1. It is acknowledged that responsibility for demonstrating compliance with this undertaking rests with the person.
2. Evidence to demonstrate compliance with the terms will be provided to WorkSafe by the due date for each term.
3. The evidence provided to demonstrate compliance with this undertaking will be retained by the person until advised by WorkSafe, that this undertaking has been completely discharged.
4. It is acknowledged that any failure to meet the due date for an enforceable term will result in the matter being escalated and may lead to enforcement action.
5. It is acknowledged that WorkSafe may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to WorkSafe.
6. It is acknowledged that WorkSafe may initiate additional compliance monitoring activities, such as inspections, as considered necessary at WorkSafe's expense.
7. It is acknowledged that details of all seminars, workshops and training conducted by a non-registered training provider must be notified to WorkSafe, by email, at least one week prior. Notification should include time, date, location and the trainer/facilitator.

(write the name of the person(s) or entity giving the undertaking)

Trevelyan's Pack and Cool Limited

3. Enforceable terms

The person acknowledges all activities set forth in the enforceable terms below must be auditable and include a date for completion and an estimated cost for each activity.

The person commits to performing the activities below diligently, competently and by the respective completion date.

3.1 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking

Detail the management strategies to be employed that will satisfy and demonstrate to officer/s of the person that this commitment is being met:

Trevelyan's Pack and Cool Limited confirms its commitment to the performance of the activities detailed within this submission; which will ensure the ongoing and effective management of risks to health and safety in the future conduct of the business and this enforceable undertaking.

Project governance, assurance and management of change are critical elements to successfully delivering this enforceable undertaking. This project will be delivered and managed through the Trevelyan's Pack & Cool Limited Business Improvement Department, supported by the Health & Safety Department.

The outline plan of deliverance will include:

1. The deliverance of the enforceable undertaking is governed by the Trevelyan's Pack & Cool Limited Board of Directors, supported by the Operational Steering Group comprising: a Board member, Managing Director, General Manager, Head of Health & Safety, Head of Operations & Logistics, Head of Business Improvement, Chief Financial Officer, Forklift Manager, and Project Development Support.
2. The Operational Steering Group will hold monthly meetings and their attendance will be confirmed to the Board.
3. The Operational Steering Group will oversee and update about project status, delivery schedules, project risk and expenditure.
4. Monthly reports will be issued to the Trevelyan's Pack & Cool Limited Health & Safety Committee.
5. A monthly report will be issued to the Kiwifruit Industry Health & Safety Forum.
6. An update report will be delivered at all Board of Directors meetings.
7. A six-monthly progress report will be made to the WorkSafe Enforceable Undertaking Team (or any other person as required by WorkSafe), in addition to any other project milestones or agreed monitoring requirements.

3.2 A commitment by the person to disseminate information about this undertaking to workers, and other relevant parties

(this may include to work health and safety representatives and in the organisation's annual report, if applicable)

Dissemination will be achieved by doing the following:

Trevelyan's Pack & Cool Limited commits to sharing information about this enforceable undertaking with its workforce and other relevant parties.

Updates about the enforceable undertaking will be provided to all workers via monthly meetings of the Health & Safety team within two months immediately following commencement.

A copy will be published on the Health and Safety notice boards for a period of twelve (12) months after commencement.

Dissemination will occur by: DD / MM / YEAR

3.5 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for community

ACTIVITIES	COST (\$)	TIMEFRAME
3.5.1: Donations to the Amputee Society of Waikato, Bay of Plenty and Districts to support emotional and physical recovery post injury	48,000.00	12 months
3.5.2: Scholarships through the Health & Safety Association New Zealand for up to three personnel over a period of two years	30,000.00	24 Months

Additional information contained in Appendix A, Section 3.5

Total estimated cost of benefits for the community

\$ 78,000.00

3.6 Where WorkSafe considers appropriate in the circumstances, undertaking a SafePlus Onsite Assessment

Further information about SafePlus can be found here: worksafe.govt.nz/about-us/who-we-are/our-priorities/safeplus/about-safeplus

- 3.6.1 The suitability of a SafePlus assessment will be determined by the Enforceable Undertakings Panel when your application is considered.
- 3.6.2 In addition to the total cost below (3.7) all costs of a SafePlus Onsite Assessment will be met by the person making this undertaking. The fee charged for an Onsite Assessment is a commercial matter between your business and the SafePlus Accredited Assessors that you commission.
-

3.7 Minimum spend

(write the name of the person(s) or entity giving the undertaking)

3.7.1 Trevelyan's Pack and Cool Limited

commits to a minimum spend of \$ 513,028.09 for this undertaking.

