

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

Dive! Tutukaka 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:

Kate Malcolm, Manager / Director

On behalf of:

Dive! Tutukaka Limited

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

Dive! Tutukaka 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)

Kate Malcolm

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

Dive! Tutukaka Limited

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

Dive! Tutukaka Limited.
Company

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

As above

Physical address:

3-5 Rona Place,
Tutukaka
0173
Whangarei

Postal address: (if different from physical address)

As above

Work phone: 09 4343 867

Mobile phone: [REDACTED]

Email: kate@diving.co.nz

Industry: Tourism / Charter

Workers (enter numbers):

Full-time: 4 Part time: Casual: PTE 15-40

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

Dive! Tutukaka Limited (DTL) is a privately owned, seasonal marine-based tourism business, operating from a shore-based facility in Tutukaka, Northeast of Whangarei and two hours from Auckland, delivering marine experiences at the Poor Knights Islands Marine Reserve. Dive! Tutukaka offers diving, scuba training and guided dives and Perfect Day delivers summer season snorkelling trips and charter hire that include snorkelling, scenic cruising, kayaking and stand up paddle boarding. Lodge9 is a 6- room boutique lodge.

The Poor Knights are a chain of islands, 12.5 nautical miles off the coast and are a complete nature and marine reserve. DTL has been in operation since 1999 and runs 4 fleet vessels, and although runs all year round, has a seasonal component, with the main operating season between October and April.

Comments:

The DTL operation is uniquely involved with multiple industry sectors; tourism, maritime transportation, recreational diving, training, education and accommodation. Beyond products and services providing safe, enjoyable adventures in a unique maritime environment it sponsors schools and community-based initiatives to the value of \$45k per annum by way of vouchers and free trips for sponsorship and fundraising purposes. It offers substantially subsidised DTL experiences to schools and students for the purpose of conservation education and to promote intergenerational understanding of the importance of marine reserves and sustainable marine environments. It continually seeks to improve and benchmark against the best industry operators and standards and strives to be operationally exemplary, especially in the areas of health and safety, sustainability and training and including; Enviro-Gold Sustainability Level 4 plus Gold Star (for Lodge9), Adventure Safety Audit, Maritime NZ audited Maritime Transport Operator Plan (MTOP) and Maritime Transport Operator Certificate (MTOC), Health and Safety Management Systems Audit ISO 45001 to our knowledge the only New Zealand dive and snorkeling tourism operation to attain that accreditation. DTL was among the first organisations to transition to the (Adventure Activity Operator (AAO) and (Maritime Operator Safety System (MOSS) audits, as well as a PADI 5 Star Instructor Development Course (IDC), and PADI Green Star holders, signatory status to NZ Tourism Sustainability Commitment, NZ's first and only Sea Shepherd Dive Centre affiliation, and continually invests in fleet and plant improvements, including a new purpose-built base; the best dive centre facility in the South Pacific. A strong focus is to employ, train, upskill and promote team members who are passionate, professional and dedicated.

1.2 Detail of the contravention

Worksafe has charged Dive! Tutukaka with an offence under the Health and Safety at Work Act 2015.

The charge is in relation to an incident that occurred at the Poor Knights Islands on the 7th December 2020 where Tauraroa Area School (TAS) engaged Dive! Tutukaka Limited to take a group of school children and teachers to the islands to snorkel and kayak as part of the product Perfect Day.

While at anchor six children went out of sight of the vessel and two became stuck in an inlet, having been knocked from their kayak. One child was escorted back to the vessel, whilst one DTL crew member remained in the cave with the second child. All participants and crew returned both to the vessel and to the DTL base, with three of them suffering minor physical injury and shock, and emotional distress.

DTL was a PCBU as defined in s17 of the Act and as a PCBU were obliged to ensure, so far as reasonably practicable, that the health and safety of other persons were not put at risk from work carried out as part of the conduct of the business or undertaking (s36(2) of the Act.)

