

Part 4, subpart 4, Health and Safety at Work Act 2015

The commitments in this application are offered to WorkSafe New Zealand by Scott Hill, Director on behalf of Bowers & Son Limited. The name of the entity giving this undertaking is Bowers & Son Limited.

This enforceable undertaking is given on the day and date that it is accepted and signed by the regulator. 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.

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.

Terms and definitions:

Contravention means an action which offends against the *Health and Safety at Work Act 2015* and/or any Regulations made under it. It includes both health and safety contraventions. A contravention also includes an alleged contravention.

HSMS means a Health and Safety Management System.

Person means an individual who or a legal entity which has a duty under the Health and Safety at Work Act 2015 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 means *Health and Safety at Work Act 2015* and associated regulations.

Enforceable undertaking means 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

Nominated person: (point of contact for WorkSafe communications)

Scott Hill, Director

Name of entity:

Bowers & Son Limited

Street address: 1852 Alexandra Street, Te Awamutu 3800

Mailing address: 1852 Alexandra Street, Te Awamutu 3800

Work phone: 07 871 5209

Mobile phone: [REDACTED]

Email: scott@bowersconcrete.co.nz

Type of legal entity: Limited company

Industry: Precast Concrete Manufacturing

Workers: Full time: 36

Part time: 5

Casual/ Contractors: 9

Products and services: Precast Concrete Products and Ready Mixed Concrete

Comments:

Bowers & Son Limited (Bowers) is a family owned and operated business, based in Te Awamutu and Otorohanga and originally established in the 1940s. Bowers employs approximately 50 staff throughout the Company.

Many of Bowers' staff are related e.g. brothers, father and sons, cousins, brother in laws etc. The business is very much founded on family values, with several long-standing employees - many having worked in excess of 10 to 15 years and some as long as 40.

The Company:

- Is a member of Concrete NZ, a large organisation that covers a range of concrete industries including precast and ready mixed concrete.
- Has representatives (a director and health and safety manager) involved the Concrete NZ Health and Safety Group since its inception in April 2017. This group meets twice a year for seminars, discuss issues and share information.
- Has representatives (director and health and safety manager) that regularly attend EMA presentations on various topics, including health and safety matters.
- Regularly donate to the Te Awamutu and Otorohanga community to schools, sports clubs, service clubs and individual sports people, particularly young elite sportpersons. Many of these initiatives directly involve our own workers and/or their children within immediate community.

1.2 Detail the contraventions

Bowers has been charged with one offence under section 36(1)(a), 48(1) and (2)(c), of the Health and safety at Work Act 2015 in relation to an incident on 9 February 2017.

The alleged contraventions are that being a PCBU, Bowers failed to ensure, so far as was reasonably practicable;

1. the health and safety of workers who worked for the PCBU, while at work in the business or undertaking, namely undertaking precast concrete moulding activities, and that failure exposed the workers to a risk of death or serious injury, arising from exposure to objects subjected to hydraulic pressure and their sudden release.

In particular it is was reasonably practicable for Bowers to have:

- a. Ensured that a risk and hazard assessment was undertaken and the appropriate controls were implemented in respect of the task of mould stripping;
- b. Ensured that workers were trained appropriately in and provided with the appropriate information in respect to the task of mould stripping;
- c. Ensured that workers who were not deemed fully competent were supervised while undertaking the task of mould stripping;
- d. Ensured that where a supervisor was not available on site ensure that persons requiring supervision were given alternative work that they were deemed competent to undertake.

1.3 Detail the events surrounding the contravention

The victim was employed by Bowers on 16 January 2017 as a Concrete Product Maker in Bowers' Precast Factory in Te Awamutu.

Bowers has operated a precast factory in Te Awamutu since 2016 and currently employs eight full time workers from the local community. The precast factory produces five primary products (troughs including pipes, walls, retaining blocks and tanks) split into two separate work areas called the Trough and Tank areas.

The victim worked alongside four other experienced Concrete Product Makers (combined experience of 25 years) within the Precast Factory. This is run by a full time Factory Manager who oversees all workers on the site.

Workers in these areas undertake induction and training process, and new workers are taken through the safe system of work (safe operating procedures) and assessed for their knowledge and understanding.

Workers then receive training on particular tasks under supervision. Once a new worker has been deemed competent to carry out the tasks on their own, and through engagement with their manager and trainer, they will be signed off to no longer require supervision and be deemed competent for each task.