(write the name of the person(s) or entity giving the undertaking)

3.7.2 Trevelyan's Pack and Cool Limited

agrees to spend any residual amount arising from an original term not being completed or being less costly than estimated in this undertaking. Agreement on how to spend this residual amount will be sought from WorkSafe

(write the name of the person(s) or entity giving the undertaking)

3.7.3 Trevelyan's Pack and Cool Limited

Acknowledges the minimum spend comprises of the:

TOTAL COST	MINIMUM SPEND
Financial amends paid to victims (if applicable)	123,028.09
Benefits to workers/others	136,500.00
Benefits to industry	175,500.00
Benefits to community	78,000.00
Estimated cost of the undertaking Plus GST (if any)	\$ 513,028.09

4. Execution

Authorised representative of an organisation

Undertaking given by (name of authorised representative)

James Edward Trevelyan

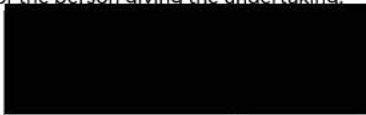
In my own right and in my capacity as (eg President, Chairperson, etc)

Managing Director

of (eg organisation name) Trevelyan's Pack & Cool Ltd

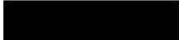
On the (day) 6 day of (month) March, 20²⁴ (year).

Signature of the person giving the undertaking:



Undertaking given before me:

Witness name:



Witness address:



Witness signature:



5. Acceptance

This undertaking is accepted by WorkSafe.

On the (day) 12th day of March, 2024

Signature of person accepting the undertaking:

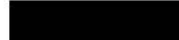


Name of WorkSafe representative: (General Manager, WorkSafe (or delegate))

Tracey Conlon

Undertaking given before me:

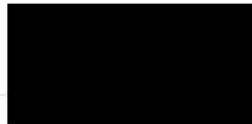
Witness name:



Witness address:



Witness signature:



Enforceable Undertaking – Appendix A

Please note this document is to be read in conjunction with the application for an enforceable undertaking made by Trevelyan's Pack & Cool Limited, with numbering in this document corresponding to the relevant section in the application document.

1.1. General Information: Description of the products and services provided by the business or undertaking:

Trevelyan's Pack & Cool Limited background.

Trevelyan's Pack & Cool Limited (TPCL) is a family- owned business, located in Te Puke. Established in 1976, TPCL is the largest single-site kiwifruit and avocado packhouse in New Zealand (NZ), covering a 30-hectare area with 4 export and 1 local market packhouses and 43 coolstores.

The workforce at TPCL experiences significant fluctuations due to the seasonal nature of the industry. Starting with 240 permanent staff (full time and part time), the employee count surges to approximately 1,600 personnel within a span of 2-3 weeks prior to the peak season for approximately four months (March-June). This surge is driven by the operational demands. During the seasonal period approximately 120 forklift drivers are employed, with approximately 60% employed on day shift.