The alleged offence is that DTL breached the duty imposed under s36(2) of the Act and in failing to comply with that duty they did expose individuals to a risk of death, serious injury or serious illness. DTL is liable under section 48(1) and 2(c) of the Act.

The specific steps that Worksafe alleges were reasonably practicable for DTL to take were:

- a. Consulted, co-operated, and co-ordinated activities with all other PCBUs, including Tauraroa Area School (TAS), who had a duty in relation to the health and safety of those attending the excursion;
- b. Developed and implemented an effective supervision plan for the purposes of the excursion, including ensuring that the persons attending the excursion were adequately supervised so as to minimise the risk to their health and safety arising from any hazards the person may be exposed to during the excursion;
- c. Conducted an on-site hazard assessment on arrival at the excursion location, Cave Bay, and identified any new hazards, including the cave, swell and currents;
- d. Identified the cave as a hazard and mitigated the risk to health and safety of the persons attending the excursion by establishing it as a clear out of bounds area;
- e. Mandated the use of wetsuits or alternative floatation devices while kayaking and ensured a wetsuit or alternative floatation device was provided to every person attending the excursion for that purpose.

1.3 Detail the events surrounding the contravention

Towards the end of the water-based activities and while the DTL vessel Perfect Day was at anchor, several TAS student passengers kayaked into a fissure area out of sight of the vessel. Two were tossed from their kayak in a turbulent spot of water at the very far end of a narrow cut. After a successful attempt by DTL crew to extract one child, the other was unable to be moved (as he physically froze and could not act) and tidal and swell conditions became untenable to extract him without his cooperation.

Perfect Day radioed a PanPan from the Poor Knights Islands, due to a passenger trapped in a topside cave (not underwater) and getting to them and getting them out was problematic. RCC were running operations, a NEST rescue helicopter was dispatched and dropped a Medic in to assist.

A DTL crew member remained with the passenger until the tide dropped, when both were extracted successfully without harm, excepting minor bruises and scratches and some shock. The NEST Medic assessed our crew member and the two students for First Aid requirements and travelled back with them on Perfect Day towards Tutukaka Harbour and was airlifted off halfway across. The students were met by and released to their caregivers at our Tutukaka landbase.

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
DD / MM / YEAR				
DD / MM / YEAR				
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)

Increased awareness and disclosure of risks of activity - verbal at counter, written disclosure visible and printed at centre, plain language, directed to read, and large poster. Disclosure at point of booking and included in DTL school Memorandum of Understanding (MOU).

Increased and reinforced: existing on-board briefings to include specific identification of 'out of bounds' areas, permanent and no-go spots at sites - live dynamic hazard assessment with site specific google forms,, skipper staff briefings, ongoing visual identification of site specific hazards, continued training in staff awareness of requirements in consistent repetition of requests, and patience.

Wetsuits & PDFs mandatory on all kayaks and SUP, extra sizes in wetsuits purchased. Rock Rescue kit purchased.

New drill for "on-island" rescue, additional parent-teacher specific briefing to clarify respective roles and responsibilities prior to any activity. DTL requests written outline of student abilities, less able students, risk profile, medical and behavioural issues from school. Reviewed DTL policy around 'blind-spots' with designated recognition and timing plan with DTL Shore Based Office (SBO). Requested repeater on island from MNZ for to enhance known radio issues. Require emergency after-hours number from all schools, and designated point of contact at SBO included in MOU.

Increased & reinforced drills and staff training and strengthen existing relationships with outside agencies (Coastguard, NEST Helicopter) with regular contact and winch training.

Skippers peer reviewed on hazard assessment, and crew/customer communications, specifically separate briefing to EOTC and adult help. Reviewed school group pre-client assessment and supervision structure review, require parent help determined responsible for roles prior to the day and deemed fit for purpose by the school. Addition of specific school MOU modeled on existing audit provider MOU. Additional verbal clarification of adult supervision roles on the day with skipper. Option to engage extra DTL crew to ensure supervision structure guidelines are met, and designated to take on the role of parent/teacher help to supervise agreed students for all activities for the entire excursion, allowing other crew to continue in their roles.