On the day of the incident (9th February 2017), the victim had not yet been deemed competent to carry out the task of manufacturing cattle troughs on his own, and had worked alongside with his trainer for the preceding four weeks of employment undertaking the task.

At approximately 8:30am, the victim started work by himself in the Precast Factory to separate the outer and inner parts of the mould used in the production of concrete trough. This requires the use of four hydraulic bottle jacks (30cm in height) position under the outer mould that allows the separation of the inner mould of the circular trough from the outer mould. The hydraulic bottle jacks sit on a steel support plate at the base of the inner mould.

During the course of this work, the hydraulic jack became dislodged from the steel support plate and we believe that the handle of the hydraulic bottle jack came into contact with forehead of the victim causing a laceration.

- Outer Mould
- Hydraulic Bottle Jack Handle
- Hydraulic Bottle Jack
- Inner Mould
- Steel support plate (The raised edge was an improvement as part of the rectifications).



The victim remained conscious after the event and had temporary medical treatment (first aid) applied to stem blood lost. The victim was immediately taken to the local medical centre 4 kms away. At the medical centre, the victim was assessed and the laceration was sutured and he was sent home.

The following day the victim suffered a seizure while travelling as a passenger in his car with his wife. He was taken by ambulance to Waikato Hospital where he was diagnosed with trauma to the head. A CT of the brain on the same day diagnosed a small depressed midline skull fracture of the frontal bone and no underlying haemorrhage.

Bowers notified WorkSafe of the victim's injury on this day.

1.4 Detail any enforcement notices issued that relate to the contravention

Bowers are not aware of any enforcement notices issued in relation to the event.

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 following rectifications and improvements have occurred following the event:

1. During the Inspector's initial visit on 23 February 2017, discussed with inspector how to improve the use of hydraulic bottle jacks and subsequently improved the process by engineering steel cradles around the platforms for the hydraulic bottle jacks. This has been completed on all eleven trough moulds.
2. After the incident, Bowers undertook a review of procedures for manufacturing trough moulds with workers, including improvements to the safe systems of work (Standard Operating Procedure) for the manufacturer of circular cattle trough moulds and training of workers against this revised safe system of work.
3. Created a full time Foreman role, to assist the Precast Manager, and to provide supervision and management of workers if the pre-cast Manager was absent. In addition, the Foreman established system with the Precast Manager, and with all factory workers in the event of any absences and notifications to ensure appropriate supervisory roles were carried out and staff in training provided appropriate duties and supervision.
4. The appointment of a full time Health and Safety resource at the Precast Factory site to consult, co-ordinate, communicate, observe and oversee health and safety activities with workers, health and safety representatives, health and safety committee and working company owners.
5. Contracted a subject matter safety professional to support and mentor the full-time health and safety resource.

1.6 Total amount of money spent on rectifications

RECTIFICATION	AMOUNT (INCL GST)
ESTIMATE OF ENGINEERING AND MATERIAL COSTS FOR CRADLES	\$575
ENGAGEMENT OF SUBJECT MATTER PROFESSIONAL	\$27,000
TOTAL	\$27,575

Internal costs incurred for rectifications have not been included in the costed amount above

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

Medical information provided after the incident shows the victim suffered injuries of:

- Laceration to the forehead which required sutures;
- Small depressed midline skull fracture of the frontal bone; and
- Probable post-concussion syndrome with symptoms such as fatigue, memory loss and concentration difficulties.

Bowers' representatives met with the victim and his wife on June 18th and August 6th to discuss his recovery and the enforceable undertaking application. At the most recent meeting the victim allowed Bowers' representatives to view a further Neurology Assessment undertaken on the 16th May 2018 (approximately 15 months after the event). The assessment showed a mild traumatic brain injury associated with:

- Chronic daily headache with migrainous features
- Epilepsy resolved with ongoing treatment
- Significant anxiety disorder, largely resolved with psychology support
- CT/MRI show no evidence of brain trauma

The victim was declared fit to hold a class 1 motor vehicle licence and be able to undertake the previous type of work such as storeman, driver etc.

In relation to career future, the report stated that once he is engaged in the workforce and managed return to work, that he may consider further training, for example plumbing, which is something he has discussed previously. As he understood, ACC would not support him in retraining along this line, he cannot afford to do this until he has successfully returned to the workforce.

The victim advised Bowers' representatives that he remains on daily seizure medication and with his current regime he has not suffered a seizure for 12 months. He has been working full time for nearly 3 months. His stamina is building and he is feeling less tired. He has felt capable of working each day and is enjoying being back in meaningful work.

