

Application for an Enforceable Undertaking

Part 4 Health and Safety at Work Act 2015]

Application for enforceable undertaking

Part 4, Health and Safety at Work Act 2015

The commitments in this undertaking are offered to Maritime New Zealand (Maritime NZ) by

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

Gavin McIntyre

On behalf of -

3i OPCO Limited

[Name of the entity giving this undertaking. If an individual or sole trader, leave blank. Complete in all other cases]

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

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

Person means an individual who or a legal entity which has a duty under the Health and Safety at Work Act 2015 and can give a written undertaking. The term includes individuals, each partner in a partnership, corporations, trustees of trusts, and crown organisations.

Regulator means WorkSafe New Zealand, Maritime New Zealand or the Civil Aviation Authority.

Health and Safety legislation means Health and Safety at Work Act 2015 and associated regulations.

Enforceable undertaking means an enforcement pathway that allows a duty holder to voluntarily enter into a binding agreement with Maritime NZ. 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)

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

Maritime NZ 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 Maritime NZ 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 Maritime NZ will generally publish the undertaking in full on its website.

Section 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]	Gavin McIntyre	
Name of entity: [if applicable, leave blank if an individual]	3i OPCO Limited (3i OPCO)	
Type of legal entity: [complete in all cases, eg individual, sole trader, partnership, trust, company, etc]	Company	
Nominated contact person: [the same person listed above / one of those listed above]	Charles de Vilder	
Street address: Level 12, 152 Quay Street, Auckland Central, 1010		
Work phone: 09 358 8050	Mobile phone: [REDACTED]	
Email: charles.devilder@3i.nz		
Industry: Stevedoring		
Workers [enter numbers]: Full time: 189	Part time: 1	Casual: 185
Description of the products and services provided by the business or undertaking: 3i OPCO is a locally owned national port services provider.		

1.2 Details of the contravention

Maritime NZ alleges that 3i OPCO did not:

- (a) carry out a risk assessment which identified the hazards associated with working at height in the outer bays;
- (b) informed by that risk assessment, implement effective fall protection measures to eliminate or minimise those risks; and
- (c) carry out effective supervision and monitoring to ensure that workers are following a safe system of work.

1.3 Detail the events surrounding the contravention

In February 2024, an employee of 3i OPCO (at the time registered as SSA NZ Limited) was working on board a container vessel, berthed at the Port of Napier.

The worker was performing lashing duties and preparing a bay for loading. The worker was positioned on a hatch lid on the right-side edge of the vessel. The worker's foot got stuck under a turnbuckle, and he lost his balance. He fell 2.38 metres onto the lashing bar rack and onto the walkway of the vessel.

Emergency services were called, and the worker was taken to the hospital. The worker suffered three broken ribs.

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
NA				

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)

Following the incident, 3i OPCO carried out an internal investigation that reviewed the incident and subsequent causes. As a result, 3i OPCO:

- Identified the importance of ensuring that all work to be carried out needs to be appropriately documented within the JSEA and that all work at heights has appropriate controls in place.
- Prepared and produced a Safety Alert detailing the circumstances of the event.
- Engaged an external company to review all of the container operations carried out by the company and make recommendations.
- Communicated with clients that the company now requires further time to carry out preparation work on the vessel when there is a working at heights risk identified.
- Carry out refreshers for all of its stevedores for the working at heights training.
- Engaged with MNZ to review the standard operating procedure for when people are working alone and have subsequently updated and implemented this.
- Accelerated development of the working at heights micro-credential
- Re-enforced and upgraded the pre-start ship inspection template to identify fall risks and where no controls can be implemented then communicating the risk for to the vessel crew and detailing refusal to work in area.
- Implemented critical control inspections for all operations and begun process to bring safety management system up to ISO 45001 standard.
- Employed a new set of ship co-ordinators for container operations to allow foreman and supervisors to be on-site more often.
- Employed additional Health and Safety Advisors to provide greater oversight, business support, and assurance to operations

1.6 Total amount of money spent on rectifications

The total amount of money spent of rectifications is [REDACTED]

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

The worker spent one week in hospital, [REDACTED]

1.8 Describe the relationship between the victim(s) and you / the entity in question

The worker is a casual worker for 3i OPCO. He has worked for 3i OPCO for over 5 years

1.9 Detail the support already provided by the person to the victim(s), other(s)

Date	Description of support	Comments
04 / 04 / 2025	Topping up of ACC payment to 100% of wages	Total amount of [REDACTED]

1.10 Detail any offer of amends or payments already 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)

3i OPCO has topped up the worker's pay to 100% while he was on ACC and conducted regular check-ins to ensure that his recovery was progressing and his needs were being met.