Industry wide increased risk disclosure and recognition of natural hazards awareness incorporated in DTL internal audit review (quarterly) and Adventure Activities Audit (AAO). MNZ May 2021 Commercial Code for Swimmers incorporated in MOSS audit. Internal Safety Audit with a quarterly scheduled independent auditor to investigate incidents and systems, resulting in findings and action points over 4 partial internal audits for a complete yearly review of operations. DTL implemented online Google Drive forms with immediate and live access and upload for ease of reference whilst underway and at sites. Continued use of Facebook and Messenger Groups to ensure communication is clear, concise and current, making awareness wide and immediate.

Development of specific EOTC form 6 for External Providers within Adventure Tourism Sector has been implemented, reviewed and audited by Gemma Periam (\$1,500) 15-16 November 2022.

1.6 Total amount of money spent on rectifications

Costs incurred in relation to the above rectifications: Historical from December 2020. Cave Rescue Kit purchase \$1,500 Shore-Based radio (SBO) - purchase ready for landbased installation \$400 Externally-provided kayak training for DTL trainers \$500

Internal Audits: Internal Safety Audit, Jamie Obern - \$3,500 initial cost plus four internal reviews annually. \$8,050 per annum

Development of specific EOTC form 6 for External Providers within Adventure Sector reviewed an implemented Total: \$11950

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

Scratches, lacerations and bruising, shock and emotional distress post-event.
The potential was present for major injury and for further fatal injury or future fatal illness.

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 victims were two [REDACTED] students at Tauraroa Area School. (TAS)

Detail offer of amends or payments:

[REDACTED]

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:

Internal DTL HSMS in place have been rectified, reinforced and / implemented since the incident.

Ongoing DTL HSMS is comprehensive and maintained by regular and rigorous internal and external processes.

Evidenced by various audits and reports.

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

DTL is thoroughly and regularly externally and internally audited.

Adventure Activity Safety Standard (previously through Telarc and now Adventure Mark) - mandatory annual review (desktop or on-site)

Voluntary Health and Safety Management Systems audit (TELARC); successfully transitioned from the ISO48001 to ISO45001 in November 2022 - annually and voluntary

All maritime activities are audited by Maritime New Zealand (MNZ) and the Marine Operator Safety System (MOSS), requiring a Maritime Transport Operating Plan to obtain a Marine Transport Operating Certificate (MTOC) - 10 Year Certification, frequency audited on risk profile while is low, next due August 2024

Tourism industry standards and quality control are audited by Qualmark - annual and voluntary

DTL has employed an independent Internal Safety Auditor to review the business and its operations quarterly to catch any gaps and remedy internally any issues that may arise.

EONZ independent review recently completed, focussing on EOTC systems for dealing with the schools - voluntary as required. Currently under implementation.

Following the incident in December 2020, the company has passed all internal and external audits, both mandatory and voluntary. Full current reports are attached in the Appendices.

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

Refer to sections 1.9 and 1.10 for detail on consultation with victims and industry regarding the suitability of an enforceable undertaking in response to the incident.

Further consultation proposed to be undertaken in relation to this EU includes with:

NEST - Northland Rescue Helicopter

Adventure Mark

EONZ

This consultation will plan to fine tune and detail partnerships proposed, and aim to be flexible to meet demands and needs of each party. The intent is to secure a longer term partnership in each instance, and continue the collaboration.

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

Dive! Tutukaka Limited acknowledges that WorkSafe alleges a contravention of its duty under s 36(1) of the Act.

2.2 Statement of regret that the contravention occurred

Dive! Tutukaka Limited deeply regrets the incident on the 7th of December 2020. In particular, we acknowledge and express our remorse for the trauma and damage that were emotionally done to [REDACTED] due to our actions on that day.

DTL recognises the harm that can result from a negative in-water experience and the effects that can have long-term on these children and their ability to fully engage with water activities in the future.