1.3 Detail the events surrounding the contravention

Figure 1 Site map (excluding CA stores)

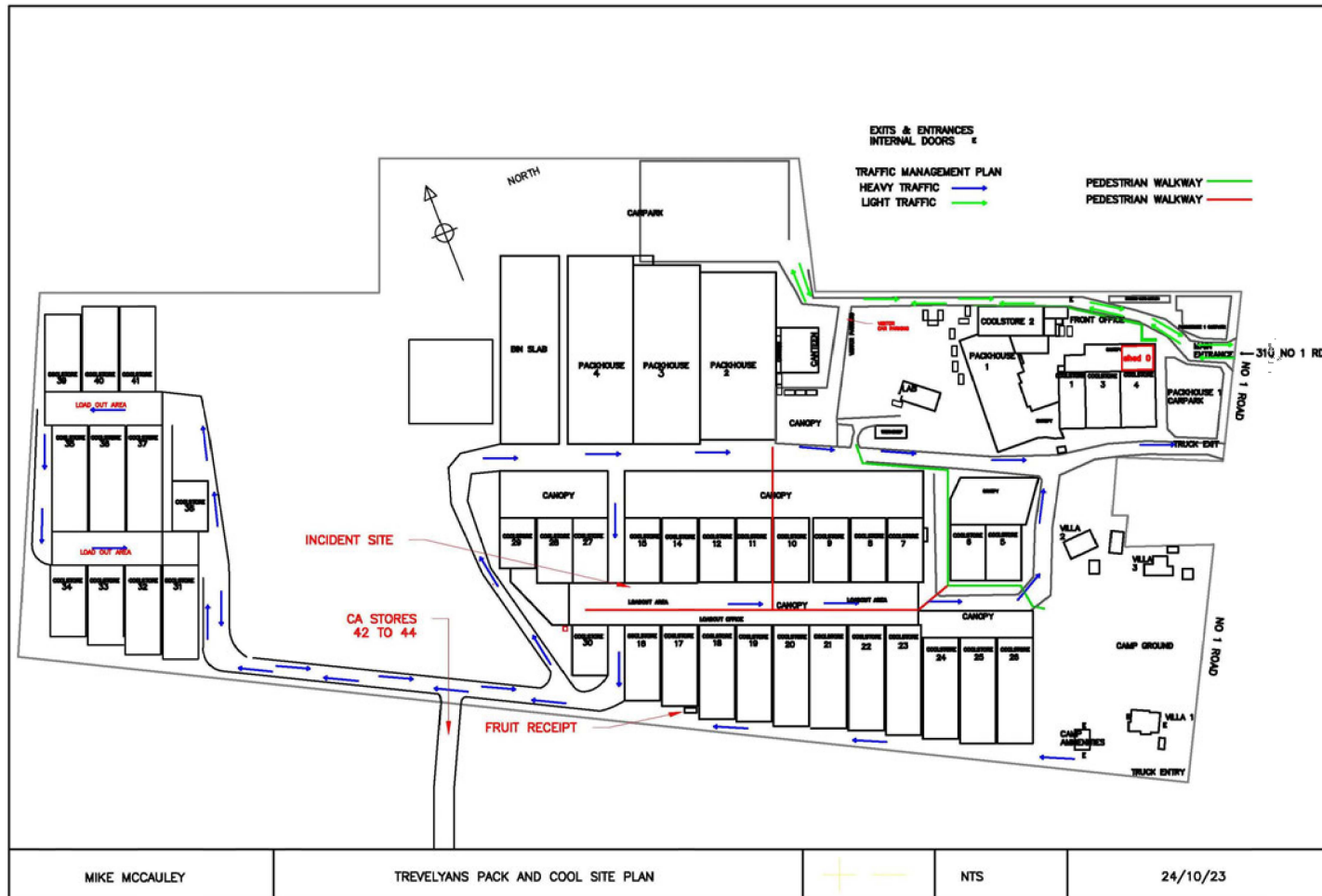


Figure 1

