

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

PAPPNS Trading Company 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:

Robert McGregor

On behalf of:

PAPPNS Trading Company Limited

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

PAPPNS Trading Company 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)

Robert McGregor

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

PAPPNS Trading Company 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)

Robert McGregor

Physical address:

42 Domain Road, Papamoa Beach, Papamoa, 3118, New Zealand

Postal address: (if different from physical address)

Work phone: s9(2)(a) OIA 1982

Mobile phone: s9(2)(a) OIA 1982

Email: s9(2)(a) OIA 1982

Industry: Grocery supermarket operation

Workers (enter numbers):

Full-time: 132 Part-time: 39 Casual: 8

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

PAPPNS Trading Company Limited (PAPPNS) is part of the co-operative Foodstuffs North Island Limited (Foodstuffs). PAPPNS owns and operates the grocery store, Pak 'n Save Papamoa, 42 Domain Road, Papamoa Beach (Site).

Comments:

PAPPNS was established on 20 May 2010. Its sole director is Robert McGregor, and its shares are wholly owned by Robert McGregor and Peter Morrison s9(2)(a) OIA 1982.

PAPPNS is the largest supermarket in Papamoa, serving on average 4,250 customers per day. It employs 179 permanent staff. Of those staff, 140 work as retail assistants on the floor or checkouts, 10 work as tradespeople, butchers and bakers in production areas, 10 work as forklift or reach truck operators, and 20 work in management positions including department managers and admin.

PAPPNS confirms no internal labour costs have been included in this submission.

1.2 Detail of the contravention

PAPPNS has been charged with an offence under the Health and Safety at Work Act 2015 (Act). This charge relates to an incident on 13 September 2023 where a worker suffered a serious harm injury.

WorkSafe alleges PAPPNS breached the duty imposed by ss 36(1)(a), 48(1) and (2)(c) of the Act.

The alleged contraventions are that PAPPNS, being a Person Conducting a Business or Undertaking (PCBU) having a duty to ensure so far as is reasonably practicable, the health and safety of workers who work for the PCBU, while the workers are at work in the business or undertaking, including the injured worker, namely working in the storage room and truck bay of the Site, did fail to comply with that duty, and that failure exposed workers to a risk of death or serious injury arising from the interaction between workers and mobile plant.

The particulars of the charging document state that it was reasonably practicable for PAPPNS to have:

1. Carried out an effective risk assessment for the risks of having moving plant and pedestrians interacting in the storage room and truck bay;
2. Developed, documented, implemented and reviewed the ongoing effectiveness of an effective, site-specific Traffic management plan for the storage room and truck bay and a Standard operating procedure for forklift operations (SOP);
3. Trained workers on, and monitored their compliance with, the traffic management plan and SOP;
4. Implemented physical separation of pedestrians and moving plant in the storage room;
5. Provided steel capped boots to all workers working near moving plant in the storage room and truck bay and monitored and enforced workers' use of all issued personal protective equipment.

1.3 Detail the events surrounding the contravention

In summary, at the time of the contravention:

The Site consisted of a retail store, storeroom and a primary unloading zone. Within the storeroom area, foot traffic and vehicle traffic occurred (see Figure 1, Appendix A). Delivery vehicles would enter the storeroom from the primary unloading zone, forklifts and reach trucks would operate within the storeroom in most areas, and pedestrians (workers) would access most areas of the storeroom.

The forklifts are electric. The charging areas for the forklifts were located in the position indicated by a red arrow in Figure 1. Forklifts were reversed out of the charging area. Picking ladders were stored outside the delivery bay next to the skip bin and butchery freezer in Figure 1, and next to the forklift charging area. Workers would need to walk behind the forklift charging area to collect and return picking ladders.

On the morning of 13 September 2023, the injured worker was returning a picking ladder to the ladder storage area. The injured worker walked past the forklift charging station (indicated by a red arrow in Figure 2). Another worker (Forklift Operator) was reversing out a forklift from the charging station (indicated by a yellow arrow in Figure 2). The Forklift Operator did not notice the injured worker and reversed into them. The injured worker was wearing a hi vis vest, but no steel capped shoes at the time of the contravention.

The forklift was fitted with safety features that were functional at the time of the contravention, namely mirrors, seatbelt and blue light which projected a bright blue circle behind the forklift when it was in reverse. PAPPNS had an SOP for forklift operation that included a direction that forklift operators check behind them when reversing, and not to operate the plant when pedestrians are within three metres of the plant, although PAPPNS could not evidence that the Forklift Operator was trained in this document. Additional traffic management measures included signage and painted zoning on the floor (that was fading).

PAPPNS acknowledges that:

1. The injured worker should have been issued steel capped boots.
2. It should have provided better training to the injured worker and the Forklift Operator on PAPPNS policies regarding working with and around forklifts.
3. It should have had more effective traffic management controls in place.