Dive! Tutukaka has an incredibly strong commitment to its community and the youth and rangitahi that come through our doors and board our vessels. Our staff pride themselves on delivering not only a safe experience at the Poor Knights Islands, but one that is remembered in a positive way as a day that creates memories. Our passion and commitment to being the best we can be, both in customer service and delivering an on-water experience, defines who we are as a staff, as people and as our company culture. Our company mantra for health and safety is “excellence beyond compliance.”

Therefore it deeply regrets the incident that occurred.

Dive! Tutukaka is committed to ensuring it fully discharges its obligations to both workers and other persons under the Act. The company has cooperated fully with WorkSafe and other organisations throughout the investigation.

This incident has had serious ongoing impacts on the entire Dive! Tutukaka team; the company wishes to acknowledge all of the people who were impacted by this accident, including the victims, and to recognise the personal and heroic efforts that ensured everyone got home safely that night.

Dive! Tutukaka is grateful to everyone involved who did an amazing job under tricky circumstances, including teachers, staff, customers and crew and to know MNZ, RCC, Coastguard and NEST support and communication was so readily available made a massive difference.

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

Dive! Tutukaka is conscious that this incident could result in schools removing or reducing water-based EOTC activities and it wishes to ensure that the advantages of in-water learnings in a safe environment can continue to benefit children and wider communities. The benefit of using Dive! Tutukaka, with their reputation as a safe provider, and utilising their dedicated and professional team, is that they can guide and assist not only schools but audited external providers to ensure delivery of safe educational water experiences. The high profile that Dive! Tutukaka has within the adventure tourism sector enhances this message.

The clarity around enhanced EOTC guidelines that specifically engage these external providers will ultimately assist schools in choosing the best activities for their students.

The company has sufficient reserves to meet the costs of the initiatives proposed in this undertaking.

The recent financial forecasting has already allocated funds monthly to ensure it can meet the next three years to cover the costs of the suggestions in this undertaking. The latest forecast takes into account the bad flooding and storm damage from this wet weather summer season, Cyclone Gabrielle, and its impact over most of Northland.

The company has insurance to cover reparation to the victims.

Two of DTL's guiding values are manaakitanga and whanaungatanga, and agreeing to this undertaking supports those values and are consistent with the company's ethos and resources.

DTL have submitted a first draft that includes a broad range of proposed actions, including partnering with NEST Rescue Helicopters, Tutukaka Coastguard, Education Outdoors NZ and Experiencing Marine Reserves to deliver an unequivocally valuable response that promotes H&S principles within the company, the community and the wider industry sector.

DTL believe the additional component with Adventure Works (AW) to further develop a training project will benefit strongly their workers, but also spill over into the community and the industry.

DTL sees the collaboration with various key stakeholders to devise and produce educational material to Dive! "train the trainers" operations as well as being a valuable resource for the wider community and water-based adventure experience providers and trainers.

Sharing our learnings with innovative podcasts, and online video platforms doesn't take the focus off education and compliance, but in fact enhances them with alternative approaches.

Enabling DTL to participate in the EU in such a manner will achieve an outcomes approach, where the situation and wider context of water activities in NZ can be addressed in a holistic and positive manner, with grass roots and industry led training, that spills over into the local communities, particular coastal communities and lower decile schools.

Currently there is a lack of online wider training for workers in the tourism marine sector.

Water safety, and water knowledge is paramount, and enabling the younger generation safe opportunities is integral. A knee-jerk response could be to cease school activities, and to price point the trip out of reach. That is not an outcome that DTL wishes to see; this will negatively impact our coastal community, the intergenerational approach we take, and the ability to influence and affect change by being safely immersed in a pristine marine environment.

We are a business, but we have always been about our people, and using our platform to affect positive change.

A far better way is to showcase a career pathway, to enable safe in-water activities, and to allow schools to not only participate but to improve their safe management skills in doing so. This demonstrates not only a learning to the students, but offers a pathway alternative.