Figure 2 – Directional travel of injured party & incident site layout

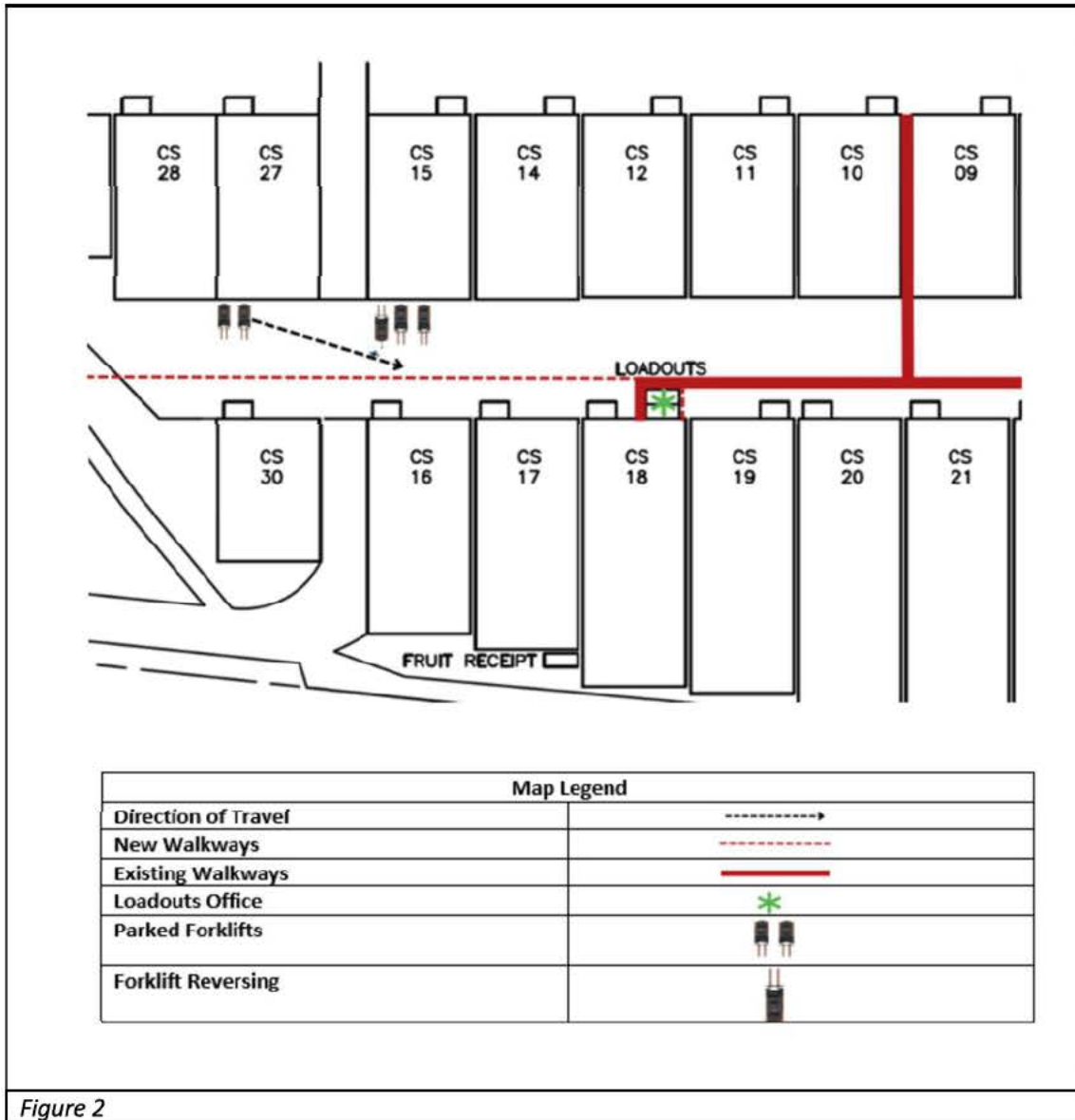
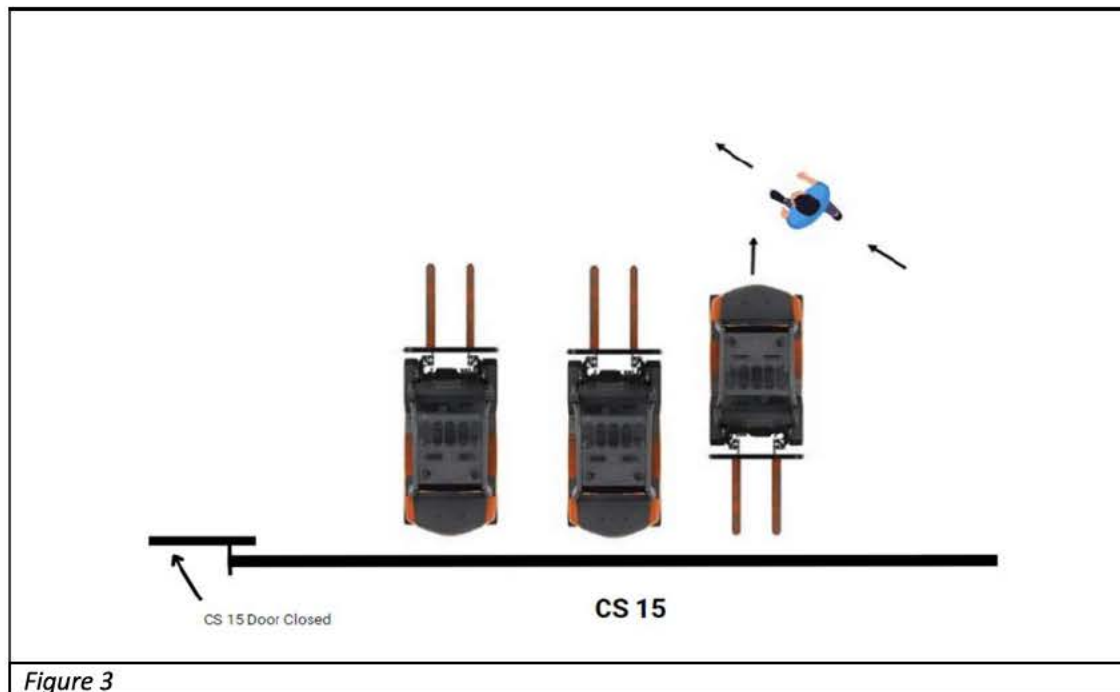