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
/ /	N/A	N/A	N/A	N/A
/ /				
/ /				

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.

1. Relocation of the 'online shopping' area into a different building. This was always planned to happen – however, the whole project was delayed for over 3 years for various reasons.
2. Conversion of the vacant (after 1 above) 'online shopping' area at the Site into a truck bay storage space.
3. Relocation of racking to create space for cardboard and plastic bails to a pedestrian access aisle only.
4. Relocation of all ladders to a pedestrian access aisle only.
5. Reorganisation of storeroom stock to have high pedestrian access stock in restricted fork truck access aisles through use of temporary barriers.
6. Designated no go areas for "unauthorised pedestrians" e.g. non storeroom / truck loading bay staff members.
7. Construction of physical pedestrian safety barriers for areas where people are required to move around the truck loading bay to access waste skip bin and outside freezers and chillers.
8. Redesign and creation of barrier pedestrian walkways, and use of mobile temporary barriers to delineate access routes for people and to restrict fork truck access.
9. Refreshing training for staff in all Standard Operating Procedures.
10. All storeroom personnel provided, and required to wear at all times, steel capped shoes and Hi-Viz clothing. Additionally, all permanent staff have been offered steel capped shoes at no cost, should they wish to wear them.

PAPPNS has also trialled the use of artificial intelligence (AI) cameras positioned on forklifts and reach trucks, further explained under part 3 of this application.

1.6 Total amount of money spent on rectifications

\$100,519.30, broken down in Appendix A, 1.6.

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 injured worker suffered a severe injury resulting in the degloving of their left foot and subsequent amputation of three toes, and multiple surgeries.

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 worker is a permanent employee of PAPPNS.

Detail offer of amends or payments:

PAPPNS has paid the injured worker [REDACTED] in ACC top up payments to date. PAPPNS proposes to pay a further [REDACTED] to the injured worker if the EU is accepted, to account for emotional harm.

Further details are provided in Appendix A, 1.8.

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

As set out in Appendix A, 1.9

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

As set out in Appendix A, 1.10

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

DATE	DESCRIPTION OF SUPPORT	COMMENTS
13 / 09 / 2023	to 27 / 06 / 2025, total ACC top up	ss(2)(a) OIA 1992
15 / 09 / 2023	Expression of remorse	Visit to injured worker in hospital, R McGregor
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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:

PAPPNS uses the Foodstuffs Safe Home Everyday management system. There are regular monthly health & safety updates from Foodstuffs' Business Health & Safety Business Partner.

The in-store system is externally audited annually, while internal reviews are ongoing throughout the year.

PAPPNS conducts monthly health & safety meetings with representatives from each department who review hazards throughout the year while also being the focal point for the identification of new hazards from within the departments.

This worker-led team is responsible for the review of PAPPNS policy and procedures concerning health & safety throughout the year. They are instrumental in identifying health & safety issues and having them resolved.

Information from these meetings is made available to all team members via a safety notice board and toolbox meetings.

The store has assigned the HR and Training managers to coordinate and administer the health & safety systems on site with staff training programs and safe working procedures that are linked with the staff induction and review process. PAPPNS' Loss Prevention Team and Compliance Teams assist in the investigation of all incidents and accidents.

This process ensures that health & safety responsibilities and training are spread throughout the business, providing a more robust resource base to manage health & safety on site.

PAPPNS now ensures that within 3 months all staff have been trained and signed all appropriate records relating to health & safety and standard operating procedures. This system now ensures that all 200 staff receive annual refresher trainings.

PAPPNS manage and record this information within its employee central database and other related compliance software, such as Safe Food Pro and U-Review. This software automatically generates monthly reminders that need management sign off as having been completed by set dates. The Safe Home Everyday safety system is an online tool that is the reference point of PAPPNS' safety systems for the store. PAPPNS collates data on accidents / incidents and updates / reviews hazards and systems within the store using this tool.

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

Audits of PAPPNS' HSMS are currently completed annually by Foodstuffs Health & Safety Business Partner.

Matters covered in each audit broadly include analysis of whether PAPPNS can demonstrate:

1. A commitment to safety management principles (policy documents, individual responsibilities, union and employee consultation, return to work procedure etc).
2. A focus on continuous improvement (setting health and safety objectives, reviewing and evaluating effectiveness of HSMS).
3. Good systems for hazard identification, assessment and management.
4. Employees are informed, trained and supervised.
5. Active reporting, recording and investigation system for incidents and injuries.
6. Employees have ongoing opportunities to participate in health and safety management.
7. Emergency planning and readiness.
8. Employees are protected by on-site work undertaken by contractors and subcontractors.

The audit includes an observation, by the auditor, of work performed by workers, to ensure HSMS are being followed in practice. It also includes a focus group interview with management and employees to test knowledge of HSMS.