Following his return to work, 3i OPCO offered the worker a full-time position (instead of being on a casual contract). He has accepted this offer.

1.11 Detail any additional support, amends or payments proposed by the person to the victim(s), other(s)

3i has made an emotional harm payment of [REDACTED] to the worker, and will be making an additional payment of [REDACTED] by the end of June 2026.

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

3i OPCO has engaged with its workers, and the Port Industry Association. Letters of support are enclosed with this application.

1.13 Detail how health and safety risks are managed by the person, including types of procedures or policies or standards

Safety at 3i OPCO is currently managed through a safety management system which covers all operations. This safety management system implements safety through the following processes:

- 3i OPCO HomeSafe Policy: This policy outlines its commitment to providing the resources and expertise to manage safety within the organisation as well as ensuring that all employees are provided with a safe and healthy work environment.
- Development and implementation of operation-specific JSEAs: Each vessel and cargo type worked by 3i OPCO has a JSEA (Job Safety and Environmental Analysis) completed for the work. This JSEA details the operational controls required and the steps required for each process.
- Pre-arrival vessel planning: Before the ship arrives, the operational team at 3i OPCO is provided with the cargo type and ship information. When the vessel arrives in port, a survey is conducted of the vessel, and any critical issues are identified and communicated to the 3i OPCO team.
- Pre-shift pre-starts: Before the start of each shift, a pre-start is conducted with each member of the team where safety issues on the vessel are discussed, as well as any safety alerts.
- Audits and safety observations: 3i OPCO has a safety audit process in place that audit locations as to whether they meet both the controls required for the operation as well as if the safety systems in place meet the requirements of the 3i OPCO safety management system. In addition to the audit process, 3i OPCO also requires all management (both field and head office) to complete safety observations of work being conducted.

1.14 Detail the level of checks on the effectiveness of health and safety procedures or policies, including compliance assessments and assessment frequency

3i OPCO has several processes to ensure that the systems it has in place are both appropriate and operational. The first is through 3i OPCOs internal audit process. Each operating location that 3i OPCO has undergoes the following audits:

- An annual major safety audit that completes an in-depth review of operational systems, onsite performance, and historic safety performance.
- Product specific critical control audits that target and review the effectiveness and implementation of critical controls.

In addition to these operating location audits 3i OPCO has engaged with an external safety specialist to complete an ISO 45001, ISO 14001, and ISO 9001 audit once per year of its operations.

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

Consultation has been undertaken internally within the 3i OPCO team and during on-site HSE meetings.

The victim involved in the incident has reviewed this application and provided his feedback and comments to 3i OPCO. He is supportive of this process.

3i OPCO has also engaged with the Port Industry Association, and the Maritime Union of New Zealand. Letter of support from the Port Industry Association included.

Section 2: General Terms

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

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

3i OPCO acknowledges that Maritime New Zealand alleges a breach of the duty to ensure the health and safety of its workers.

2.2 Statement of regret that the alleged contravention occurred

3i OPCO is very disappointed that one of its workers suffered injury as a result of its work practices. It has acted promptly to improve its systems around the processes for managing working at heights and to ensure this risk is identified in all of its work practices.

3i OPCO has worked to support the injured worker and ensure his recovery was successful. It has paid some reparation to the injured worker, topped up his ACC payments and employed him on a full-time basis.

3i OPCO continues to strive to ensure its workers have the best possible protection for their day-to-day health and safety.

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

The circumstances of the alleged contravention mean that this undertaking is a proportionate and meaningful response to the event.