Figure 2

Figure 3 – Position of forklifts and travel of injured party



3.3 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for workers and/or work and/or the workplace.

TPCL propose three strategies to meet the requirements of 3.3, which are:

- 3.3.1 Artificial Intelligence (AI) pedestrian detection system for forklifts
- 3.3.2 Leadership training - Seed Talks
- 3.3.3 Level 5 Competitive Systems Training – Diploma Competitive Systems & Practises delivered by Argon & Co Ltd

3.3.1 Artificial Intelligence (AI) Pedestrian Detection System for Forklifts

The first strategy aimed at promoting health and safety awareness and benefit to workers and the workplace concerns investment into an artificial intelligence pedestrian system for forklifts. The integration of AI into pedestrian detection systems aims to enhance safety in industrial settings where forklifts are employed. The system uses AI algorithms and sensors to recognise nearby pedestrians and is designed to prevent accidents and enhance workplace safety.

TPCL engaged with a company who implemented the proposed Artificial Intelligence (AI) system throughout their vehicle fleet and reported positive results. TPCL subsequently undertook an onsite trial of the AI system to evaluate its efficacy in detecting a person located through a range of positions. The trial was delivered on one forklift with 10 drivers participating, over a period of three weeks. The trial encompassed accuracy testing under various conditions, assessing real-time responses and alert effectiveness. Additionally, the trial focussed on the seamless integration, user experience, and the evaluation of the system's reliability and durability in an industrial setting.

Feedback from all TPCL forklift drivers (n=10) was positive with respect to the ability of the AI system to instantly detect human presence through a wide range of view.

Based on the outcomes and report of the trial, it is proposed that AI units are installed across the forklift fleet at TPCL. Implementation of the AI system will require both full-time staff and seasonal employees to undertake familiarisation training delivered by the inhouse forklift training team, who are Competenz and WorkSafe certified. The business is seeking to establish the following outcomes:

- Incident reduction: analysis of incidents pre and post implementation of AI technology and reporting on differences and trends observed.
- Effectiveness reporting: evaluation of the overall effectiveness of the AI system through comparison of pre and post intervention data.
- Enhanced pedestrian-forklift safety: analysis and report of interactions that occur between pedestrians and forklifts, with comparison between data collected pre and post AI intervention.