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

PAPPNS has consulted with the injured worker, First Union, Foodstuffs and the Hire Industry Association of New Zealand.

PAPPNS plans to further consult with stakeholders named above at two intervals:

1. 6 months after implementation of the workforce objectives named in this undertaking.
2. 12 months after implementation of the workforce objectives named in this undertaking.

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

PAPPNS acknowledges that WorkSafe alleges a contravention occurred.

2.2 Statement of regret that the contravention occurred

PAPPNS deeply regrets the injury and harm suffered by the injured worker because of the incident. PAPPNS fully acknowledges the impact the incident has had on the injured worker, PAPPNS' workforce, the wider industry, and the wider Papamoa community. PAPPNS deeply regrets that on this occasion it has failed to ensure the health and safety of its workers.

PAPPNS considers the undertaking is an opportunity to provide further support to the injured worker, improve health and safety with its own workforce and more broadly to the wider industry. PAPPNS considers the objectives named in this undertaking will greatly improve safety in working around mobile plant and greatly improve effectiveness of hazard identification and response through use of AI.

PAPPNS is fully committed to ensuring it continues to support the injured worker to recover as best as possible and provide work for the injured worker to return to when they are ready, willing and able to.

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

PAPPNS understands the purposes of an EU, as stated in WorkSafe's policy, is to benefit the worker or workplace, the wider industry or sector, and the community, while also considering the nature of the contravention, submissions from stakeholders, history of compliance and the PCBU's commitment to remedy the contravention.

PAPPNS considers this undertaking will meet the purposes outlined above and will provide greater benefits than could be achieved through a prosecution against PAPPNS. The objectives detailed in part 3 of this undertaking will, in PAPPNS submission, enhance health and safety by integrating innovative technology into the workplace, including AI. This technology will assist operators and management to ensure the health and safety of workers, with rapid identification of risks, and real time notification / escalation of such, and assessment of hazards that arise on a day-to-day basis.

PAPPNS proposes to run a roadshow for local high schools, sharing details about the contravention, the changes PAPPNS is making (as above), and emphasising the importance of health and safety generally. PAPPNS considers this proposal provides benefit for the wider industry / sector, as a large proportion of workers in supermarkets and packing facilities are high school students, or persons fresh out of school.

PAPPNS proposes to make a donation to the Papamoa Surf Lifesaving Club. While this is not connected to the subject matter of the prosecution against PAPPNS, it is a local charitable organisation that PAPPNS supports and wishes to support further.

As to the other factors relevant to accepting an EU:

1. PAPPNS has the resources and means to implement the objectives of this undertaking.
2. PAPPNS has no previous convictions under the Act.
3. PAPPNS has co-operated fully with WorkSafe throughout its investigation.
4. PAPPNS has expressed remorse and has made financial amends to the injured worker.
5. Relevant stakeholders (detailed in 1.9 and 1.10) are in support of the proposed objectives of this undertaking, save for First Union who has not yet provided feedback.

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

PAPPNS provides a commitment to prevent the factors, including engineering controls, administrative controls and personal protective equipment controls, that caused or led to the contravention. PAPPNS has already taken steps in achieving that commitment, as detailed under 1.5 of this undertaking.

PAPPNS commits to the non-recurrence of the behaviour, activities and any other factors that did or may have contributed to the contravention. PAPPNS is committed to continually improving its HSMS, to ensure that its workforce goes home each day healthy and safe.

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)

PAPPNS Trading Company 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)

PAPPNS Trading Company 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)

PAPPNS Trading Company Limited

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

(type of evidence provided)

Balance sheet for FY 24/25

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)

PAPPNS Trading Company 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

PAPPNS is affiliated with Foodstuffs. Foodstuffs will not receive any financial benefit.

PAPPNS regularly donates to the Papamoa Surf Lifesaving Club, and is proposing an additional donation to that Club as part of this EU.

PAPPNS is not affiliated with any other organisation or company that will receive financial support in relation to this undertaking.

2.9 Statement regarding Intellectual Property

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

PAPPNS Trading Company 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)

PAPPNS Trading Company 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)

PAPPNS Trading Company 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:

PAPPNS 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 PAPPNS Health and Safety Manager, supported by the People & Culture Manager, overseen by the Store Manager and the PAPPNS Director.

The outline plan of deliverance will include:

1. The delivery of the enforceable undertaking is to be executed by the Health and Safety Manager, reporting to the Senior Leadership Team, and governed by the Director of PAPPNS.
2. The Health & Safety Working Group will hold monthly meetings and their attendance will be confirmed to the Senior Leadership Team (SLT) and a monthly report will be provided.
3. The SLT will oversee the working group, project status, delivery schedules, project risk and expenditure and consider the recommendations, and approve requests within delegated authority.
4. SLT will formally update the Director of PAPPNS quarterly on progress, and informally as required.
5. 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:

PAPPNS commits to disseminating information about this enforceable undertaking, and the progress the company makes with delivering the promises within it, to its workers, Foodstuffs, and First Union.

