



18 June 2024

Ref: DOIA 2324-2364

C. Bennett

Email: [fyi-request-26235-849b441d@requests.fyi.org.nz](mailto:fyi-request-26235-849b441d@requests.fyi.org.nz)

Tēnā koe C. Bennett

Thank you for your email of 29 April 2024 to the Ministry of Business, Innovation and Employment (MBIE) requesting, under the Official Information Act 1982, the following information:

*Thank you for your response to my previous information request regarding the Sector Workforce Engagement Programme (DOIA 2324 2106). In follow-up to the information you have provided, can I please request further information under the Official Information Act 1982:*

*For all Sector Workforce Engagement Programme funding allocations of \$100,000 or more, can you please provide, broken down by each separate entity:*

- *The applications for each funding allocation*
- *The purpose and proposed use of the funding allocated*
- *The time period of funding*
- *Key performance indicators (KPIs) associated with each funding allocation*
- *Key milestones associated with each project*
- *A breakdown of Government funding vs. co-funding*
- *Progress reports and updates provided to MBIE*
- *Copies of any MOUs or contracts signed between MBIE and each entity*

On 24 May 2024 MBIE advised you that it was extending the time available to make a decision on your request, and that it would be providing a response to you no later than 18 June 2024.

Please see Annex One for a summary of all Sector Workforce Engagement Programme (SWEP) recipients with funding allocations of \$100,000 or more. This includes the time period of funding, breakdown of government funding and co-funding and the purpose and proposed use of the allocated funding. Please note the summaries in the "Purpose of funding" section have been extracted from the contracts and so were accurate at the time of contracting.

Also enclosed are copies of the Memorandums of Understanding (MOU) or contracts signed between MBIE and each entity, as well as progress reports and updates provided to MBIE.

Please note MBIE does not hold any applications, business cases or set Key Performance Indicator's (KPI's) for these initiatives. Funding for SWEP is operational, with the option for MBIE to use some of this funding for discretionary spend on employment related initiatives through engagement with the entities. Contributions to these initiatives, as well as the milestones associated with the programmes, are monitored by the entities or their co-funding agencies.

MBIE is therefore refusing your request for applications for each funding allocation, KPIs associated with each funding allocation and key milestones associated with each project, under section 18(e) of the Act, as the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found.

If you wish to discuss any aspect of your request or this response, or if you require any further assistance, please contact [OIA@mbie.govt.nz](mailto:OIA@mbie.govt.nz).

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Nāku noa, nā



Andrew McNaught

**Programme Director, Sector Workforce Engagement Programme**

Kānoa – Regional Economic Development & Investment Unit

**Annex One – Summary of all Sector Workforce Engagement Programme (SWEP) programmes with funding allocations of \$100,000 or more**

<b>Entity:</b> New Zealand Ethical Employers Incorporated (NZEE)	<b>Time period of funding</b>	<b>Funding Paid</b>	<b>Co-funding</b>
<b>Programme:</b> New Zealand Ethical Employers Human Rights Framework	28/02/2023 - 4/09/2023	\$100,000	\$200,000 - Ministry of Social Development (MSD)
<p><b>Purpose of funding:</b> NZEE provides advice and leadership into strategies or initiatives that concern horticulture and viticulture/wine growing labour markets.</p> <p>This funding application is for seed funding for New Zealand Ethical Employers to create a Human Rights due diligence, remedy and reporting process.</p> <p>NZEE needs financial support to help set up the framework and is a membership-funded organisation and given the present COVID-19 related challenges and market constraints, they are not able to provide the additional funding to fully support the development of this framework without assistance. SWEP will look to partner with other Government Agencies, such as MPI, to co-fund this framework. The onus is on growers and labour suppliers to demonstrate their commitment to being good employers and achieve the highest global standards. This is where NZEE can add value with leadership and high standards across the membership, the goal is to provide the tools and mechanisms for members to hold themselves accountable and demonstrate the highest standards of employment practice. Thus, growers, retailers and export markets, and consumers will have a level of assurance about ethical labour in horticulture and viticulture products. Growers will see the benefits of playing their part in ethical supply chains by using NZEE members for their labour needs.</p>			
<b>Entity:</b> Truck and Heavy Machine Operator Training Trust (TRTP)	<b>Time period of funding</b>	<b>Funding Paid</b>	<b>Co-funding</b>
<b>Programme:</b> Tairāwhiti Road Transport Programme	11/08/2022 - 10/08/2023	\$100,000	\$100,000 (MSD)
<p><b>Purpose of funding:</b> TRTP was established in 2018 to address the current need and future demand for heavy truck drivers and heavy equipment operators with a structured region-wide programme of recruitment, training and employment placement. 100% funding for the programme was received via the Provincial Growth Fund (PGF) for an initial period of 3 years. Administration was provided by Eastland Wood Council (EWC).</p> <p>Detailed quarterly reports have been completed and submitted to MBIE as part of the funding agreement.</p> <p>Discussions have taken place on the sustainability of the programme with a range of Government agencies and investments from industries in the Tairāwhiti region. It has been agreed that MBIE will provide interim part funding of the programme so that it can continue while further funding avenues are secured.</p>			
<b>Entity:</b> Nelson Regional Development Agency Limited	<b>Time period of funding</b>	<b>Funding Paid</b>	<b>Co-funding</b>

<b>Programme:</b> Tourism Conservation Labour Pilot	17/11/2022-16/02/2024	\$120,000	None
<p><b>Purpose of funding:</b> Funding for this programme supports a role that could coordinate between the conservation employment opportunities and the participating tourism operators to:</p> <ul style="list-style-type: none"> <li>• Understand seasonal staffing needs of projects and develop a work programme</li> <li>• Understand tourism operators staff capacity and skills</li> <li>• Coordinate the administration and logistics needed for people to split their time between the two industries</li> <li>• Help with barriers to entry, such as the preferred supplier process when working with a council</li> <li>• Coordinate a joint application for delivering a conservation project across multiple tourism companies.</li> </ul>			
<b>Entity:</b> Aquaculture New Zealand	<b>Time period of funding</b>	<b>Funding Paid</b>	<b>Co-funding</b>
<b>Programme:</b> Aquaculture NZ Workforce Action Plan	22/08/2022-29/9/2024	\$210,000	\$94,000 (Aquaculture NZ)
<p><b>Purpose of funding:</b> This funding application is for seed funding for Aquaculture New Zealand to implement the Programme over the next 24 months to advance priority projects under the following focus areas: Pathways and Promotion, Projections, Perceptions, Pastoral Support, People Progression (training and education), Immediate Shortfall (migrant labour), Invest in System Transformation.</p>			
<b>Entity:</b> Te Runanga O Te Rarawa Trustee Limited (TROTR)	<b>Time period of funding</b>	<b>Funding Paid</b>	<b>Co-funding</b>
<b>Programme:</b> Services Agreement for SWEP Contribution: Te Hiku Tupu Ho	1/03/2021-30/04/2023	\$253,736	\$1,126,051 (MSD) \$385,601 – Tertiary Education Commission (TEC) \$1,387,238 (Host Employers)
<p><b>Purpose of funding:</b> From Budget 2020, MSD and TEC are funding major parts of the Tupu initiative over the next 3 years, with seed funding from Te Hiku Accord for the joint work plan (JWP) committed until the end of June 2021. The TEC have been working with Te Hiku, and its education partner the NZ Sports Turf Institute (NZSTI), to fund the training involved from July 2021 to 2023. There is, however, an out-year shortfall in funding for each fiscal year in the training components provided by the TEC. As TEC's funding rates are set by their Minister and are volume based, TEC have no current leeway under their terms of funding and legislation to bridge the gap in the medium term.</p>			
<b>Entity:</b> Housing NZ Limited Kainga Ora-Homes & Communities	<b>Time period of funding</b>	<b>Funding Paid</b>	<b>Co-funding</b>

<b>Programme:</b> Eastern Porirua Skills and Employment Initiative	1/05/2021-30/06/2024	\$450,000	\$300,000 (MSD) \$180,000, (Porirua City Council - over three years) \$870,000 (Kainga Ora - over six years)
<p><b>Purpose of funding:</b> On 1 November 2018 it was announced \$1.5 billion would be invested in East Porirua. The project will include 2,900 renewed state houses, 150 new state houses and 2,000 Kiwibuild and market homes in Ascot Park, Waitangirua, Cannons Creek and Rānui. Eastern Porirua is a community positioned at the lower end of the social mobility scale, and there is a gap in local services that provide support to whānau entering quality employment. The Eastern Porirua Skills and Employment Initiative is borne out of the aspirations of the Eastern Porirua community. These aspirations are documented through community engagement by Kāinga Ora, Porirua City Council (PCC), and by Ngāti Toa’s intent to pathway rangitahi into employment. In addition to the existing community drive for a local employment initiative, the employment and wider economic conditions created by Covid-19 mean an increased demand for employment assistance programmes in the immediate to mid-term.</p>			

Note: The “Purpose of funding” was extracted from the programmes’ contracts.