Learnings will be shared by the TPCL Health & Safety Manager, through updates at the Kiwifruit Industry Health & Safety Forum meetings of which TPCL is a member. Reporting will include an analysis of incidents pre and post implementation and evaluation of the overall effectiveness of the AI system.

At an estimated cost including fitting and onsite train the trainer training of \$2,665.17 per unit, it is anticipated that 40 forklifts can be fitted with this equipment. TPCL is further committed to installing AI equipment or an alternative more effective solution on its remaining fleet.

The use of this equipment will be the first within the kiwifruit sector, for which learning, and outcomes will be shared across the wider industry.

TPCL confirms it is committed to improving safety standards across its forklift team and will be ordering and installing AI equipment on all forklifts prior to commencement of the 2024 main kiwifruit season.

3.3.2 Leadership Training – Seed Talks

The second strategy aimed at promoting health and safety awareness and delivering benefits for workers and the workplace is to invest in leadership training via an external provider. TPCL recognises training initiatives on their own do not align with the primary goal of the EU, which is aimed at promoting progressively higher standards of health & safety. TPCL however considers it important to raise health and safety best practice knowledge throughout the organisation and thereby effectively support higher-level risk control measures.

TPCL considers leadership training from Seed Talks (or a similar provider) to be an ongoing business requirement and propose investing in upskilling its leaders in health and safety on an annual basis. The improved knowledge this is anticipated to bring is aimed at facilitating elimination, substitution and isolation strategy to effectively manage and control risk in the workplace in the future.

The aim of the leadership training therefore is to empower TPCL staff in management or supervisory positions to lead the organisation in best practise health and safety matters. It is anticipated that this will enable TPCL leaders to have courageous conversations, respond appropriately to team members and address health and safety matters as they arise.

Seed Talks (NZBN: 9429048464178) has been selected to provide this service as they have previously delivered effective training for TPCL and can offer a bespoke programme to meet specific requirements for the organisation. Seed Talks, through their coaching and development service will aim to improve the internal leadership capabilities and overall ability to challenge and lead in difficult situations, including breaches in health & safety compliance. The training will be evaluated after each session, with a key objective of the training being to develop leaders across all departments to make better informed decisions.

The training programme comprises four, 90-minute training modules and includes the following topic areas:

- Leadership: Transitioning to leadership, coaching/mentoring/training, listening skills, and asking good questions to bring out the best in teams.
- Wellbeing and Mental Health: the change process, the river of resilience, managing stress, and developing a wellbeing mindset.
- The Role of The Leader: delegation, empowerment, accountability, and harnessing diversity.
- Teamwork: motivating a team, ways to develop your team, and power and influence.

The leadership training is to be delivered onsite to approximately 100 nominated staff members in leadership and supervisory roles at TPCL in cohorts of 20 between October 2023 and February 2024.

3.3.3 Level 5 Competitive Systems Training – Diploma Competitive Systems & Practises

The third strategy aimed at promoting health and safety awareness and deliver benefits for workers and the workplace is to upskill staff in the workplace in health and safety best practise. The aim of the training being to empower staff in making better informed health & safety decisions through the lens of continuous improvement practices, and thereby improving health and safety competency across the business. It is important again to note that TPCL recognises training on its own does not align with the primary goal of the EU, which is to progressively improve higher standards of health & safety. Rather TPCL confirm the intention of training is to strengthen and support higher level risk control measures.

To support improved employee health and safety knowledge, Argon & Co (NZBN: 9429032513325) has been identified to provide Level 5 Competitive Systems Training – Diploma of Competitive Systems & Practises. It is the intention that TPCL will register a cohort of approximately 26 staff from strategically selected departments across the business to attend the training programme, which will include the following modules:

Module 1: 24792 Holistic Culture Improvements

Training on improving the business's culture and creating required consistencies to maximise the benefits from a competitive systems and practices strategy focussing on safety.

Module 2: 24797 Improvement Systems

The module will introduce improvement systems across the business. These systems include the continuous improvement systems of Kaizen and Kaizen Blitz, covering:

- Preparing to implement improvement systems.
- Implementing improvement systems.
- Monitoring the implementation of improvement systems.