PAPPNS will deliver this commitment by:

- a) Providing a copy of this enforceable undertaking to all staff via Beekeeper, which is PAPPNS staff communication software.
- b) Providing a copy of this enforceable undertaking to Foodstuffs (via its Head of Safety and Wellbeing) and First Union (via its Organiser – Retail Finance and Commerce).
- c) Engaging and communicating about progress of delivering initiatives in the enforceable undertaking with:
 - i. staff during monthly health and safety meetings;
 - ii. First Union yearly during annual meetings
 - iii. Foodstuffs during bimonthly board meetings
- d) Engaging and consulting with the injured worker to advise her that this enforceable undertaking has been agreed, provide her a copy, and to update her on progress with delivering the initiatives that it contains.

PAPPNS will complete commitments outlined in 3.2 by 28 February 2026.

Dissemination will occur by: 28 / 02 / 2026

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

[illegible]

[illegible]

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

[illegible]

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](https://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 PAPPNS Trading Company Limited

commits to a minimum spend of s9(2)(a) OIA 1982 for this undertaking.

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

3.7.2 PAPPNS Trading Company 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 PAPPNS Trading Company Limited

Acknowledges the minimum spend comprises of the:

TOTAL COST	MINIMUM SPEND
Financial amends paid to victims (if applicable)	s9(2)(a) OIA 1982
Benefits to workers/others	\$317,345
Benefits to industry	Nil
Benefits to community	\$10,000
Estimated cost of the undertaking Plus GST (if any)	s9(2)(a) OIA 1982

4. Execution

Authorised representative of an organisation

Undertaking given by (name of authorised representative)

Robert McGregor

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

Director

of (eg organisation name) PAPPNS Trading Company Limited

On the (day) 8th day of (month) September 2025 (year)

Signature of the person giving the undertaking:

s9(2)(a) OIA 1982

Undertaking given before me:

Witness name: Shahn Rathwan

Witness address:

s9(2)(a) OIA 1982

Witness signature: s9(2)(a) OIA 1982

5. Acceptance

This undertaking is accepted by WorkSafe.

On the (day) 17 day of (month) September, 2025 (year)

Signature of person accepting the undertaking:

s9(2)(a) OIA 1982

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

Tracey Conlon

Undertaking given before me:

Witness name: Allison Houston

Witness address:

s9(2)(a) OIA 1982

Witness signature: s9(2)(a) OIA 1982

APPENDIX A – PAPPNS Trading Company Limited EU application

1.6 – Total amount of money spent on rectifications

A total of \$100,519.30 has been spent to date on rectifications, broken down as follows:

1. Concrete grinding and painting of walkways	\$5,925.70
2. Signage for inwards goods area	\$9,849.75
3. Electric pallet jacks	\$13,570.00
4. AI system and installation for forklift	\$4,519.91
5. New Bollard & Barrier supply and installation	\$26,849.84
6. Convex mirror installation	\$1,708.23
7. Magnetic yellow safety warning belts	\$1,725.01
8. Retractable safety barrier	\$1,188.59
9. Power supply for Baler relocation	\$13,588.47
10. Steel Cap shoe supply for all staff	\$21,583.95

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 to be included in the table at 3.12.3)

To recognise PAPPNS duty to support the injured worker, it has made payments to them totalling s9(2)(a) OIA 1982 as at the date of this application, comprising:

1. Top up of ACC shortfall of s9(2)(a) OIA 1982 per week from the date of the incident until 10 December 2023.
2. Increased top ups of s9(2)(a) OIA 1982 per week from 10 December 2023, as ACC had reduced its contribution to the injured worker from the week commencing 3 December 2023. ACC reduced its contributions as the injured worker only recently entering full time permanent employment, previously working part time hours, so the injured average weekly earnings over 12 months was far lower than their permanent full time weekly earnings. PAPPNS decided to top up the injured workers pay to their weekly earnings as at the time of the incident.
3. Top ups of s9(2)(a) OIA 1982 per week from 2 September 2024 to date to account for an increase in the injured workers hourly rate.

PAPPNS has also offered to pay for counselling for the injured worker, and to pay for any surcharges or other expenses related to their recovery, although the injured worker did not take up that offer.

PAPPNS has supported the injured worker through other means:

1. It has stayed in regular contact with the injured worker, with to date 25 welfare calls.
2. It has visited the injured worker in their home, on at least 12 occasions.
3. It has continued to employ the injured worker and will have a role available for them to return to once they are ready (and assuming they want to return).

PAPPNS is offering further amends of s9(2)(a) OIA 1982 to be paid within 14 days of the EU being ratified, being a sum to account for emotional harm. PAPPNS will continue to top up the injured workers pay until the injured worker is no longer on ACC.