In a nutshell, the preference to any spend is to see it go to the communities, the rohe, and the rangitahi of Northland, the Tutukaka Coast, and nation wide as an appropriate response. With collaboration, ability, our asset base, and the stakeholders we have engaged with - we are able to deliver this sustainably, responsively, with compliance, and with passion.

Accepting DTL's application for an EU will demonstrate WorkSafe's outcomes-oriented approach to provide clear direction for step-change impacts that providers and schools need to make. It is a productive and collaborative way, to achieve WorkSafe outcomes, and match their vision.

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

Dive! Tutukaka understands the importance of improving and growing from the learnings resulting from this incident. It is committed to ensuring that the behaviours and factors which caused or led to the contravention have ceased and will not reoccur.

Dive! Tutukaka has conducted a detailed internal review of its Health and Safety Management Systems and the way it collaborates and communicates with other PCBUs where there may be overlapping duties of care. It has developed new EOTC procedures and communications, including clarity around definitions between sectors. It is also committed to passing on these lessons to other external providers who deal with schools conducting EOTC activities.

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)

Dive! Tutukaka 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)

Dive! Tutukaka 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)

Dive! Tutukaka Limited

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

(type of evidence provided)

the attached Financial Summary for the Month ending March 2022

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)

Dive! Tutukaka 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

N/A

2.9 Statement regarding Intellectual Property

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

Dive! Tutukaka 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)

Dive! Tutukaka 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)

Dive! Tutukaka 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:

The Operations Manager and General Manager of Dive! Tutukaka will take responsibility for satisfying the company's commitment to ongoing effective management of risks to Health and Safety in the following ways:

DTL commits to continuing to perform regular internal and external audits of its HSMS.

The Operations and General Manager, along with other members of the team at DTL will continue to play an active role in reviews and will work with employees to identify any improvements that can be made.

Dive! Tutukaka commits to continuing professional development in EOTC procedures by joining EONZ in a financial capacity.

Ensuring at least one staff member attends an annual EONZ professional development course (or suitable alternative training provider).

Ensuring all staff have the opportunity and are encouraged to attend any courses on EOTC safety that EONZ offer.

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:

The EU will be provided to the victims' families upon commencement of execution.

The EU will be provided to the Principal of Tauraroa Area School upon commencement of execution.

A copy will be published on Dive! Tutukaka's website for a period of three years during execution and following.

Dissemination will occur by two months from signing as of the 1st April 2023, 1st June 2023.

Dissemination will occur by: 01 / 06 / 2023

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		
Funding for PADI Rescue training and providing instruction to Tutukaka Coastguard	11,040	April 2026
3.5.2		
Funding and training for NEST Rescue Helicopter. Offer of 8 days per annum of dedicated charter of vessel for specific winch and rescue training purposes. Utilise DTL team and wider community First Response organisations to work together on rescue scenarios and drills	99,000	April 2026
3.5.3		
Funding support for EMR and "Mahi for Rangitahi" program to upgrade to Divemaster	22,500	April 2026
For further information on activities refer appendix 3.5		
Total estimated cost of benefits for the community	\$ 132,540	April 2026

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 Dive! Tutukaka Limited

commits to a minimum spend of [REDACTED] for this undertaking.

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

3.7.2 Dive! Tutukaka 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 Dive! Tutukaka Limited

Acknowledges the minimum spend comprises of the:

TOTAL COST	MINIMUM SPEND
Financial amends paid to victims (if applicable)	[REDACTED]
Benefits to workers/others	76,500
Benefits to industry	28,500
Benefits to community	132,540
Estimated cost of the undertaking Plus GST (if any)	\$ [REDACTED]

4. Execution

Authorised representative of an organisation

Undertaking given by (name of authorised representative)

Kate malcolm

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

Operations Manager and Director

of (eg organisation name) Dive! Tutukaka Limited

On the (day) 16 day of (month) March , 20 23 (year).