Agreeing to this form of resolution will ensure that safety benefits for the industry are realised sooner than would otherwise be the case. The industry participants' views on the potential benefit of the undertaking reinforce the benefits that will arise.

While the worker suffered serious injuries, he was fortunate not to suffer more serious injuries. He is supportive of this form of resolution.

The publication of this undertaking will properly achieve the aims of denunciation and deterrence. The financial commitment is significant, and the record of this undertaking means there is publicity associated with the alleged contravention.

Taking the above factors into account and in light of other similar undertakings 3i OPCO considers that this proposal is the most appropriate response to the alleged contravention.

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

3i OPCO has already made clear, through its actions, its commitment to ensuring the factors that played a role in the alleged contravention have ceased and will not recur. It will continue to work to improve worker safety and manage the risks inherent in its business to the best of its ability.

2.5 Acknowledgment of the policy published by Maritime NZ for the acceptance of an undertaking

I have read and understood: Enforceable Undertakings Operational Policy

Yes

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

3i OPCO Limited

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

Gavin McIntyre on behalf of 3i OPCO Limited

acknowledges that the undertaking will, if accepted, be published on Maritime NZ's website in full and referenced in Maritime NZ's 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

3i OPCO Limited

2.7.1 has the financial ability to comply with the terms of this undertaking;

2.7.1 In the event of impending receivership, liquidation or sale of the entity,

3i OPCO Limited

will advise Maritime NZ 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

The following parties are beneficiaries of the undertaking:

- The injured worker, through the payment of reparation;
- The Spirit of Adventure Trust, through the benefit of the donation proposed; and
- The industry, through the benefits of the proposal's of the Waypoint Traffic Management Plan and the Hazardous Atmospheres Micro-credentials; and
- 3i OPCO itself benefits through the introduction of exo skeletons for its workers and the log grabs.

2.9 Statement regarding Intellectual Property

3i OPCO Limited

grants Maritime NZ 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

3i OPCO Limited

acknowledges that it may be necessary for Maritime NZ 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 Maritime NZ.

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 Maritime NZ 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 Maritime NZ, 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 Maritime NZ may undertake inspections or other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to Maritime NZ.
6. It is acknowledged that details of all seminars, workshops and training conducted by a non-registered training provider must be notified to Maritime NZ, by email, at least one week prior. Notification should include time, date, location and the trainer/facilitator.

3i OPCO Limited

Section 3: Enforceable Terms

The person acknowledges all activities set forth in the enforceable terms below must be assessable 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 on-going effective management of risks to health and safety in the future conduct of its business or undertaking

3i OPCO consider that the highest priority in its operation is the health and safety of its workers.

3i OPCO commits to continuously analysing and monitoring its health and safety systems. This will occur through regular internal health and safety meetings, ongoing training of 3i OPCO staff and external audits of its health and safety systems will be carried out [annually].

As an industry participant, 3i OPCO commits to regularly engaging with its workers, the regulator and industry participants to discuss and assess areas of risk that occur within 3i OPCO 's operations.

The undertakings given, and compliance with these undertakings will ensure effective ongoing management of the health and safety risks.

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

Dissemination will be achieved by doing the following:

1. Providing a copy of the undertaking to any recipient of funds as part of the undertaking.
2. Sending a copy to the injured worker and making it available in 3i OPCO's break rooms for one month from the date it is accepted.
3. Posting a full copy of the undertaking on 3i OPCO's website for twelve months from the date it is accepted.
4. Providing a copy to members of the Port Industry Association and a representative of the Maritime Workers Union.