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

PAPPNS has consulted with the injured worker (the victim) as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution.

On 28 April 2025, PAPPNS sent the injured worker a letter requesting consultation. In this letter, PAPPNS explained how the EU process worked and the benefits it would provide to the workforce, the industry and the wider community.

PAPPNS set out the objectives that they seek to propose to WorkSafe as part of the EU, asking for the injured worker's feedback on this. This letter covered the proposed reparation payments made to the injured worker, the activities undertaken by PAPPNS (including the 3.3.1 AI Camera System and the 3.3.2 Pedestrian Alert System), the training through Findex, and the wider industry benefits. The letter also invited the injured worker to comment on any community initiatives of interest to them that PAPPNS is willing to contribute to by donation or sponsorship.

The injured worker has confirmed verbally to PAPPNS that they are comfortable that an enforceable undertaking is an acceptable alternative to prosecution and has shown great support towards the idea. PAPPNS has yet to receive written confirmation of that support from the injured worker.

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

Foodstuffs

On 28 April 2025 PAPPNS sent a letter to Foodstuffs consulting on the proposed EU activities. Foodstuffs are in full support of the application and the proposed activities. Foodstuffs have stated that:

- The proposed activities to be undertaken by PAPPNS (3.3.1 AI Camera System and 3.3.2 Pedestrian Alert System) appear to have great benefits in reducing risk of MHE vs pedestrians, through identification of high-risk areas and activities and would provide a good tool for training and coaching for team members working in high-risk areas where elimination, engineering and isolation controls are not possible.
- Using AI to reset thinking relating to the expected behaviours to see and expected controls in place (work as done vs work as imagined) is an exciting trial that Foodstuffs is keen to be a part of.

First Union

On 28 April 2025, PAPPNS sent a letter to First Union consulting on the proposed EU activities. First Union indicated a willingness to be part of the consultation process. As of the date of this application First Union have yet to provide feedback on the proposals.

Hire Industry Association of New Zealand (HIANZ)

On 29 April 2025, PAPPNS sent a letter to HIANZ consulting on the proposed EU activities. HIANZ did not provide support or dissent for the proposed activities.

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

3.3.1 AI Camera System

The first activity to provide benefits to PAPPNS workers / workplace will be installation of cameras throughout the Site, programmed with AI to identify various issues concerning health and safety and report those issues to management for response (**AI Camera System**). The idea of this strategy came from a gap that PAPPNS noticed as a result of WorkSafe's investigation – being that its largely paper-based incident reporting system was not effectively managing risks to workers health and safety.

PAPPNS has engaged with Rush Digital Interactive Limited (**Rush**) for this activity. Rush has an established track record in the technology sector, working on projects such as the COVID-19 tracker app, smart water

apps with Watercare, and digital track-worker safety solutions with KiwiRail (<https://www.rush.co.nz/case-studies>).

In summary, the AI Camera System will function as follows:

- 25 IPro cameras, will be placed or relocated to cover the locations indicated in Figure 3 of Appendix A. These locations are selected to cover all key areas of potential risk within the Supermarket retail and Storage areas.
- Rush will install the AI software into the camera network. The AI will be fed from the live camera data stream allowing the GPU and the bespoke software package to identify hazards occurring in the workplace in real time. Those hazards will include primarily:
 - o Vehicle speed
 - o Vehicle proximity to staff members
 - o Vehicle proximity to locations outside of agreed working hours
 - o Staff falls, slips, etc
 - o Product fall from height
- All observed hazards will be reported through the RUSH R/VISION platform. Appropriate staff will receive an alert including the Health and Safety Manager, Department Manager and Store Manager.
- Rush will programme the AI software to differentiate between hazards that require urgent attention from management, and less urgent hazards. This will be done through assigning degrees of urgency to the hazard identified. For example, hazards that require urgent attention will be falls, very close near misses, product falling from height, vehicles working in staff zones outside of agreed hours.
- For urgent hazards, the AI will provide a text alert, to appropriate staff to check the R/VISION platform for action.
- Additionally, Rush will programme the AI to suggest corrective action to address identified hazards. Ultimately it will be management's responsibility to decide on the corrective action.
- Lastly, Rush will programme the AI to prepare monthly reports collating data from observations, to be tabled for consideration at PAPPNS monthly health and safety meetings.

Rush has estimated the costs of its services as above will be (b)(2)(b)(3) CIA 195 per annum:

- SaaS AI service 25 cameras @ (b)(2)(b)(3) CIA per camera per month
- Service Level Agreement @ (b)(2)(b)(3) CIA 11 per month

PAPPNS considers that implementation of this activity will:

- Lessen administrative burden on its management regarding incident reporting and response. The AI Camera System is not intended to absolve management's responsibilities in this area, rather to assist management in understanding hazards, and suggested corrective action, quickly and efficiently.
- Intervene promptly when real time events are notified, including contacting staff immediately to halt risky behaviour, or assist staff injured on site immediately.
- Provide PAPPNS with more accurate and complete information on hazards at the Site, including data on hazard trends monthly.
- Enable it to better mitigate risks to worker health and safety.