Signature of the person giving the undertaking:

Undertaking given before me:

Witness name: Rebecca Calder-Flynn

Witness address:

25 Upland Road
Wellington
6012

Witr

5. Acceptance

This undertaking is accepted by WorkSafe.

On the (day) 27 day of (month) March , 20 23 (year).

Signature of person accepting the undertaking:

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

Catherine Gardner

Undertaking given before me:

Witness name: Cordell Weir

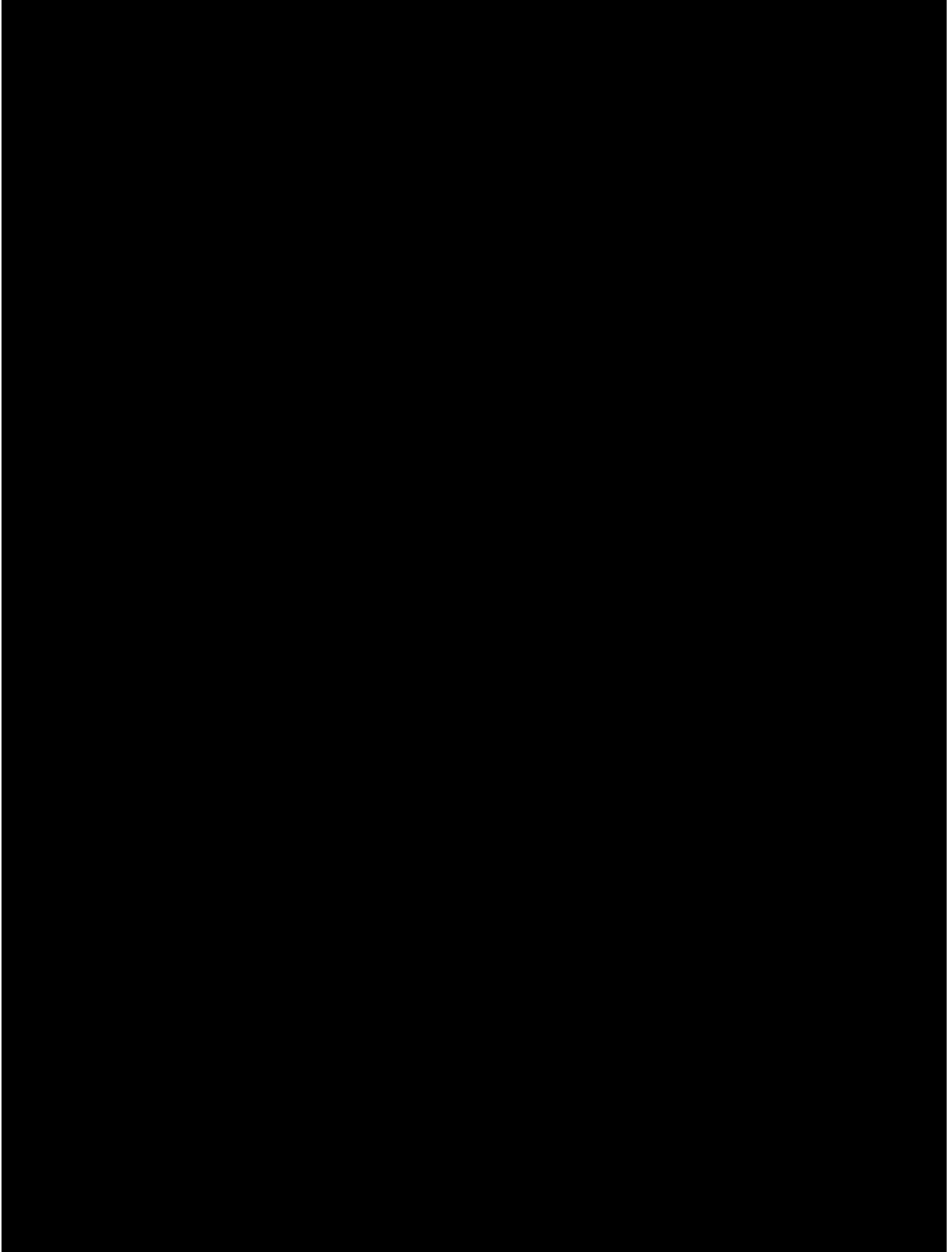
Witness address: 19 Bower

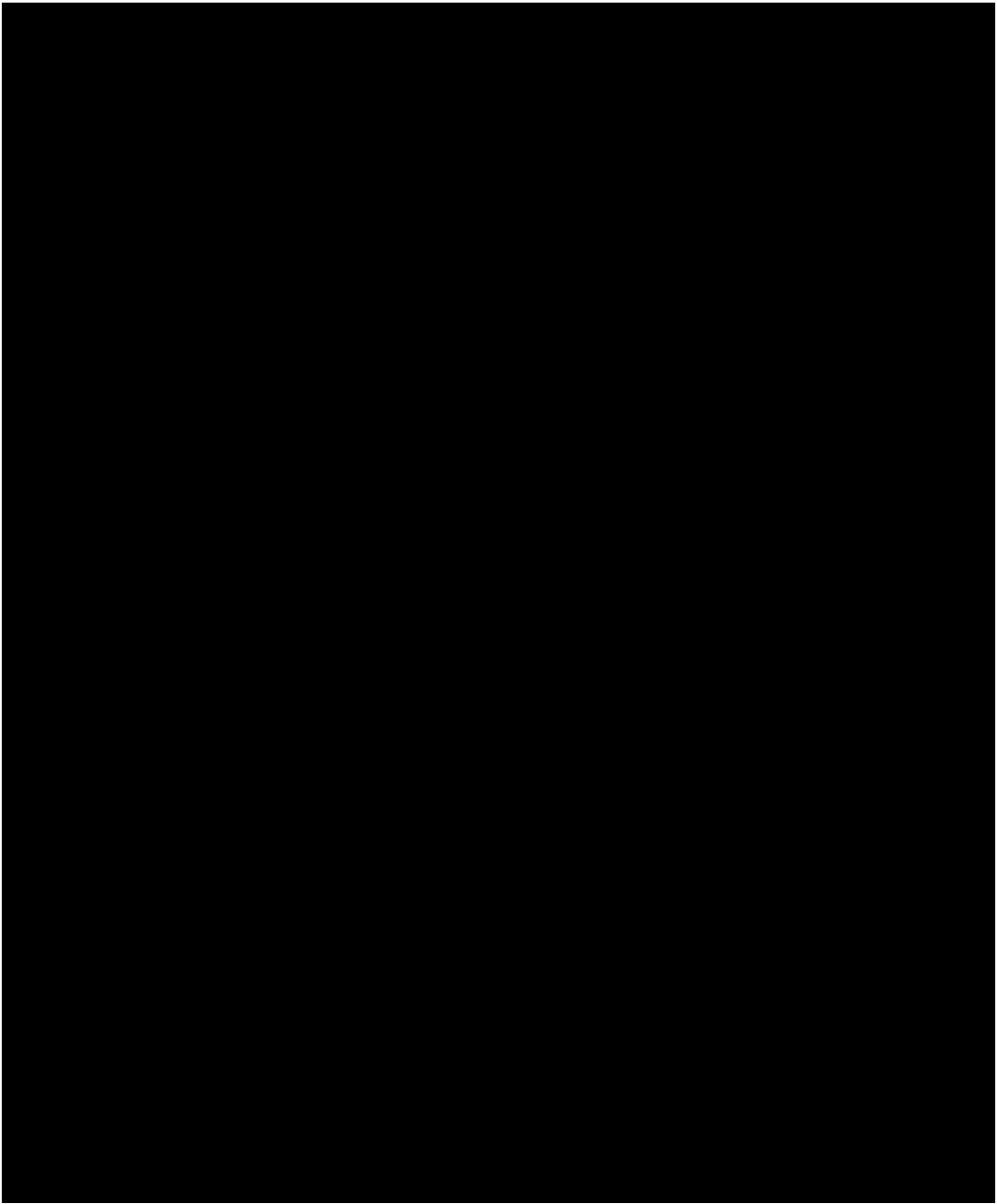
Street, Napier, 4110

Witness signature:

EU Appendices

EU 1.11





3.3 Activities to promote H&S benefits to workers.

DTL ensures all team members are trained to meet all mandatory H&S requirements but routinely go above and beyond to provide extra resources and training to further promote company H&S.

ACTIVITIES	COST(\$)	TIMEFRAME
3.3.1 Professional Development EONZ - annual	\$500	Annually for three years, commencing May 2023
3.3.2 Adventure Works - collaboration to produce on line training videos, train staff with outdoor education qualifications	\$25,000	Annual spend for three years, commencing May 2023
Three yearly Cost	\$76,500	

Adventure Works (AW):

Training for Trainers for DTL team
Collaborative Training Video Development
Annual investment of \$25,000
Total investment \$75,000

Adventure Works

DTL will spend \$75,000 over three years (from the date of the acceptance of the EU) to collaborate with Adventure Works to devise and produce educational material that will become integral to Dive! "train the trainers" operations as well as being a valuable resource for the wider community and water-based adventure providers and trainers.

A series of training videos will be produced (utilising DTL facilities, locations and team) focusing on marine safety for groups - especially students and young people - with particular attention to the use of equipment such as stand-up paddle boards and sit-on kayaks.

A portion of the 3-year spend will also be utilised to put nominated DTL team members through relevant Adventure Works training programmes and a further and final portion contributed to ensure AW is able to supply the resulting video training material to as wide a range of community and industry partners as viable.

3.4 Activities to promote H&S to wider industry or sector

DTL will work with EONZ to develop a suite of initiatives to be promoted on their website, designed to further the professional development and general understanding of all adventure/outdoor providers to schools. The aim is to increase industry/sector wide health and safety awareness for the ultimate benefit of students. DTL is a respected leader in multiple visitor experience sectors and can use their reputation and reach to help EONZ deliver exemplary learning opportunities.

ACTIVITIES Activity, and outlined expected outcomes	COST (\$)	TIMEFRAME
3.4.1 Podcast/video presentation on EONZ website	\$2,500	June 2023
3.4.2 Professional Learning Workshop delivered with EONZ to main centres, and Adventure Sector	\$26,000	December 2023
	\$28,500	

3.5 Activities to promote H&S to wider community

The Tutukaka Coast is an extremely high-use marine environment used by residents and visitors alike. The wider coast community relies on the Tutukaka Coastguard (TC) and the NEST Rescue Helicopter to offer timely and effective rescue services in many types of water-based emergency situations.

DTL have long-standing and close relationships with both these organisations and will use the EU to further those connections for the betterment and enhanced safety of the community.

ACTIVITIES	COST (\$)	TIMEFRAME
3.5.1 Funding for PADI Rescue training and providing instruction to Tutukaka Coastguard - Annual \$3680 three years.	\$11,040	Annually for three years, commencing May 2023
3.5.2 Funding and training for NEST Rescue Helicopter. Offer of 8 days per annum of the dedicated charter of a vessel for specific winch and rescue training purposes. Utilise Dive! Tutukaka team and wider community first response organisations to work together on rescue and drills.	Fuel, operating and staff costs per vessel, \$4125 at eight days per annum, scheduled and planned training. Three years annually. \$99000	Annually for three years, commencing May 2023
3.5.3 Funding support for EMR and Mahi for Rangitahi program \$7,500 per annum to upgrade to Divemaster	\$22,500	Annually for three years, commencing May 2023
	\$132,540	

Benefits to workers/others	3.3	\$76,500
Benefits to Industry	3.4	\$28,500
Benefits to the community	3.5	\$132,540
		██████████