Dissemination will occur by: DD / MM / YEAR

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

Activities (outline the activity and the expected outcomes)	Cost (\$)	Timeframe
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<u>Exo skeletons</u> Massey University has recently carried out a study into musculoskeletal harm in the workplace. The study identified that there is an increased risk of musculoskeletal injuries for workers carrying out stevedoring and container lashing operations. Due to the inability to directly modify the work environment for stevedores and the structural elements of the vessels, 3i OPCO will introduce mechanical exoskeletons with the purpose of providing support and protection against musculoskeletal injuries. 3i OPCO will introduce 40 Hilti EXO-S shoulder exoskeletons into the fish pallet loading and container lashing operations. Prior to introduction 3i will complete a comprehensive risk assessment as well as completing a review of the operations after a 6 month implementation period.	\$120,000.00 NZD (40 units x \$3,000 per unit)	12 Months
<u>Log grabs</u> The presence and proximity between stevedores, all wharf workers, and logs have always posed a risk to 3i OPCO operations. To remove this risk, 3i OPCO will implement log grabs, which in turn will remove workers from the wharf altogether, this is explained in further detail in Appendix 1. 3i OPCO is set up to load logs in Taranaki, Lyttelton, Dunedin and Southport. Therefore, it intends to purchase 3 log grabs per port.	\$3,384,000 NZD (12 Log grabs at \$282,000.00 NZD per unit)	36 Months
Total estimated cost of benefits for workers/others	\$3,504,000.00 NZD	

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

Activities (outline the activity and the expected outcomes)	Cost (\$)	Timeframe
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<u>Waypoint</u> Appropriate traffic management is a critical aspect of ensuring safe operations when loading and unloading cargo at a port. Therefore, it is important to have traffic management plans, that are easy to understand, and access. 3i OPCO commits to developing an openly accessible platform called Waypoint where traffic management plans for each port, and individual berths, can be uploaded by the PCBU working the vessel, and allow all PCBUs to access the this. 3i OPCO will fund the development cost as well as commit to funding three years of operation. In addition 3i will be developing training and FAQ guides which will be available to all stakeholders.	\$218,000.00 (\$120,000 to develop the database and \$32,667 for annual running costs x3 years)	36 Months
<u>Hazards atmospheres micro-credentials</u> Hazardous atmospheres are a critical risk affecting all cargo loading and unloading operations on vessels throughout New Zealand. Training workers on how to manage the risk of hazardous atmospheres is critical to safe operations on vessels. Currently, the nature of training completed for managing hazardous atmospheres is based around landside and primarily construction activities. 3i OPCO is proposing to develop a micro-credential for working with hazardous atmospheres and provide maritime specific training for managing this risk. This development will be done in conjunction with industry, unions, and Maritime New Zealand,	\$50,000.00	12 Months
Total estimated cost of benefits for industry	\$268,000.00	

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
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Developing the next generation of young New Zealanders is one of 3i OPCO's key values. 3i OPCO will donate to the Spirit of Adventure trust to assist in the leadership development of the next generation of New Zealanders. Particularly by funding a 10 day development voyage for 15 young persons to develop their leadership and social skills.	\$40,000.00	6 Months
Total estimated cost of benefits for the community	\$40,000.00	

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

3i OPCO Ltd agrees that it will not undertake any activities that may promote or benefit the person without explicitly linking that activity / benefit to this undertaking

3.12 Minimum spend

3.12.1

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

3i OPCO

commits to a minimum spend of

\$3,800,000.00

for this undertaking.

3.12.2

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

3i OPCO

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 Maritime NZ

3.12.3

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

3i OPCO

Acknowledges the minimum spend comprises of the:

Financial amends to victims (if applicable)

Benefits to workers/others

\$3,504,000.00

Benefits to industry

\$268,000.00

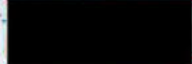
Benefits to the community

\$40,000.00

Estimated cost of the undertaking

\$3,800,000.00

Director or Authorised Representative of a Company

Undertaking given by [name of director or authorised representative]	Gavin McIntyre			
In my own right and in my capacity as [eg Director, Managing Director, Chief Executive, etc]	CEC			
of 3I OPCO Ltd				
On the	16	day of	March	2026
	[day]		[month]	[year]
Signature of person giving the undertaking:				
Undertaking given before me				
Witness name:	Charles de Vilder			
Witness signature:				
Witness address	60 Allendale road, Mt Albert Auckland			

Section 5: Acceptance

This undertaking is accepted by Maritime NZ				
On the	16th	day of	March	20 26
	[day]		[month]	[year]
Signature of the person giving the undertaking:				
Name of Maritime NZ representative:			Deb Despard	
Role			Deputy Chief Executive Regulatory Operations	