As far as PAPPNS is aware, the use of a system like the AI Camera System will be the first within the grocery sector.

PAPPNS, in consultation with Rush, aims to have the AI Camera System installed, and live, at the site within 6 months of this undertaking being accepted by WorkSafe.

Trial

In collaboration with Rush, PAPPNS has already conducted an initial trial for the AI Camera System. That trial ran from 5 May 2025 to 9 June 2025. The trial tracked:

- Vehicle proximity to pedestrians less than 3m.
- Vehicle speed greater than 10km/h
- Detection of personnel entering cordoned off exclusion zones.
- Detection of pedestrians and vehicles sharing aisle space simultaneously.

An initial triage of detections was conducted on 18 – 19 May 2025, capturing the busiest period (Sunday 9pm to Monday 9am), and observed:

- 186 instances of vehicles being within 3m of pedestrians
- 121 exclusion zone breaches.
- 157 aisle occupancy breaches.

No instances of vehicles driving faster than 10km/h was observed, as speed detection was not available for the first triage.

Following collection of this data PAPPNS carried out interventions (corrective action) with staff in the form of conversations (no formal action). A second triage of detections was conducted on 8 – 9 June 2025, and observed positive results:

- 63 instances of vehicles being within 3m of pedestrians, so a reduction of 66%.
- 15 exclusion zone breaches, so a reduction of 88%
- 36 aisle occupancy breaches, so a reduction of 77%
- 14 instances of vehicles driving faster than 10km/h.

The results of the trial have been eye-opening for PAPPNS. Despite its best efforts to improve its health and safety management systems before starting the trial, including significant investments in updates to the store infrastructure and staff training, the trial has shown PAPPNS that many issues still occur that need corrective action.

While those results were initially alarming, PAPPNS is realistic in accepting that implementation of the AI Camera System will naturally observe far more issues than the usual reliance on reporting and human observation. In that sense, PAPPNS sees the results from the trial as a success, as it considers knowledge of any and all issues is far better than ignorance. It is also comforting to see evidence of corrective actions working, given the steep drop in observations between the two triage dates.

PAPPNS expectation is that the longer the AI Camera System is operational, the frequency of issues observed will decrease over time. This will be due to each observed issue leading to prompt corrective action, and ideally behaviors improving after each instance.

3.3.2 Pedestrian Alert System

In August 2024 PAPPNS trialed AI cameras fitted to mobile plant (forklifts and reach trucks) at the Site. PAPPNS was attempting to find a way to enhance safety for pedestrians, and operators, when mobile plant was operating. The idea was that the cameras would identify pedestrians and alert with an audible proximity alarm. What PAPPNS learned through this trial was that the cameras were too sensitive. The cameras would pick up pedestrians up to 30 meters away and trigger the alarm. This was safe, but overly so to the extent that it was not practicable. PAPPNS understands similar systems are used in other businesses, but for PAPPNS it seemed not fit for purpose.

This led PAPPNS to what it now proposes as an activity to provide benefits to its workers / workplace - wearable sensors on pedestrian workers. The Pedestrian Alert System (**PAS**) is designed for environments where people cannot be differentiated from vehicles, and there is a risk of accidents.

The PAS is a two-way system which, on the one hand, warns the forklift driver as it detects a nearby pedestrian and, on the other hand, it alerts the pedestrian of the presence of the vehicle to force a reaction and thus reduce potential risks. The PAS can be worn as a 'personal tag', for example, on a safety vest with pockets.

The forklift's alert may be a light and/or a sound and – if the vehicle allows it – a limitation in the vehicle's speed limit (while the pedestrian is nearby). The pedestrian's tag warning can be set to light and/or sound and/or vibration.

The forklifts will have a PAS system installed, and pedestrians must carry a tag (or an electronic keychain). The forklift's PAS generates a detection zone around it, adjustable up to 11m. As soon as it detects a pedestrian's tag within this area, it generates a signal on both the vehicle and the pedestrian's tag.

The PAS can be applied in a range of areas, including loading and unloading areas, industrial spaces, low visibility crossings between pedestrian and trucks, warehouse corridors in exit areas with reduced speeds, and

generally any areas where forklifts and pedestrians coexist, and where the lack of visibility or configuration creates risky environments with the potential for accidents.

PAPPNS considers that implementation of this activity will:

- Reduce reliance on mobile plant operators to observe risks. Mobile plant operators will still be required to follow protocol on operating mobile plant, which includes looking out for pedestrians and obstacles, but the PAS will provide an added layer of observance.
- Greatly extend the degree of observation of hazards when operating mobile a plant. Operating any mobile plant comes with blind spots, which are not an issue for detection of wearable sensors.
- Enable it to better mitigate risks to worker health and safety specifically around working near mobile plant.