- Institutionalise continuous improvement.

Module 3: 29275 Theory of Constraints

This module will include the management of Six Sigma in the workplace for process control and improvement, aiming to minimise defects (including safety defects) and enhance processes and systems to make them safer. It will cover:

- Review of data collected.
- Define improvement and determine how to achieve it.
- Control and standardise processes to priority areas – Define, Measure, Analyse, Improve, and Control (DMAIC).
- Analyse data and develop process control strategies.
- Review control strategies.
- Identify any skills and the training needed to implement improvements.
- Review and confirm that improvement has occurred.

The intent is for this training to commence in late November 2023 and be delivered over a 24 month period.

[3.4 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for the wider industry or sector.](#)

TPCL propose the below strategy to meet the requirements of 3.4.

3.4.1 Artificial Intelligence (AI) pedestrian detection system for forklifts

[3.4.1 Artificial Intelligence \(AI\) Pedestrian Detection System for Forklifts](#)

To promote the objectives of the health and safety legislation that will deliver benefits for the wider industry or sector, TPCL is proposing to build on the initiative outlined in Section 3.3.1 and integrate the AI pedestrian detection system on forklifts in the kiwifruit sector and more specifically across other post-harvest facilities. The strategy aligns with the recommendations of a recent review by the EU panel (ref: Senior Advisor Undertakings letter dated 14 December 2023) which acknowledged the benefit AI technology could make to the wider kiwifruit sector.

Staff from 10 post-harvest facilities were invited to TPCL site during the initial trial of the AI equipment to view first-hand the potential benefit such a system could have in their worksite. Communication with key staff across the 10 post-harvest facilities has been received positively, with 60% (n=6) expressing a desire to be included in the proposed roll out of AI equipment across the sector.

The proposed project plan to implement AI equipment in kiwifruit post-harvest facilities is as follows:

- Include all post-harvest facilities in communication about the AI implementation project.
- Establish contact person(s) in each post-harvest facility i.e. CEO and H&S manager to be part of a project team for the AI implementation project.
- Set up regular meetings with the project team – to include training about the technology, data recording and outcome measures to assess effectiveness. This project team will provide a forum for discussion and resolution of issues that may arise during the project.

- Identify high-risk areas in each post-harvest facility from project team members and use to guide placement of the 60 AI units and ensure they are fitted to forklift trucks operating in high-risk areas.
- Engage with supplier and discuss specific requirements of the sector and agree a plan to supply and install the equipment across the range of forklift models used throughout the industry.
- Set up and run a train the trainer programme at TPCL and at each post-harvest facility to ensure persons using it learn how to operate the AI equipment and are aware of its operational capability.
- Disseminate information to the kiwifruit sector and wider industry at Health & Safety Forum meetings.

This engagement has an estimated cost of \$3,385.00 per unit, which would mean that approximately 60 forklifts can be fitted with AI technology across the kiwifruit industry.

Based on the outcomes and the report of the TPCL trial, it is proposed that the post-harvest facilities who have expressed their desire to be included in the roll out of AI equipment, are formally engaged with a charter document that specifies the outcomes that are to be recorded at their site, which includes:

- Incident reduction: analysis of incidents pre and post implementation of AI technology and reporting on differences and trends observed on a six-monthly basis.
- Enhanced pedestrian-forklift safety: analysis and report of interactions that occur between pedestrians and forklifts, with comparison between pre and post AI intervention incident data with respect to date, time, location, nature of incidents, damage and injury.
- AI equipment across industry: record kept of the number of additional sites purchasing AI units for forklift trucks.

The information will be collected each month from each post-harvest facility and will be included in a report submitted by TPCL to WorkSafe every six months.

TPCL intends to engage with post-harvest facilities who have indicated their interest in being part of the AI scheme and to set up an installation programme for them once a decision has been made about this initiative by the EU Panel. Following a positive decision, TPCL confirms it intends to facilitate installation of the AI units within a 12-month period pending supply availability and the level of engagement offered by the post-harvest facilities.