# Contract for Services

## Contract Details

**New Zealand Ethical Employers Due Diligence Framework**

### The Parties

#### The Buyer:

Ministry of Business, Innovation and Employment

s 9(2)(b)(ii)

PO Box 1473, Wellington 6140

and

#### The Supplier:

New Zealand Ethical Employers Incorporated

s 9(2)(b)(ii)

Wallace Diack Chartered Accountants Limited, Level 2, 1 Hutcheson Street, Mayfield, Blenheim

### The Contract

#### Agreement

The Buyer appoints the Supplier to deliver the Services described in this Contract and the Supplier accepts that appointment. This Contract sets out the Parties' rights and obligations.

#### Parts of this Contract

The documents forming this Contract are:

1. **Contract Details:** This section
2. **Schedule 1:** Description of Services
3. **Schedule 2:** Standard Terms and Conditions GMC Form 1 SERVICES | Schedule 2 (3<sup>rd</sup> Edition) available at: [www.procurement.govt.nz](http://www.procurement.govt.nz)
4. Any other attachments described at Schedule 1.

#### How to read this Contract

- Together the above documents form the whole Contract
- Any Supplier terms and conditions do not apply
- Clause numbers refer to clauses in Schedule 2
- Words starting with capital letters have a special meaning. The special meaning is stated in the Definitions section at clause 17 (Schedule 2).

## Acceptance

In signing this Contract each Party acknowledges that it has read and agrees to be bound by it.

**Signed for and on behalf of the Buyer:**

**Signed for and on behalf of the Supplier:**

Click or tap here to enter text.

(signature)

**Name:** Nathan Grennell

**Position:** Director Skills and Employment

**Date:** 28/02/2023

(signature)

**Name:** s 9(2)(a)

**Position:** Chief Executive Officer

**Date:** 28/02/2023

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# Schedule 1

## Description of Services

Contract Management and Personnel		
<b>Start Date</b>	6/03/2023	Reference Schedule 2 clause 1
<b>End Date</b>	4/09/2023	Reference Schedule 2 clause 1
<b>Renewal</b>	N/A	Reference Schedule 2 clause 1

### Contract Managers

Reference Schedule 2 clause 4

	Buyer's Contract Manager	Supplier's Contract Manager
<b>Name:</b>	Joanne Verry	s 9(2)(a)
<b>Title / position:</b>	Acting Programme Director SWEP	Chief Executive Officer
<b>Address:</b>	PO Box 1473, Wellington, 6140	Wallace Diack Chartered Accountants Limited, Level 2, 1 Hutcheson Street, Mayfield, Blenheim, 7201
<b>Phone:</b>	s 9(2)(a)	s 9(2)(a)
<b>Email:</b>	Jo.verry@mbie.govt.nz	s 9(2)(a)

### Addresses for Notices

Reference Schedule 2 clause 14

	Buyer's address	Supplier's address
<b>For the attention of:</b>	Nathan Grennell	s 9(2)(a)
<b>c.c. Contract Manager</b>	Joanne Verry	s 9(2)(a)
<b>Delivery address:</b>	15 Stout Street, Wellington	Wallace Diack Chartered Accountants Limited, Level 2, 1 Hutcheson Street, Mayfield, Blenheim, 7201
<b>Postal address:</b>	PO Box 1473, Wellington, 6140	Wallace Diack Chartered Accountants Limited, Level 2, 1 Hutcheson Street, Mayfield, Blenheim, 7201
<b>Email:</b>	mbie.invoices@mbie.govt.nz	s 9(2)(a)



## Description of Services

### Context

A comprehensive cross-sector strategy is being implemented to protect an export sector worth billions of dollars annually. As the membership association for labour supply contractors, New Zealand Ethical Employers (NZEE) provides advice and leadership into strategies or initiatives that concern horticulture and viticulture/wine growing labour markets. NZEE provide comprehensive data on labour, both met and unmet demand, into such strategies, with a co-ordinated and timely approach to data collection from their membership. Over time, this data will provide valuable insights and analysis on labour trends.

The onus is on growers and labour suppliers to demonstrate their commitment to being good employers and achieve the highest global standards. NZEE add value with leadership and high standards across the membership, the goal is to provide the tools and mechanisms for members to hold themselves accountable and demonstrate the highest standards of employment practice. Thus, growers, retailers and export markets, and consumers will have a level of assurance about ethical labour in horticulture and viticulture products. Growers will see the benefits of playing their part in ethical supply chains by using NZEE members for their labour needs.

### Description of Services

This seed funding is to enable New Zealand Ethical Employers (NZEE) to create a due diligence, remedy and reporting process via a suite of management systems and resources. This is to support employers to improve end-to-end quality of employment and to raise the standards of employment. In the first instance this remedy will support employers who contract and supply labour for the Horticulture and Wine Growing industries.

Implementing due diligence will facilitate:

- NZEE current and future members to proactively identify and address impacts on workers, the community and the environment and ensure that actions and inactions are not undermining Sustainable Development Goals.
- Businesses are to systematically manage risks and demonstrate their contribution to the Sustainable Development Goals in a measurable way.
- Employers to embed human rights into their organisation and demonstrate ethical employment as part of standard day-to-day business practice.

### Deliverables and Milestones

NZEE to develop a human rights due diligence and remedy process for employers. NZEE's Human Rights Remedy is linked back to the issues that are highlighted in the Ask Your Team Ethical voice survey.

- The creation of a Due Diligence and Remedy Process for employers
- The creation of management systems & resources for employers
- A reporting framework

This process involves four core components:

1. **Identifying and assessing actual or potential adverse human rights** - NZEE has made addressing modern slavery and other workers' rights issues an immediate priority but is yet to conduct wider human rights due diligence. The agricultural food and fibre supply sector has been identified as a high-risk sector in human rights due diligence globally.

2. **Integrating findings from impact assessments across relevant company processes and taking appropriate action according to its involvement in the impact** - NZEE will support the membership to address human rights and labour rights issues that have been identified using their Worker Survey - Ethical Voice data.
3. **Tracking the effectiveness of measures and processes to address adverse human rights impacts to know if they are working** - NZEE will support the membership to create systems to track human rights and labour rights issues in NZEE members' businesses.
4. **Communicating on how impacts are being addressed and showing stakeholders – particularly affected stakeholders – that there are adequate policies and processes in place** - NZEE will support the membership to create systems to report on the progress they are making to correct human rights and labour rights issues in NZEE members' businesses.

Deliverable/Milestone	Performance Standards	Due date	Amount payable (exc GST)
Project deliverer recruited	Agreement and signing of contract by both parties	31/03/2023	\$s 9(2)(b)(ii)
Development of resources completed	Development of: 1. Human Rights Due Diligence Framework, 2. Human Rights Remedy Framework, 3. Human Rights Management and Report Resources	4/09/2023	\$s 9(2)(b)(ii)
			\$100,000

## Charges

The following section sets out the Charges. Charges are the total maximum amount payable by the Buyer to the Supplier for delivery of the Services. Charges include Fees, and where agreed, Expenses and Daily Allowances. The Charges for this Contract are set out below.

### Fees

*Reference Schedule 2 clause 3*

The Supplier's Fees will be calculated as follows:

#### Fixed Fee

A fixed Fee of \$100,000 excluding GST.

### Expenses

*Reference Schedule 2 clause 3*

**No Expenses are payable.**

## Invoices

Reference Schedule 2 Subject to clauses 3 and 11.7

The Supplier must send the Buyer an invoice for the Charges at the following times:

**On the following dates subject to completion of the relevant Deliverables/Milestones.**

Deliverable/Milestone	Performance Standards	Due date	Amount payable (exc GST)
Project deliverer recruited	Agreement and signing of contract by both parties	31/03/2023	\$s 9(2)(b)(ii)
Development of resources completed	Development of: 1. Human Rights Due Diligence Framework, 2. Human Rights Remedy Framework, 3. Human Rights Management and Report Resources	4/09/2023	\$s 9(2)(b)(ii)
		Total (exc GST)	100,000

## Address for invoices

Reference Schedule 2 clause 3

	Buyer's address
For the attention of:	Nathan Grennell
Address:	MBIE.Invoices@mbie.govt.nz

## Insurance

Reference Schedule 2 Clause 8.1

**The Supplier must have the following insurance:**

1. Professional indemnity insurance of \$s 9(2)(b)(ii) per claim and \$s 9(2)(b)(ii) for all claims in the insurance policy period.