Advantages of the PAS include the reduction of accidents by detection without the need for direct vision. It can differentiate between people and obstacles, it is adjustable to up to 11 metres, it complements other safety systems, adapts to different brands of vehicles, is durable, robust and provides reliable detection of pedestrians.

As far as PAPPNS is aware, the use of a system like the PAS will be the first within the grocery sector.

PAPPNS, in consultation with Troax Active Safety, aims to have the PAS installed, and live, at the Site within 6 months of this undertaking being accepted by WorkSafe. PAPPNS aims to fit 6 forklifts with the transponders and ensure that all staff and visitors to site who are in proximity to the forklifts are wearing the PAS wearable tags.

3.3.3 External training to management and staff on the above activities

Following the implementation of the 3.3.1 AI Camera System and 3.3.2 PAS, PAPPNS will have Findex Financial Services NZ Limited (Findex) train its workers on use of the two systems.

Findex provides a range of consulting and advisory services to businesses across New Zealand. It has a team of HR & H&S specialists who are experienced in delivering similar training / education programs.

PAPPNS proposes that Findex will deliver training as follows.

AI Camera System training

Managers at PAPPNS understand how the 3.3.1 AI Camera System works, given it has been trialed and is intentionally user friendly. PAPPNS considers training from Findex would be valuable if the focus is on how to implement corrective actions, in addition to a refreshment on health and safety management generally.

Findex will run a two-hour training session for management (approximately 10 people) at [REDACTED] plus GST and disbursements, covering:

- Introduction to health and safety;
- Hazard identification and risk management principles;
- Occurrence response and management;
- The concepts around different types of errors or faults (system, procedural, human error) to help guide corrective actions; and
- Training around inductions for new employees or contractors, including on how to use the 3.3.2 PAS System.

PAS training

Training for the 3.3.2 PAS will be targeted at workers who will wear PAS tags and those that will drive mobile plant with the PAS installed. In total that is approximately 30 workers.

Findex will hold two two-hour training sessions, 15 people per session at [REDACTED] plus GST and disbursements, covering:

- Basic risk management training to help contextualise how PAS fits within the PAPPNS health and safety system.
- Practical use of the PAS, based on information from the supplier.

- Up to one hour testing/using the PAS tags.

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

3.4.1 Industry Case Study

PAPPNS commits to preparing a case study about the results and findings from the activities at 3.3.1 (AI Camera System) and 3.3.2 (Pedestrian Alert System). This case study will be delivered in writing to Foodstuffs, First Union, and ShopCare and the New Zealand Institute of Safety Management. The case study will include:

- a) A summary of the incident and this enforceable undertaking.
- b) A summary of PAPPNS' health and safety management systems relating to working around mobile plant, and incident reporting, prior to implementation of activities 3.3.1 and 3.3.2.
- c) Detail about activities 3.3.1 and 3.3.2, including cost and steps to implement those activities.
- d) Findings taken after the first year of implementation of activities 3.3.1 and 3.3.2, including data illustrating improvements to health and safety throughout that period.

PAPPNS will offer to the parties above the option of also having PAPPNS present the case study and answer questions, in a seminar or webinar format.

3.4.2 High School Roadshow

PAPPNS has much to share about the contravention, its improvements and the activities of this EU. It considers the best target audience is high school students in their final years of school. A large number of workers for PAPPNS, and more generally workers within the supermarket / packing industry, are either in high school or are fresh out of high school.

PAPPNS proposes that it runs a road show, presented by its Director Rob McGregor, to a minimum of 2 high schools in the Papamoa and Mt Maunganui region. The agenda for those presentations will include:

- Sharing of details about the contravention, including what went wrong and learnings from the contravention. No details will be shared disclosing the identity of the injured worker or any other individual worker involved.
- Sharing PAPPNS Journey to improve H&S practices, including improvements already actioned and the activities proposed in the EU.
- Emphasising that health and safety is cultural and requires active participation to ensure that everyone goes home each day unharmed.

If the EU is accepted, PAPPNS will make arrangements with local high schools and run the roadshow over the course of 2 years.

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

3.5.1 Donation to Papamoa Surf Lifesaving Club

PAPPNS has a longstanding relationship with the local lifesaving club. We have been a sponsor for the club for many years, including funding kneeboards for their junior surf program. The club is a critical part of our Papamoa beach community. Without the club, the beach is not safe and our community and local economy suffers.

PAPPNS did consult with the injured worker about a potential donation to a cause close to them. The injured worker did not suggest any initiative, so PAPPNS wishes to support the club further by a donation of \$5,000.