Further offers of psychology support and career guidance/counselling were offered and declined by the victim. He is due for further neurological assessment in May 2019 or thereabouts.




We acknowledge that there was the potential for a more serious injury and this has been considered as part of the offer of amends including emotional harm.

1.8 Detail any offer of amends or payments made to the victim(s) who sustained injury or suffered illness (including in 3.12.3)

Offers were made to the victim and his wife to cover the cost of any additional out of pocket expenses such as gym memberships, travel costs, GP or specialist visits, physiotherapy, further psychology support or other therapist costs and career guidance/counselling.

As part of this enforceable undertaking we have made payments and will offer further amends to the victim to a total amends of \$68,733.14 which includes amounts for the:

- a) 80% top up of ACC during his time off
- b) Support to victim, family of five including a new born baby
- c) Amends for trauma and emotional harm suffered from the incident

DESCRIPTION OF PAYMENT	GROSS AMOUNT
	\$8,533.14
	\$200.00
PROPOSED ADDITIONAL AMENDS BY WAY OF CASH PAYMENT TO HELP THE VICTIM TO:	\$60,000
	
AND TO COMPENSATE THE VICTIM FOR THE EMOTIONAL HARM CAUSED	
TOTAL PAYMENTS	\$68,733.14

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

A representative of Bowers has kept in regular contact with the victim and his wife, and they have expressed the view that they are supportive of this Undertaking and the benefits that it will bring to the community.

Bowers were supportive of the victim returning to his role with the Company. During the victim's recovery, he emotionally struggled with returning to the workplace. He made the decision not to and resigned his position which Bowers accepted with regret. He is happy working full time performing a variety of duties (driving and deliveries) with a local business close to his home and young family.

Bower representatives met with the victim and his wife on June 18th and August 6th to discuss the enforceable undertaking application and to understand the impact the accident has had on the victim and his family. Bowers' representatives have conveyed the following to the victim and his family and have sought their views regarding the same:

1. Bowers has taken responsibility for the incident.
2. Bowers has sincerely apologised to the victim and his family for the harm and emotional trauma that he suffered.
3. Bowers has discussed with the victim and his family the different ways on how it might make amends for the harm that was caused to the victim and his family.
4. Bowers has consulted with the victim and his family on the options to prevent any such incident occurring again and how to apply lessons learnt to the broader industry, workers and workplace, and the community.

An offer of a restorative justice conference was made to the victim who said "He doesn't want things to drag on and feels that Bowers have done the right thing and doesn't want to relive the past and prefers to move forward."

The proposed amends in section 1.8 above has been made following this consultation and in consideration of what the victim and his family have expressed as being important to them.

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

Concrete NZ is supporting of this Undertaking and we attach a letter from their Chief Executive Officer in support.

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

<i>Date</i>	<i>Description of support</i>	<i>Comments</i>
	<p>Company representative visited the victim while he was in initially hospital to support the victim and his family. Gave \$200 petrol vouchers at this point.</p> <p>Met with occupational therapist to discuss return to work programme for victim with company.</p> <p>Regular contact with victim and his wife since incident to present.</p> <p>ACC top up payments</p> <p>Proposed additional amends to help the victim to renovate the kitchen in their family home and concrete the driveway and pathway to the front door and emotional harm.</p>	

1.12 Detail any current HSMS implemented and maintained by the person

Bowers as a small business has a documented Health and Safety Management System (HSMS). All workers and contractors are inducted against the HSMS and a copy of the HSMS is located in each of the site's offices.

Workers engage and participate in all aspects of health and safety by:

- Engaging in tool box meetings and health and safety meetings;
- Reporting all incidents;
- Reporting hazards;
- Participating in all aspects of internal and external training provided;
- Various staff involvement in risk assessments and applicable staff involved in review of SOPs;
- Having representatives on the Health and safety committee

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

Bowers holds secondary status in the ACC WSMP (Workplace Safety Management Programme) audit programme. This remains valid until 28 February 2019.