## Changes to Schedule 2 and attachments

**Schedule 2 of this Contract is amended as follows:**

Additional Clauses:

*"If the Provider's Personnel require access to MBIE's facilities and IT systems to provide the Services the Provider must provide the following evidence of the suitability of the relevant Personnel:*

- a. Ministry of Justice criminal record check (MoJ Check);
- b. clearance to work in New Zealand; and
- c. credential and reference check from at least two references (the Evidence).

*The Evidence must not be more than 6 months old.*

*The Provider will immediately notify the Buyer of any change it is aware of to the suitability of the Personnel during the term of this Contract.”*

## **Attachments**

*Reference 'Contract documents' described at Page 1*

1. Confidentiality Deed (attached to this agreement).
2. All relevant internal MBIE policies, which can be found here: <http://thelink/tools/policies>

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## Confidentiality Deed

**DATE:** 28/02/2023

**APPROVED PERSONNEL:** s 9(2)(a) [REDACTED], of New Zealand Ethical Employers, c/o Wallace Diack Chartered Accountants Limited, Level 2, 1 Hutcheson Street, Mayfield, Blenheim, 7201

I acknowledge that the Ministry of Business, Innovation and Employment (the **Ministry**) is willing to disclose to me information that may be relevant to **the creation of the NZ Ethical Employers Due Diligence Framework** and other areas of the Ministry that I support (**Projects**). I will also have access to information of the Ministry in the course of my engagement with it. Such information may include, but is not limited to:

- a. information and data, whether written or oral, related in any way to the Ministry's requirements for the Projects or the Ministry's existing processes, procedures or systems; and
- b. processes, personnel, policies, business strategies, plans, ideas, know how, concepts, technologies, methodologies, reports, documents, and other information whether of a business, financial, technical, non-technical or other nature and whether existing in tangible form, electronic form or otherwise which is made available by the Ministry to me; and
- c. other information of the Ministry which becomes known to me in the course of my engagement with it,

but excludes:

- d. publically available information; or
- e. information that becomes known to me from a third party who is not in breach of any obligation of confidentiality to the Ministry,  
**(Confidential Information).**

I acknowledge that the Confidential Information is highly sensitive and confidential in nature and is disclosed on the understanding that it will be kept confidential and used solely for the purpose of enabling me to perform, design, develop, supply and deliver services and deliverables in relation to Projects (the **Permitted Purpose**).

**Accordingly, I undertake as follows:**

### 1. Confidentiality

1.1 I will keep all Confidential Information strictly secret and confidential and shall use the Confidential Information for the Permitted Purpose only. I acknowledge that the Confidential Information remains the property of the Ministry. I will not contest or dispute the Ministry's ownership of the Confidential Information at any time.

### 2. Use and Disclosure

2.1 I will not use any Confidential Information disclosed by the Ministry in any manner which is, or may be, detrimental to the Ministry's interests.

2.2 I will not disclose, or permit to be disclosed, the Confidential Information other than:

- a. to the extent required by law (including the rules of any stock exchange to which I am

- b. subject); or
- c. to the extent required by a court order; or
- d. to the extent required by a regulatory authority acting under a statutory power to require disclosure of information; or
- e. with the Ministry's prior written consent in each instance.

2.3 Before disclosing Confidential Information under clause 2.2, where practical I must:

- a. promptly notify the Ministry of the requirement; and
- b. use all reasonable endeavours to obtain, from the person requiring the information, assurances that the Confidential Information will be treated as confidential.

**3. Completion of Purpose**

3.1 The obligations under this Deed continue to apply after the completion of the Permitted Purpose.

3.2 At the Ministry's reasonable request I must:

- a. return or destroy the Confidential information in my possession and control; and
- b. confirm in writing my compliance with this clause 3.2a.

**4. Term of Deed**

4.1 I acknowledge and agree that this Deed, and my obligations under it, will continue in full force and effect without limit of time unless otherwise agreed in writing by the Ministry.

**5. Indemnity**

5.1 I indemnify the Ministry against all costs, losses and damages (including legal costs on a solicitor-client basis) that may be incurred by the Ministry should I breach any of my obligations under this Deed. I agree that I am responsible for any act or default of any third party to whom I disclose any Confidential Information.

**6. Governing Law**

6.1 This Deed is governed by New Zealand law and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

**SIGNED AND DELIVERED AS A DEED** by )  
 s 9(2)(a) the )  
 presence of: )

\_\_\_\_\_  
 Signature

Witness signature:

Witness name:

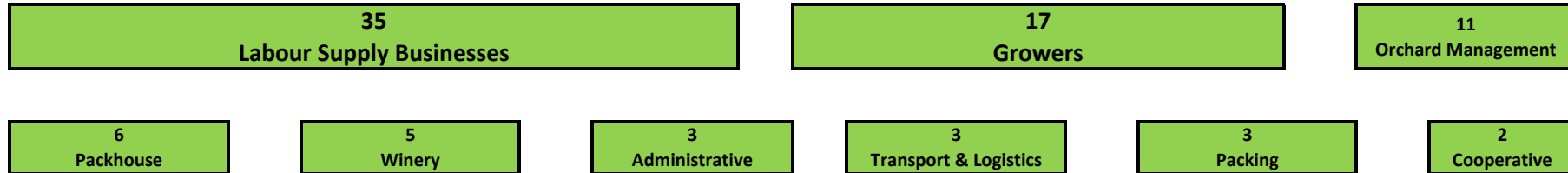
Witness address:

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# NZ ETHICAL EMPLOYERS INC. MEMBERSHIP AND COMPLIANCE FRAMEWORK

Membership as at 6 April 2023

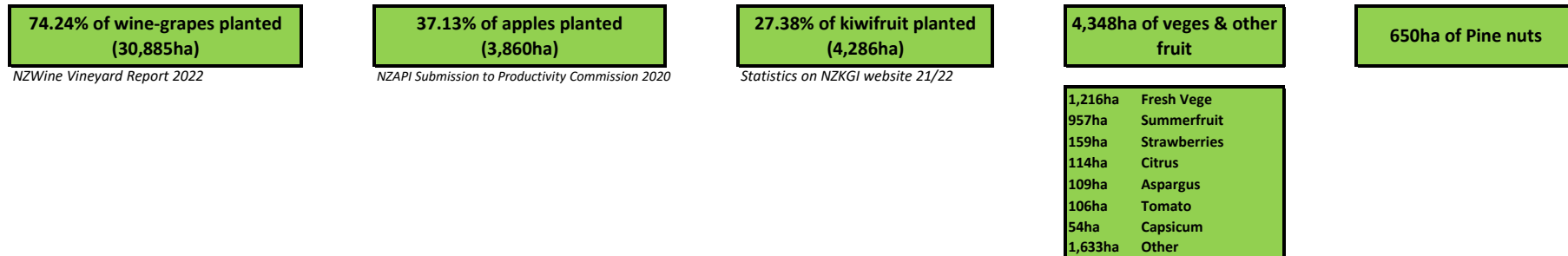
## Membership of NZ Ethical Employers



## Membership of NZ Ethical Employers Employ 32,551 people

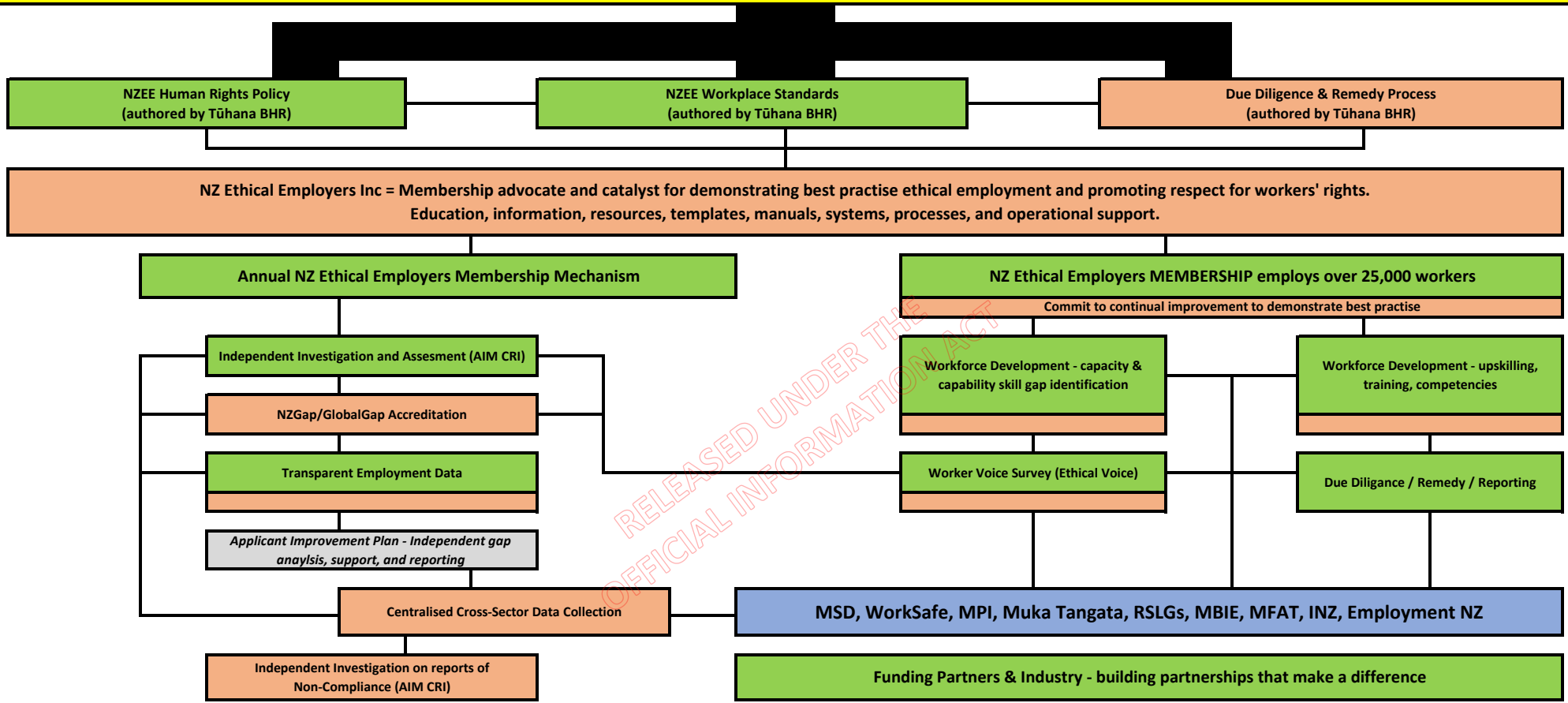


## Membership of NZ Ethical Employers cover 44,029ha of hort/vit crops grown across NZ



# NZ ETHICAL EMPLOYERS INC. MEMBERSHIP AND COMPLIANCE FRAMEWORK

**UNITED NATIONS GUIDING PRINCIPLES on Business and Human Rights (UNGPs) & OECD-FAO Guidance for Responsible Agricultural Supply Chains**



**OUTCOME : NZEE members demonstrate NZ & international best practise in respecting internationally recognised Human Rights, including labour rights, that enables supply chain integrity & market acceptance of the products of the Aotearoa New Zealand primary sector**

- Foundational Principles drives everything NZEE does
- Underway, or in process
- Requires funding and/or resources
- Key Stakeholders who receive NZEE data





# SERVICES AGREEMENT FOR Tairawhiti Road Transport Programme

DATE: 09/08/2022

**BETWEEN** The Sovereign in Right of New Zealand acting by and through Te Tumu Whakarae mō Hikina Whakatutuki, Secretary for Business, Innovation & Employment and the Chief Executive of the Ministry of Business, Innovation and Employment (**Ministry or MBIE**)

**AND** The Truck and Heavy Machine Operator Training Trust C/O Bain & Sheppard, 57 Customhouse Street, Gisborne 4010 (**Service Provider**)

**AGREEMENT**

The Ministry engages the Service Provider, and the Service Provider accepts engagement by the Ministry, to provide the Services and Deliverables on the terms and conditions set out in Schedule 1 (Details) and Schedule 2 (Terms and Conditions).

**SIGNED**

Signed by **Andrew McNaught, Director, Skills and Employment** the authorised delegate of Te Tumu Whakarae mō Hikina Whakatutuki, Secretary for Business, Innovation & Employment and the Chief Executive of the Ministry of Business Innovation and Employment:

Signature

Date: 09/08/2022

s 9(2)(a)

Signed for and on behalf of **The Truck and Heavy Machine Operator Training Trust** by:

Signature

s 9(2)(a)

Print Full Name

**TRUSTEES**

Print Title

Date: 11/8/22

# SCHEDULE 1

## DETAILS

### 1. Context and Purpose *(clause 2.2, Schedule 2)*

The Tairāwhiti Road Transport and Machinery Programme (TRTP) was established in 2018 to address the current need and future demand for heavy truck drivers and heavy equipment operators with a structured region-wide programme of recruitment, training and employment placement.

100% funding for the programme was received via the Provincial Growth Fund for an initial period of 3 years. Administration was provided by Eastland Wood Council (EWC).

Detailed quarterly reports have been completed and submitted to MBIE as part of the funding agreement and indicate 294 trainees have completed the programme and 271 (92%) are in Employment.

Discussions have taken place on the sustainability of the programme with a range of govt agencies and investment from industry in the Tairawhiti region.

It has been agreed that MBIE will provide interim part funding of the programme so that it can continue while further funding avenues are secured.

### 2. Services *(clause 2, Schedule 2)*

The following services:

TRTP will work with unemployed and employed people seeking to upskill and joining the road freight industry. The outcome will be that participants in the programme will be recruited into local employment addressing the current shortfall as well as preparing for the future demand of vacancies.

By continuing the established TRTP will ensure that an optimal recruitment, training and retainment pathway is maintained, that the transport and machine operation industry will remain sustainable and effectively enhance the economic growth in the Tairāwhiti Region.

This supports and meets the objectives of the Tairāwhiti Economic Action Plan RGP Action 8.5, "work with employers in key industries (forestry, horticulture, tourism, engineering, and transport and trucking) to meet labour needs".

### 3. Deliverables *(clause 2, Schedule 2)*

The following deliverables:

105 people will be trained at various licence levels, detailed:

Trainee Numbers		2023
Cadets		6
Class 2		30
Class 4		5
Class 5		5
Upskill	Class 4	20
	Class 5	15
WTR		24
<b>TOTAL</b>		<b>105</b>

These deliverables are an indication of aspirational intent of the programme based on full resourcing being available. They are used as a guideline not a milestone for payment.

**4. Ministry inputs** (clause 3, Schedule 2)

The following inputs:

The Ministry will provide governance support to the programme

**5. Standards** (clause 2.1.a, Schedule 2)

**6. Timeframes and Milestones** (clause 1.1, 2.1.a, Schedule 2)

Deliverable/Milestone	Performance standard	Due date	Amount due (ex GST)
Establishment of agreement	Agreement and signing of document by both parties	5 <sup>th</sup> August 2022	\$ s 9(2)(b)(ii)
Progress report	Progress report submitted and approved	6 months after establishment of agreement	\$ s 9(2)(b)(ii)

**7. Charges** (clause 4.1, Schedule 2)

*Option 1 – Fixed Charge*

Fixed Charge of \$100,000 plus GST (if any).

**8. Invoice Terms** (clause 4.2, Schedule 2)

Invoice in instalments on the invoice dates set out below, subject to completion of the relevant Milestone to the Ministry's satisfaction:

Instalment (plus GST)	Date	Milestone
§ 9(2)(b)(ii)	On or before the 5 <sup>th</sup> of August 2022	Agreement and signing of contract by both parties
§ 9(2)(b)(ii)	6 months after establishment of agreement	Progress report received and approved

**9. Expenses (clause 4.5, Schedule 2)**

*Option 1 (default option)*

No reimbursement of expenses.