3.5.2 Donation to Philips Search and Rescue Trust (PSRT)

In absence of feedback from the injured worker on community initiatives, PAPPNS considered other ways it could deliver benefits to the local community. PSRT operates the Aerocool Rescue Helicopter in the BOP region, delivering 24/7 emergency medical services, search and rescue missions and critical transfers to hospitals. The critical work of PSRT would not be possible without community donations.

PAPPNS considers PSRT is a pillar of the Papamoa community, and their work is deserving of receiving benefits under this EU. PAPPNS proposes to donate \$5,000 to PRST, in particular for the Aerocool Rescue Helicopter.

Figure 1 – Storage room plan (before improvements were implemented) indicating foot traffic and vehicular traffic observed by WorkSafe's expert Parralaxx

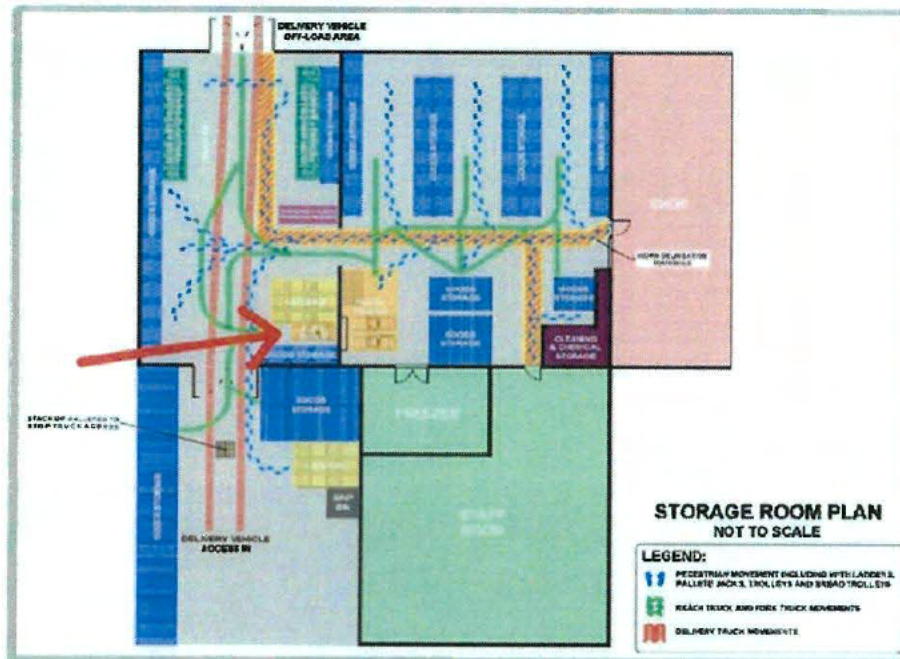


Figure 2 – Path of injured worker (red arrow) and Forklift Operator (yellow arrow) resulting in the incident

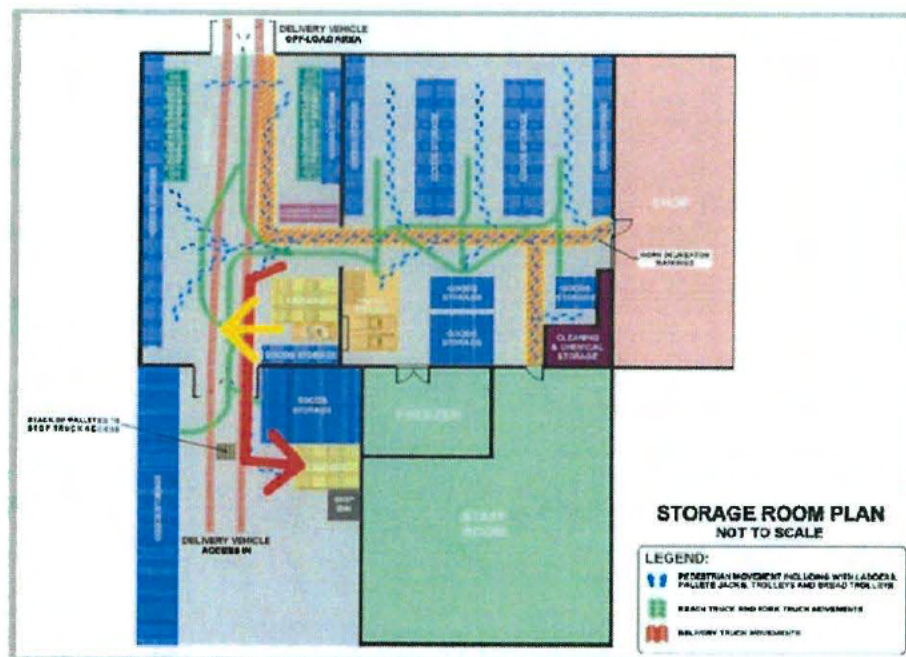


Figure 3 – Location of AI camera units installed in the Store