Item	Frequency	Action by	Monitoring
Spot checks These are carried out by Management or members of the Health & Safety Committee who check that PPE is being worn correctly and that safe work practices are being followed. Results are recorded in the Office Diary and reported to the next Health & Safety Committee Meeting.	Spot check – no review timetable	All staff and management	Noted in Health & Safety Meeting Minutes (three monthly)
Review of Accident Data The Accident Register is reviewed every three months and the Accident Registers and injury data are reviewed annually, by Management and the Health & Safety Committee, for trends and to assess the effectiveness of action taken.	Ongoing	Health & Safety Committee	Noted in Health & Safety Meeting Minutes (three monthly)
Review of Risk Register The Risk Register is reviewed annually, and also when new equipment is purchased or changes are made to site layout, or when indicated by accident trends or as a result of Hazard Identification Forms raised.	Annually	Directors and Health and Safety Manager	Noted in Health & Safety Meeting Minutes (three monthly) Copies provided to staff with their pay slip.
Reviews of Manuals The Procedures Manual and Health & Safety Manual are reviewed annually to ensure the policy has been updated and signed documentation is updated. Documentation is also reviewed when new equipment or processes are introduced, or as a result of new hazards being identified, or accident investigation being undertaken.	Annually	Health and Safety Manager	Noted in Health & Safety Meeting Minutes (three monthly)
Review of Training & Training Records Training is reviewed every three months, and also when any new equipment or processes are introduced, or in response to an accident or incident, or to accident trends. Training records are checked to ensure all necessary training is being carried out.	Every three months	Health & Safety Manager	Noted in Health & Safety Meeting Minutes (three monthly)
Electrical checks Electrical checks of all electrical equipment by an electrician are scheduled six-monthly.	Bi Annual	Competent Test and Tagging Person and Health & Safety Co-ordinator	Noted in Health & Safety Meeting Minutes (three monthly)
Review of Health & Safety Objectives Review of performance against objectives is carried out at least annually by Management and the Health & Safety Committee. Further objectives are set and responsibilities and timeframes are allocated.	Annually	Health & Safety Manager	Noted in Health & Safety Meeting Minutes (three monthly)

Item	Frequency	Action by	Monitoring
<p>Review of Management Health & Safety Performance A peer review of performance in relation to Health & Safety Responsibilities is held annually (including ensuring appropriate site foreman are appointed in each working area).</p>	Annually	Management and Health & Safety Manager	Noted in Health & Safety Meeting Minutes (three monthly)
<p>Review of Worker Participation The system for worker participation in health and safety processes is reviewed annually by the Health & Safety Committee, and input is sought from all personnel.</p>	Ongoing	Health & Safety Manager	Noted in Health & Safety Meeting Minutes (three monthly)
<p>Review of Subcontractors Health & Safety Subcontractor health and safety performance will be reviewed annually by Management</p>	Annually	Health & Safety Manager	Noted in Health & Safety Meeting Minutes (three monthly)
<p>Review of Emergency Evacuation Procedure Six monthly testing of emergency evacuation procedures</p>	Six monthly	Health & Safety Manager	Noted in Health & Safety Meeting Minutes (three monthly)
<p>Review of Health & Safety Legislation Annual review of health and safety legislations, including Health & Safety at Work Act 2015, regulations and other applicable documentation.</p>	Annually (due August 2018)	Health & Safety Manager	Noted in Health & Safety Meeting Minutes (three monthly)

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

There was consultation undertaken across the business during the post incident review and rectifications that were undertaken in Section 1.5. In addition, we have been seeking independent assurance and verification with expert subject matter providers on:

- Helping to identify improvements in our supervision and competency model
- Effectiveness of standard operating procedures
- Performance benchmarking of our health and safety against the SafePlus+ framework from WorkSafe NZ/ACC

2: GENERAL TERMS

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

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

Bowers acknowledges that WorkSafe alleges a contravention occurred.

2.2 Statement of regret that the contravention occurred

Bowers deeply regrets the harm to the victim as a result of the incident and acknowledges the affect this incident has had on the victim, his wife and five young children.

We regret that the victim did not receive the level of treatment from the medical centre that may have diagnosed the underlying trauma. In hindsight head x-rays or scans could have been undertaken by the treatment provider which could have resulted in the victim being admitted to hospital for treatment, observation and monitoring by specialist medical professionals.

Whilst the incident had the potential for a more serious event we are thankful that the victim is recovering and back in meaningful full time work that he enjoys. We acknowledge that his recovery continues and he remains on medication for the brain trauma and he struggles with cognitive load on his working memory.

We are committed to our obligations under the Health & Safety at Work Act 2015.

We acknowledge that compliance is not sufficient to justify WorkSafe accepting this undertaking in lieu of proceeding with the prosecution of the charge that has been laid against both companies.