**10. Commencement Date (clause 1.1, 5.1, Schedule 2)**

**11. Completion Date (clause 1.1, 5.1, Schedule 2)**

12 Months after signing of agreement

**12. Reporting Requirements (clause 9.1, Schedule 2)**

*Option 2*

Reporting to align with schedule of governance meetings approximately bimonthly

**13. Service Provider's and/or Third Parties' Pre-existing Intellectual Property Rights (clause 11.4, Schedule 2)**

**14. Service Provider's Pre-existing Conflicts of Interest (clause 13.2, Schedule 2)**

**15. Key Personnel: (clause 7, Schedule 2)**

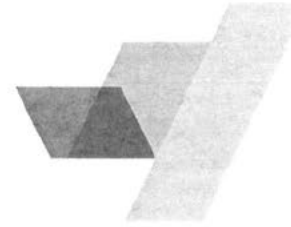
[List any Service Provider Personnel that are critical to the provision of the Services and Deliverables, if any. Delete this clause if it is not applicable]

Name	Role
Dave Pardoe	Programme Lead
Natasha Tuapawa	Programme Administrator / Pastoral Care Lead

17. Address for Notices (clause 19.5, Schedule 2)

Ministry:	Service Provider:
<p>Ministry of Business, Innovation and Employment 15 Stout Street PO Box 1473 WELLINGTON</p> <p>Email Address: mbie.invoices@mbie.govt.nz</p> <p>Attention: Andrew McNaught</p>	<p>Truck and Machinery Operator Training Trust C/O Bain &amp; Sheppard 57 Customhouse St</p> <p>Gisborne 4010</p> <p>Email Address: s 9(2)(a)</p> <p>Attention: s 9(2)(a)</p>

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## SCHEDULE 2

# SERVICES AGREEMENT STANDARD TERMS AND CONDITIONS

### 1. Definitions

1.1 In this Agreement, the following terms have the stated meanings:

**Agreement** means this agreement, including Schedule 1 and this Schedule 2;

**Business Day** means any day not being a Saturday or Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003;

**Charges** means the charges set out in the Details;

**Commencement Date** means the commencement date set out in the Details or, if no commencement date is set out, the date of this Agreement;

**Completion Date** means the completion date set out in the Details;

**Confidential Information** means the terms and conditions of this Agreement, the Deliverables and all information and data (in any form) produced or acquired by the Service Provider or its Personnel in connection with this Agreement or the performance of the Services, and the Ministry Data;

**Deliverables** means the deliverables (if any) described in the Details and any other documents, reports or other materials produced by the Service Provider in the course of providing the Services;

**Details** means Schedule 1;

**Exit Services** has the meaning given in clause 6.6;

**GST** means goods and services tax within the meaning of the Goods and Services Tax Act 1985;

**Intellectual Property Rights** includes copyright and all rights conferred under statute, common law or equity in relation to inventions (including patents), registered or unregistered trade marks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity, and **Intellectual Property** has a corresponding meaning;

**Key Personnel** has the meaning given in clause 7.1;

**Milestone** means an event or task under this Agreement to be performed at or by a particular date and time, as set out in the Details (if any);

**Ministry Data** means all information and data (in any form) belonging to the Ministry that is acquired by the Service Provider or its Personnel in connection with this Agreement or the performance of the Services and includes the Ministry's information systems and processing facilities, all data relating to the Ministry's operations and clients and all data or business knowledge about the Ministry, its Personnel, customers and suppliers;

**Parties** means the Ministry and the Service Provider,

including their permitted assigns;

**Personnel** means all employees, contractors, agents and officers and includes, to avoid doubt, Key Personnel (if any); and

**Services** means the services described in the Details together with all other work to be performed by the Service Provider to supply the Deliverables and perform its other obligations under this Agreement.

- 1.2 References to clauses and Schedules are to clauses and Schedules of this Agreement and references to persons include bodies corporate, unincorporated associations or partnerships.
- 1.3 The headings in this Agreement are for convenience only and have no legal effect.
- 1.4 The singular includes the plural and vice versa.
- 1.5 "Including" and similar words do not imply any limitation.

1.6 References to a statute include references to that statute as amended or replaced from time to time.

1.7 References to "NZD" or "\$" are to New Zealand currency, except where expressly stated otherwise.

1.8 The rule of construction known as *contra proferentem* does not apply to the interpretation of this Agreement.

1.9 If there is any conflict of meaning between the Details and Schedule 2, Schedule 2 will prevail, except where the Details expressly state otherwise.

### 2. Services and Deliverables

2.1 The Service Provider must provide the Services and the Deliverables promptly, efficiently, with reasonable skill and care and using suitably skilled, experienced and qualified Personnel, in accordance with:

- this Agreement, including the standards and Milestones and other timeframes (if any) set out in the Details (and if no timeframe is set out in the Details, within a timeframe that is reasonable in the circumstances);
- the best currently accepted principles and practices applicable to the Services and the Deliverables;
- all applicable laws, regulations, rules and professional codes of conduct or practice, including the Employment Relations Act 2000, the Immigration Act 2009 and the Health and Safety at Work Act 2015;
- the Ministry's security and health and safety policies and requirements where the Service Provider is providing any of the Services and Deliverables on the Ministry's premises; and
- the reasonable directions of the Ministry.

2.2 The Service Provider must ensure that the Services and Deliverables are fit for the purpose set out in the Details

(if any).

- 2.3 The Service Provider must obtain all third party consents, licences, authorisations and approvals required for it to provide the Services and Deliverables under this Agreement.
- 2.4 If the Services or Deliverables are not, in the Ministry's reasonable opinion, provided in accordance with this Agreement (including in accordance with any Milestone due dates set out in the Details) or are not otherwise in accordance with the Ministry's requirements, the Ministry may (without limiting its other remedies):
- require the Service Provider to remedy the deficiency immediately, at the Service Provider's cost;
  - withhold any payment due to the Service Provider until the deficiency is remedied to the Ministry's satisfaction; and/or
  - deduct a reasonable amount from any payment due to the Service Provider to reflect the deficiency.
- 2.5 The Service Provider must provide the Deliverables in such format, and on such medium, as is reasonably required by the Ministry.
- 2.6 The Service Provider acknowledges that the Ministry may engage other suppliers to provide services that relate to or are used by the Ministry in conjunction with the Services and Deliverables. The Service Provider agrees to co-operate fully and collaborate in good faith with the Ministry and any external suppliers in a timely manner, including:
- providing information reasonably required to ensure that the Ministry and any external supplier is able to perform their relevant responsibilities and functions; and
  - to the extent that it is within the Service Provider's control, achieving efficiency and reliability of services and deliverables provided to the Ministry and to ensure efficient change control processes across all suppliers.
3. **Ministry inputs**
- The Ministry must use reasonable efforts to provide the inputs set out in the Details (if any) to the Service Provider in accordance with any timeframes set out in the Details (and if no timeframe is set out in the Details, within a timeframe that is reasonable in the circumstances).
4. **Charges and invoicing**
- 4.1 Subject to clauses 2.4, 4.3, 4.4 and 4.5, the Ministry must pay the Charges at the rates set out in the Details for the provision of the Services and the Deliverables. The Charges:
- are the total amount payable by the Ministry for the provision of Services and Deliverables under this Agreement; and
  - must not exceed any cap on the Charges set out in the Details.
- 4.2 The Service Provider must provide a fully itemised valid GST invoice to the Ministry for all Charges due in

the manner set out in the Details. The invoice must:

- be sent directly to the Ministry in PDF format via email to [mbie.invoices@mbie.govt.nz](mailto:mbie.invoices@mbie.govt.nz);
- Be copied to the relevant MBIE manager;
- include details of the Services and Deliverables to which the invoice relates;
- include sufficient information reasonably required to enable the Ministry to validate the claim for payment including:
  - reference to this Agreement (under which the invoice is issued);
  - the Charges for and description of each Service and Deliverable being invoiced;
  - in respect of any Charges on a time and rate basis, the relevant times and rates on which the Charge is based;
  - full details of any approved expenses incurred, together with copies of invoices for such items which have a value greater than \$1,000; and
- be clearly and legibly marked to the attention of the full name of the person ordering the Services and Deliverables.

4.3 The Ministry is not obliged to make any payment under this Agreement until an invoice which complies with clause 4.2 has been received by it from the Service Provider. Payments will be made to the credit of a bank account to be designated in writing by the Service Provider.

4.4 The Charges are inclusive of all taxation except GST. The Ministry shall be entitled to deduct any withholding tax required to be withheld by law from payments made to the Service Provider and shall not be required to gross-up or increase any such payments in respect of such amounts withheld.

4.5 Without limiting the Ministry's rights under clause 2.4, the Ministry may (acting reasonably) withhold any disputed amount until the dispute is resolved. The Ministry must pay any undisputed portion of the sum set out in each invoice by the 20th of the month following the month of receipt of the invoice. The Ministry must reimburse the Service Provider for expenses incurred by the Service Provider in providing the Services and Deliverables only if, and to the extent, specified in the Details.

## 5. **Term**

5.1 Subject to clauses 6.1, 6.2 and 18.2, this Agreement will commence on the Commencement Date and will continue until the later of the Completion Date set out in the Details or completion of the Services and provision of the Deliverables in accordance with this Agreement.

5.2 Services and Deliverables provided prior to the date of this Agreement are deemed to have been provided on the terms of this Agreement.