In summary, TPCL acknowledges the use of AI technology as being an innovative approach for which learning, and outcomes will be collated and shared across the kiwifruit industry and wider horticultural sector. It is proposed that the implementation of AI equipment will lead to an improvement in safety measures and that the project will positively influence the uptake of AI equipment throughout the kiwifruit sector.

3.5 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for community.

TPCL propose two strategies to meet the EU requirements of 3.5, which are:

3.5.1 Donation to Amputee Society of Waikato, Bay of Plenty, & Districts

3.5.2 Health & Safety Association New Zealand (HASANZ) Scholarships

3.5.1. Donation to Amputee Society of Waikato, Bay of Plenty, & Districts

The first strategy to promote the objectives of the health and safety legislation and deliver benefits for the community involves engagement with the Amputee Society of Waikato, Bay of Plenty and Districts. This decision was made as the injured party suffered an injury resulting in a lower limb amputation, and when consulted concurs that it would be a suitable choice.

TPCL therefore engaged with the Board of Directors of the Amputee Society of Waikato, Bay of Plenty, and Districts (Charity number CC29832) who identified areas in which a donation made by TPCL could be used. The main areas being health, wellbeing, and amputee community engagement. This has been confirmed in a written proposal issued to TPCL by the Amputee Society:

- Mental wellness coffee talks: facilitating mental wellness coffee talks for regional amputees to connect and discuss their experiences. These conversations aid the recovery process, providing a platform for sharing experiences, venting frustrations, focusing on the positives, and offering hope. Ultimately supporting their mental health and wellbeing.
- Awareness and compassion initiatives: implementing initiatives and events aimed at raising awareness about the experience of amputees, shedding light on life-after-limb loss, and educating about the primary causes of amputations throughout NZ (i.e., diabetes). Additionally, distributing compassion packs to support individuals who have recently undergone amputation.
- Physical health – gym memberships, rehabilitation and physiotherapy costs: supporting amputees with gym memberships, rehabilitation, and physiotherapy costs to encourage physical fitness and mobility during recovery and facilitating integration back into society.
- Home and transport modifications – mobility equipment, driving assessment, and approved modifications, Driving Miss Daisy for appointments: assisting those not supported through ACC with low-level home and transport modifications to assist in making daily tasks more manageable for amputees. Providing transport assistance (i.e., Driving Miss Daisy) for amputee-related appointments.

The charity has been engaged regarding the frequency of the provision of reports on expenditure and updates on statistics of those benefiting from the donation.

3.5.2 Health & Safety Association New Zealand (HASANZ) Scholarships

The second strategy proposed to deliver benefits for the community includes the funding of three HASANZ scholarships with the intention of supporting the development of capability and capacity of health and safety professionals in NZ. HASANZ was established to recognise skilled health and safety professionals in NZ and offers a scholarship programme for practitioners and health and safety representatives and who want to upskill to diploma, undergraduate or postgraduate degree levels.

TPCL believes that funding three scholarships over a period of two years with a priority for scholarships being provided to the horticulture industry will deliver benefits to the wider community and will provide:

- Education and professional development: investing in scholarships for the health and safety fields to educate future professionals who will contribute to promoting safety standards in various industries.
- Promotion of safety and awareness: drawing attention to the importance of health and safety, encourage more individuals to consider careers in this field. Promoting awareness about safety practices in general.
- Knowledge enhancement and transfer: allowing the scholarship recipients to bring fresh perspectives and the latest knowledge to the workplace, contributing to the enhancement of safety protocols and practices.
- Innovation and advancement: new ideas and innovations often come from educated minds. Investing in education can lead to advancements in safety technology and methodologies.
- Societal impact: investing in education has a long-term impact on society. Safety-conscious professionals can influence workplace culture, societal attitudes, and public policies, promoting safety on a broader scale.

In summary, TPCL believes that sponsoring health and safety scholarships is a strategic investment that benefits the scholarship recipients and contributes to building safer workplaces, fostering innovation, and transferring the latest health and safety knowledge into various industries.