We offer this undertaking as an opportunity to demonstrate leadership in Health and Safety in which the concrete industry plays an important role in economically supporting our local families in the heart of the Waikato community.

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

Bowers understands that 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/or the community while also taking into account the nature of the misconduct, submissions from any interested party (including any victims), past history of compliance and current commitment to remedy the misconduct.

By reference to those purposes / criteria, in summary Bowers:

- a) Has no previous convictions.
- b) Has cooperated fully with WorkSafe in its investigation of this incident.
- c) Has undertaken rectifications to the value of \$27,575 to date.
- d) Will make an additional payment of \$60,000 to the victim.
- e) Will benefit workers and workplace to the value of \$28,420 by:
 - 1. Implementing the proposed industry Precast Concrete Competency framework into the business.
 - 2. Health and Safety resource to undertake the National Certificate in Occupational Health and Safety Level 4.
 - 3. Undertake the online SafePlus+ performance benchmarking tool and engage with an advisor on implementing improvements.
- f) Will benefit industry to the value of \$65,500 by developing a Competency Framework for the Precast Concrete industry. These competencies can be used to plan, guide and develop safety performance in critical work functions and can also act as an exemplar to other industries.
- g) Will benefit and support the local Te Awamutu community to the value of \$42,000 by funding electronic BYOD (Bring Your Own Devices) for 60 students (30 per year for two years) at Te Awamutu College who have difficult social or economic circumstances.

This joint proposal above is not of a kind that can be achieved by prosecution and achieves tangible benefit to workers which could not be addressed elsewhere and at zero cost to other industry workers.

It is submitted that the steps Bowers proposes are proportionate in this particular case.

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

Bowers confirms that the behaviour, activities and other factors which caused or led to the contravention have ceased and will not reoccur.

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

Bowers has read and understood the Enforcement Undertaking Operational Policy July 2017.

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

Bowers acknowledges that the undertaking will, if accepted, be published on WorkSafe's website in full and may be 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

Bowers has the financial ability to comply with the terms of this undertaking and has provided evidence by way of financial accounts from its financial Statements for the year ending 31/03/2018 with this undertaking to support this declaration.

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

None save the worker as employee.

2.9 Statement regarding Intellectual Property

Bowers 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

Bowers acknowledges that it may be required to provide 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 the regulator, 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.

3.0 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

Bowers is committed to the performance of the activities as detailed above in this application and specifically commits to perform the activities details in section 3.3 below, which will ensure the ongoing effective management of risks to health and safety in the future conduct of the business and this enforceable undertaking.

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

In the event the enforceable undertaking (EU) is accepted, it will be disseminated to workers through the quarterly health and safety committee meetings held at each of the four sites.

Dissemination will occur at the next health and safety committee meeting held after the acceptance of this EU and regular updates will be provided as the EU progresses.

Bowers will also do the same for Concrete NZ and the victim.

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

<i>Activity</i>	<i>Cost \$(Incl GST)</i>	<i>Timeframe</i>
<i>Implement the Precast Concrete Competency framework into the business that is developed in the industry initiative.</i>	\$20,700	Within 12 months of Competency framework being published
<i>Health and Safety resource to undertake the National Certificate in Occupational Health and Safety Level 4.</i>	\$4,500	Within 24 months of EU Acceptance
<i>Undertake the online SafePlus+ performance benchmarking tool and engage with an advisor on implementing improvements.</i>	\$3,220	Within 18 months of SafePlus+ online release.
<i>Total estimated cost of benefits for workers and/or work and/or workplace</i>	\$28,420	

3.4 Activities to be undertaken to promote the objects of the safety legislation that will deliver benefits for the wider industry or sector

Activity	Cost \$(Incl GST)	Timeframe
<p><i>The WorkSafe NZ investigation highlighted that there is no available guidance specific to Bowers' industry that is relevant to training and supervision of workers. And the alleged contravention referenced competency multiple times as part of what was reasonably practicable.</i></p> <p><i>Bowers propose to fund a subject matter expert, Glynis McCarthy, to develop a Precast Concrete Competency Framework (Framework). This resource will provide a collection of competencies required in the precast concrete industry. These competencies can be used to plan, guide and develop safety performance. This framework will support WorkSafe's view of worker competency in relation to Regulation 9, of the HSWA, General Risk and Workplace Management, Regulations 2016 to manage the flow of information, instruction, training and supervision to workers and to ensure worker's ongoing competency over time.</i></p> <p><i>This framework can also act as an exemplar to other industries. The competencies will be described using examples of the critical work functions and the technical and behavioural competencies common to the pre-cast concrete sector. The framework will provide a common language to talk about the typical tasks and activities carried out by concrete precast workers, which in turn, will provide the foundation for developing ongoing health and safety capability within the concrete precast sector.</i></p> <p><i>Any pre-cast concrete manufacturer implementing the Framework will be able to support all health and safety stakeholders, such as:</i></p> <ul style="list-style-type: none"> <i>• Supporting managers to clearly describe worker performance expectations.</i> <i>• Supporting Workers and supervisors to identify and address training needs.</i> 	\$65,500	Within 15 months of EU Acceptance