## 6. **Termination**

6.1 The Ministry may terminate this Agreement at any time by giving 10 Business Days' notice to the Service Provider.

6.2 The Ministry may terminate this Agreement immediately by giving notice to the Service Provider, if the Service

- Provider:
- Service Provider which contain or reflect any Confidential Information or Ministry Intellectual Property.
- a. is in breach of any of its obligations under this Agreement and that breach is not capable of being remedied;
  - b. fails to remedy any breach of its obligations under this Agreement within 5 Business Days of receipt of notice of the breach from the Ministry;
  - c. does or omits to do something, or any matter concerning the Service Provider comes to the Ministry's attention, which in the Ministry's opinion may cause damage to the business or reputation of the Ministry or of the Government of New Zealand;
  - d. has given or gives any information to the Ministry which is misleading or inaccurate in any material respect; or
  - e. becomes, or in the Ministry's reasonable opinion, is likely to become insolvent, bankrupt or subject to any form of insolvency action or administration.
- 6.3 Termination or expiry of this Agreement does not affect the rights and obligations of the Parties accrued up to and including the date of termination.
- 6.4 Within 10 Business Days of termination of this Agreement:
- a. where that termination was under clause 6.1, the Ministry must pay the Service Provider for Services and Deliverables provided in accordance with this Agreement up to the date of termination (provided the Service Provider has provided an invoice which complies with clause 4.2); and
  - b. the Service Provider must refund to the Ministry all amounts paid by the Ministry for Services or Deliverables not provided. If the Ministry has paid a fixed Charge for Services or Deliverables, the Service Provider must refund to the Ministry a portion of the fixed Charge which, in the Ministry's reasonable opinion, relates to the Services or Deliverables not provided.
- 6.5 Except to the extent the Service Provider is legally required to retain any Confidential Information, the Service Provider must, within 5 Business Days of termination or expiry of this Agreement:
- a. return to the Ministry:
    - i. all Confidential Information in the Service Provider's possession or control; and
    - ii. all other property of the Ministry relating in any way to this Agreement (including documents, data, work-in-progress and materials in which the Intellectual Property Rights of the Ministry are vested and back-up copies) which is in the possession or control of the Service Provider or its Personnel; and/or
  - b. if requested by the Ministry, destroy or erase all copies in any form of the Confidential Information or Ministry Intellectual Property and any other documents prepared by or for the
- 6.6 The Service Provider must, if requested by the Ministry, provide the exit services set out in the Details, if any (**Exit Services**), before or from the expiry or termination of this Agreement.
- 6.7 The Ministry must, except where the Ministry has terminated under clause 6.2, pay for the Exit Services at the relevant rates set out in the Details, up to the total maximum cap set out in the Details for the Exit Services. To avoid doubt, the terms of this Agreement continue to apply to the Exit Services, with all necessary modification.
- 6.8 The provisions of this Agreement which, by their nature, are intended to survive termination or expiry of this Agreement, including those provisions relating to remedying deficiencies in the Services and Deliverables (clause 2.4), termination (clause 6) reporting requirements (clause 9.2), intellectual property (clause 11), confidentiality (clause 12), and liability and insurance (clause 14) will continue after the expiry or termination of this Agreement.
- 7. Key Personnel**
- 7.1 The Service Provider must ensure that the key Personnel set out in the Details (if any) (**Key Personnel**) provide the Services and Deliverables.
- 7.2 If, at any time during the term of this Agreement, any member of the Key Personnel is not available to provide the Services and Deliverables, the Service Provider must:
- a. promptly notify the Ministry of the non-availability of any Key Personnel; and
  - b. consult with the Ministry when appointing a replacement.
- 7.3 Where the Service Provider appoints a new person to a Key Personnel role, it must ensure that a full and proper handover occurs between each appointee to a Key Personnel role.
- 8. Good Employer**
- The Service Provider must ensure that it operates policies and systems that promote fair and proper treatment of employees in all aspects of their employment.
- 9. Reporting Requirements**
- 9.1 The Service Provider must report on the progress of the Services and Deliverables (including, if requested, providing copies of current versions of the Deliverables) to the Ministry:
- a. as set out in the Details; and
  - b. in any format and on any medium reasonably required by the Ministry.
- 9.2 The Service Provider must:
- a. respond promptly, accurately and adequately to any request for information made by the Ministry in relation to this Agreement, including for the purpose of enabling the Ministry to comply:
    - i. with its obligations under the Official Information Act 1982 and the Privacy Act 2020;



- ii. with its obligations to relevant Ministers of the Crown and Select Committees; and
  - iii. otherwise for the purpose of enabling the Ministry to comply with its internal and external reporting and accountability obligations; and
- b. ensure that all information provided to the Ministry contains sufficient content and detail to enable the Ministry to make use of the information for the purpose for which it was requested.

## 10. Warranty

Each Party warrants to the other Party that it has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms.

## 11. Intellectual Property

11.1 The following Intellectual Property (including any modification, enhancement or derivative work of that Intellectual Property) remains the property of the current owner, regardless of its use in the Deliverables:

- a. Intellectual Property that existed prior to the date of this Agreement; and
- b. Intellectual Property that was developed independently of this Agreement.

To avoid doubt, all Intellectual Property Rights in the Ministry Data (including in any modification, enhancement or derivative work of that Ministry Data) remain the property of the Ministry, regardless of its use in any Deliverables.

11.2 Subject to clauses 11.1 and 11.4 and unless stated otherwise in the Details, all new Intellectual Property Rights in the Confidential Information (including any enhancement, modification or derivative work of that Confidential Information) and any other Intellectual Property created or developed by the Service Provider or its Personnel in providing the Services and Deliverables will be owned by the Ministry from the date the Intellectual Property is created or developed.

11.3 The Service Provider must not develop, create or use in the course of performing this Agreement any Deliverable or other material which infringes or is likely to infringe the Intellectual Property Rights of any person.

11.4 The Service Provider must not incorporate any Intellectual Property owned by it or a third party into the Confidential Information or any Intellectual Property created or developed in providing the Services and Deliverables unless:

- a. the Service Provider's (and any third party's) Intellectual Property Rights are listed in the Details; and
- b. the Service Provider grants or obtains for the Ministry an irrevocable, transferable, perpetual, royalty-free licence to use, modify, licence, market and disseminate the relevant Intellectual Property for the purpose set out in the Details or, if there is

no purpose set out, for the Ministry's general purposes, including any purpose reasonably contemplated when the Services and Deliverables were provided.

11.5 The Service Provider must indemnify and keep indemnified the Ministry from and against all claims, proceedings, damages, liability, loss, costs or expense (including legal costs on a solicitor own client basis) in connection with the infringement or alleged infringement of any third party's Intellectual Property Rights (**IP Claim**) arising out of or in connection with the Services or the Deliverables or the supply to or the possession or use by the Ministry (or its Personnel) of the Deliverables as contemplated by this Agreement.

11.6 Without limiting the indemnity in clause 11.5 or any other rights of the Ministry under this Agreement, if at any time an IP Claim is made, or in the Service Provider's reasonable opinion is likely to be made, then in defence or settlement of the IP Claim, at the Ministry's request the Service Provider must (at the Service Provider's cost and option):

- a. obtain for the Ministry the right to continue using the items which are the subject of the IP Claim; or
- b. modify, replace or re-perform the items which are the subject of the IP Claim so they become non-infringing, provided that this does not detract from the performance of the Services or Deliverables.

11.7 Without limiting the Ministry's other rights and remedies, if the remedies in clause 11.6 are exhausted without remedying or settling, to the Ministry's satisfaction, the IP Claim, the Ministry may terminate this Agreement for breach under clause 6.2a.

## 12. Confidentiality

12.1 The Service Provider must, unless it has the prior written consent of the Ministry:

- a. keep the Confidential Information confidential at all times;
- b. not disclose any Confidential Information to any person other than its Personnel to whom disclosure is necessary for the purposes of providing the Services and Deliverables;
- c. ensure that it has in place adequate security measures to safeguard the Confidential Information from access or use by unauthorised persons including, as a minimum, complying with the Ministry's Retention and Disposal Schedules and all relevant requirements imposed from time to time by the New Zealand Government on the holding, access, use, retention and disposal of government information;
- d. upon request by the Ministry, provide the Ministry with independent verification of its compliance with clause 12.1c; and
- e. ensure that any Personnel to whom it discloses Confidential Information are aware of, and comply with, the provisions of this clause 12.