- *Strengthening health and safety standards of performance within the sector.*
- *Aiding the movement between precast concrete companies by outlining common performance standards and expectations.*

Total estimated cost of benefits for wider industry or sector \$65,500

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

<i>Activity</i>	<i>Cost \$(Incl GST)</i>	<i>Timeframe</i>
<i>Bowers employs 50 staff across the Waikato region and its workers have strong family and community ties. Te Awamutu College (Decile rating of 5) in the heart of this region has a school roll of approximately 1,100 students. In 2017 it became compulsory to bring and use a Bring Your Own Device (BYOD) computer in all classes across the school curriculum. The college and their community representatives do not want students feeling embarrassed or left out because of their social and economic circumstances. Bowers propose to fund \$21,000 per year for two years to allow 60 students to have access to digital devices at a critical time in their education and social development. This initiative is also strongly supported by our workforce and senior management who are alumni of the college.</i>	\$42,000	Within 42 months of EU Acceptance
<i>Total estimated cost of benefits for community</i>	\$42,000	

3.6 Agreement to pay WorkSafe's recoverable costs

Bowers agrees to pay WorkSafe's costs associated with this undertaking, as itemised below, and it is acknowledged that payment is due 30 days after receipt of the WorkSafe invoice:

COSTS	MINIMUM SPEND
TOTAL RECOVERABLE COSTS	\$11,845 (Including GST if any)

3.7 Acknowledgement regarding any promotion of the person in relation to this undertaking

Bowers agrees that it will not undertake any activities that may promote or benefit the person without explicitly linking that activity / benefit to this undertaking.

3.8 Where WorkSafe considers appropriate in the circumstances, developing a commitment to (establish and maintain OR maintain) an HSMS

3.8.1 Bowers acknowledges there is a formal documented HSMS acceptable to WorkSafe that satisfies the principles of AS/NZS 4804:2001 Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques

3.8.2 Bowers acknowledges that the HSMS will be maintained in accordance with AS/NZS 4804:2001 Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques.

3.9 If a HSMS is required, a commitment to ensure that the HSMS is audited by third party auditors

Bowers are in discussions with the EMA (Employers and Manufacturers Association) and Telarc (Government Independent Auditing) body on a HSMS audit scheme developed specifically for the small to medium manufacturing sector by Telarc. This scheme (revised from QSafe) includes the critical elements of ISO 45001 and the HSWA duties and obligations.

3.12 Minimum spend

3.12.1 Bowers combined commits to a minimum spend of \$216,498 (excluding rectifications of \$27,575) for this undertaking

3.12.2 Bowers 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 will be sought from WorkSafe.

3.12.3 Bowers acknowledges the minimum spend comprises of the:

TOTAL COST	MINIMUM SPEND (INCL GST IF ANY)
FINANCIAL AMENDS PAID TO VICTIMS	\$68,733
BENEFITS TO WORKERS/WORKPLACE	\$28,420
BENEFITS TO INDUSTRY	\$65,500
BENEFITS TO COMMUNITY	\$42,000
WORKSAFE'S RECOVERABLE COSTS	\$11,845
ESTIMATED COST OF THE UNDERTAKING	\$216,498

4.0 Execution

Undertaking given by Scott Hill in my own right and in my capacity as Director of Bowers and Son Limited.

On the 7th of August 2018

Signature of the person giving the undertaking:

[Redacted signature]

Undertaking given before me:

Witness name: Tamara Barrowcliffe

Witness address: [Redacted address]

Fitzroy, Hamilton

Witness signature: [Redacted signature]

5: Acceptance

This undertaking is accepted by WorkSafe.

On the 16 of August 20 18

Signature of the person accepting the undertaking:

[Redacted signature] Simon Humphries

Name of WorkSafe representative:

Witnessed by: Cordell Weir
[Redacted signature]
20/08/2018