12.2 The obligations of confidentiality in clause 12.1 do not apply to any disclosure of Confidential Information:

- a. required by law;

- b. to the extent that such disclosure is necessary for the purposes of providing the Services and Deliverables or exercising rights under this Agreement; or
- c. where such information has become public other than through a breach of the obligation of confidentiality in this clause 12 by the Service Provider, or its Personnel, or was disclosed to the Service Provider on a non-confidential basis by a third party who is not in breach of any obligation of confidentiality to the Ministry.
- 12.3 The Service Provider must not, without the Ministry's prior written approval:
- a. make any public statement in relation to this Agreement or the provision of the Services or Deliverables to the Ministry, including making press releases or naming the Ministry on any customer list; or
- b. offer any customer reference in relation to this Agreement.
- 13. Conflict of Interest**
- 13.1 The Service Provider must maintain a high standard of honesty and integrity at all times in the performance of this Agreement and must avoid conflicts of interest. Conflicts of interest include:
- a. situations which could give rise to a conflict of interest or compromise the Service Provider's or the Ministry's integrity; or
- b. any financial or other interest or undertaking that could interfere with or compromise the performance of the Service Provider's obligations under this Agreement, or the integrity or standing of the Ministry.
- 13.2 Unless otherwise stated in the Details, the Service Provider warrants that it has no conflicts of interest at the date of this Agreement.
- 13.3 The Service Provider must advise the Ministry in writing of any actual or potential conflict of interest that might arise in the performance of the Services and the development of the Deliverables as soon as the Service Provider becomes aware of it, and must assist the Ministry to address or avoid or mitigate that conflict of interest.
- 14. Liability and Insurance**
- 14.1 Except for the Ministry's liability to pay the Charges, neither Party is liable for any loss of profit, revenue, data, savings, business and/or goodwill or any other indirect, consequential or incidental loss or damage arising under or in connection with this Agreement, regardless of whether the other Party had been advised of the possibility of such loss or damage.
- 14.2 Clause 14.1 does not apply to limit the Service Provider's liability:
- a. under the Intellectual Property indemnity in clause 11.5;
- b. in connection with a breach of clause 12; or
- c. under clause 14.4.
- 14.3 To the maximum extent permitted by law, the maximum liability of the Ministry under or in connection with this Agreement whether arising in contract, tort (including negligence) or otherwise is the total amount which would be payable under this Agreement if all Services and Deliverables had been provided in accordance with this Agreement.
- 14.4 The Service Provider indemnifies the Ministry against any claim, liability, loss or expense, including legal fees on a solicitor own client basis (together, loss), brought or threatened against, or incurred by the Ministry, arising from fraud or wilful misconduct by the Service Provider or its Personnel or personal injury or death as a result of, or in connection with, an act or omission of the Service Provider or its Personnel in breach of this Agreement, except to the extent that loss arises out of an act or omission by the Ministry.
- 14.5 The Service Provider must:
- a. at its own expense, ensure that it has in place for the term of this Agreement:
- i. adequate insurance to cover standard commercial risks and the indemnities under this Agreement; and
- ii. other insurance reasonably required by the Ministry; and
- b. upon request by the Ministry, provide the Ministry with evidence of its compliance with this clause.
- 15. Audit**
- 15.1 At the Ministry's request, the Service Provider must allow the Ministry (or an independent auditor nominated by the Ministry) to conduct audits of the Service Provider's compliance with this Agreement.
- 15.2 If an audit reveals any material non-compliance with this Agreement, the Service Provider must bear all of the Ministry's costs in carrying out that audit, in addition to any other rights and remedies the Ministry may have in respect of the non-compliance.
- 15.3 Without limiting clause 15.1, the Service Provider must co-operate in a timely manner in relation to any audit undertaken in accordance with this clause 15, including promptly providing the Ministry or the auditor (as the case may be) with reasonable access and assistance in respect of any audit, including reasonable access to the Service Provider, its Personnel, and the facilities, records and resources which are owned by the Service Provider and used in the provision of the Services and Deliverables.
- 15.4 The Ministry or the auditor (as the case may be) may make copies of any records or other information acquired by it for the purposes of any audit undertaken in accordance with this clause 15.
- 16. Independent Contractor**
- 16.1 Nothing in this Agreement constitutes a legal relationship between the Parties of partnership, joint venture, agency, or employment. The Service Provider is responsible for the liability of its own, and its Personnel's, salary, wages, holiday or redundancy payments and any GST, corporate, personal and withholding taxes, ACC premiums or other levies

attributable to the Service Provider's business of the engagement of its Personnel.

## 17. Dispute Resolution

- 17.1 The Parties will attempt to resolve any dispute or difference that may arise under or in connection with this Agreement amicably and in good faith, referring the dispute to the Parties' senior managers for resolution if necessary.
- 17.2 If the Parties' senior managers are unable to resolve the dispute within 10 Business Days of it being referred to them, the Parties will refer the dispute to mediation or another form of alternative dispute resolution agreed between the Parties.
- 17.3 If a dispute is referred to mediation, the mediation will be conducted by a single mediator appointed by the Parties (or if they cannot agree, appointed by the Chair of the Resolution Institute) and on the terms of the Resolution Institute standard mediation agreement (unless the Parties agree otherwise). The Parties will pay their own costs relating to any mediation or other form of alternative dispute resolution (unless they agree otherwise).
- 17.4 The Parties must continue to perform their obligations under this Agreement as far as possible as if no dispute had arisen pending final resolution of the dispute.
- 17.5 Nothing in this clause 17 precludes either Party from taking immediate steps to seek urgent relief before a New Zealand court.

## 18. Force Majeure

- 18.1 Neither Party will be liable to the other for any failure to perform its obligations under this Agreement by reason of any cause or circumstance beyond the Party's reasonable control including acts of God, communication line failures, power failures, riots, strikes, lock-outs, fires, war, flood, earthquake or other disaster, or governmental action after the date of this Agreement (**Force Majeure Event**). To avoid doubt, a Party cannot rely on this clause 18.1 to the extent that it could have avoided the effects of the Force Majeure Event by taking reasonable steps. The Party affected must:
- notify the other Party as soon as practicable after the Force Majeure Event occurs and provide full information concerning the Force Majeure Event including an estimate of the time likely to be required to overcome it;
  - use its best endeavours to overcome the Force Majeure Event and minimise the loss to the other Party; and
  - continue to perform its obligations as far as practicable.
- 18.2 If by reason of a Force Majeure Event a Party has been unable to perform any material obligation under this Agreement for a period of one month, the other Party may, after consulting with the Party affected by the Force Majeure Event, immediately terminate this Agreement by giving notice to that Party.

## 19. General

- 19.1 A waiver by either Party of any rights arising from any breach of any term of this Agreement will not be a continuing waiver of any other rights arising from any other breaches of the same or other terms or conditions of this Agreement. No failure or delay on the part of either Party in the exercise of any right or remedy in this Agreement will operate as a waiver. No single or partial exercise of any such right or remedy will preclude any other or further exercise of that or any other right or remedy.
- 19.2 Assignment:
- The rights and obligations of the Service Provider under this Agreement are personal to the Service Provider and may only be assigned, delegated or subcontracted with the prior approval in writing of the Ministry (which may not be unreasonably withheld or delayed). The Service Provider remains liable for performance of its obligations under this Agreement despite any approved assignment, subcontracting or delegation.
  - If the Service Provider is a company, any transfer of shares, or any other arrangement affecting the Service Provider or its holding company which results in a change in the effective control of the Service Provider is deemed to be an assignment subject to clause 19.2.a.
- 19.3 This Agreement may only be varied by agreement in writing signed by the Parties.
- 19.4 If any part or provision of this Agreement is invalid, unenforceable or in conflict with the law, the invalid or unenforceable part or provision will be replaced with a provision which, as far as possible, accomplishes the original purpose of the part or provision. The remainder of the Agreement will be binding on the Parties.
- 19.5 Any notice to be given under this Agreement must be in writing and hand delivered or sent by email or post to the Parties' respective addresses as set out in the Details. Any notice is deemed to be received:
- if personally delivered, when delivered;
  - if posted, three Business Days after posting; or
  - if sent by email, at the time the email enters the recipient's information system as evidenced by a delivery receipt requested by the sender and it is not returned undelivered or as an error;
- provided that any notice received after 5pm or on a day which is not a Business Day is deemed not to have been received until the next Business Day.
- 19.6 This Agreement sets out the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements, understandings or arrangements relating to its subject matter.
- 19.7 This Agreement may be signed in any number of counterparts (including scanned copies) and provided that each Party has signed a counterpart, the counterparts, when taken together, will constitute a binding and enforceable agreement between the Parties.
- 19.8 This Agreement will be governed by and construed in accordance with New Zealand law. Subject to clause 17,

each Party submits to the non-exclusive jurisdiction of the New Zealand courts in relation to any dispute connected with this Agreement.

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# PROGRAMME UPDATE

## MARCH 2023



**Driver  
Training**  
TAIRĀWHITI ROAD TRANSPORT



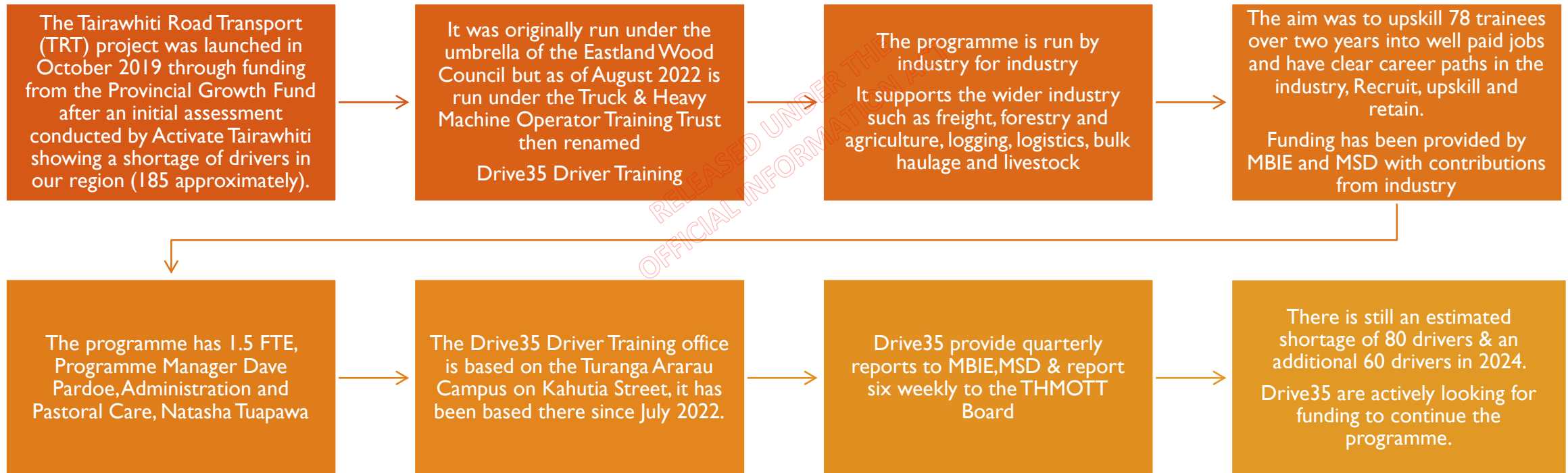
**TRUCK AND HEAVY MACHINE  
OPERATOR TRAINING TRUST**

*by industry for industry*

FOR FURTHER INFORMATION CONTACT  
**DAVE PARDOE**

s 9(2)(a)

# BACKGROUND



# REVIEW

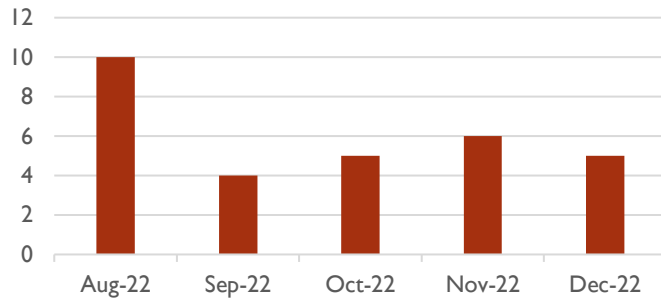
## August 2022 – December 2022

The new programme started off slowly as we worked out how best to utilise the funding that had been approved, it was decided that Drive35 Driver Training would obtain a quote specific to the trainee and the licence they are obtaining from one of the training providers and we would cover half the cost of the Full Licence only. We then complete a Payment Agreement form with a breakdown of our 50% contribution and their 50% contribution whether they are paying it personally or their employer or they share that costs, we felt that this was the fairest method to handle the industry contribution.

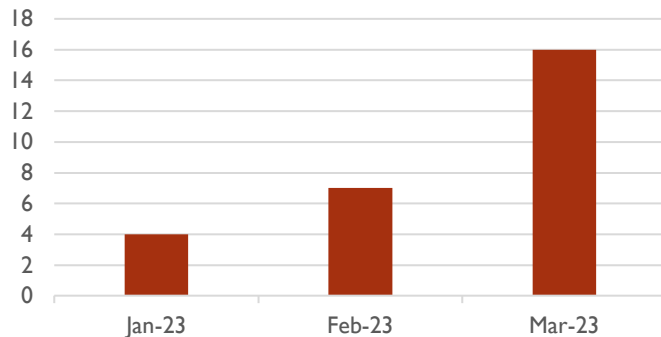
To eliminate additional costs we encourage individuals to obtain the Learners licence on their own, we offer support if it is needed. We have had a few people that have spent the day at the office practising the online test with Tash.

Towards the end of the year the office space we use at Turanga Ararau was scheduled to be demolished during the Christmas holidays which meant moving the office into storage until an alternative office was allocated. Thank you to Ormond School for letting us use their school hall to store the office furniture during the school holidays.

**Monthly Intake**  
*August - December 2022*



**Monthly Intake**  
*January - March 2023*



## January – March 2023

We started back at work on the 16<sup>th</sup> of January and still managed to get 4 people signed up for that month. Turanga Ararau offered us another office so got all moved into the new office space, our previous office is fully demolished now, only remnant of it is the concrete pad it stood on. The Monthly Intake chart shows that we are progressively increasing with each month, we may have to cap the numbers for each month to extend the programme to enable upskills of existing trainees.

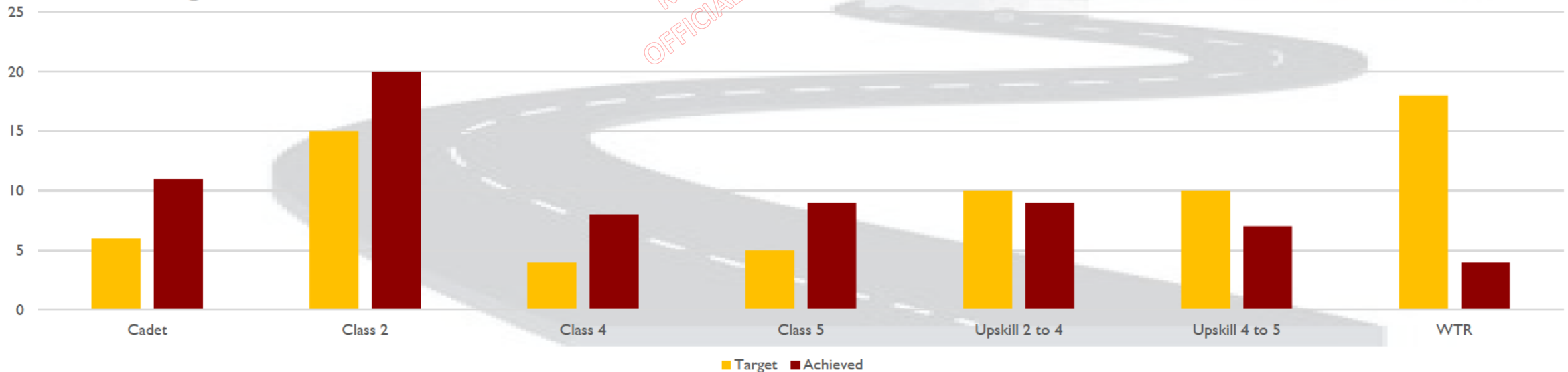
Of the 52 individuals registered since August 2022, only eleven are from the original TRT register the other 41 individuals are new to the programme and 18 are new to the industry. The effects of Cyclone Gabrielle whilst it was devastating for our community it has created a lot of jobs for the clean up that's involved. There is an obvious peak in the numbers since that destructive event. We ran a Civil Course which saw four young men gain experience and confidence operating the machinery & ready to not only find employment but inspired to continue on to strive toward their Class 2 licence.

# KPI'S

Cadets:	At least 6
Class 2:	At least 15 participants licensed to drive a class 2 vehicle
Class 4:	At least 8 participants licensed to drive a class 4 vehicle
Class 5:	At least 8 participants licensed to drive a class 5 vehicle
Upskill 2 to 4:	At least 10 participants with a class 2 licence to drive a class 4 vehicle.
Upskill 4 to 5:	At least 10 participants with a class 4 licence to drive a class 5 vehicle
WTR:	3 x courses with 6 participants

This graph shows the KPIs and are represented by the yellow bar, the maroon bar shows the progress we have made to date 30 March 2023. The programme has been going for 8 months and we have achieved more than half of the KPIs and as we continue to run the programme we will achieve all the KPIs. We are running a WTR course in May and this will bring the progress bar up to half way, then with the upskills we have Class 2 & Class 4 trainees that will be ready to upskill in May and June increasing that achievement too.

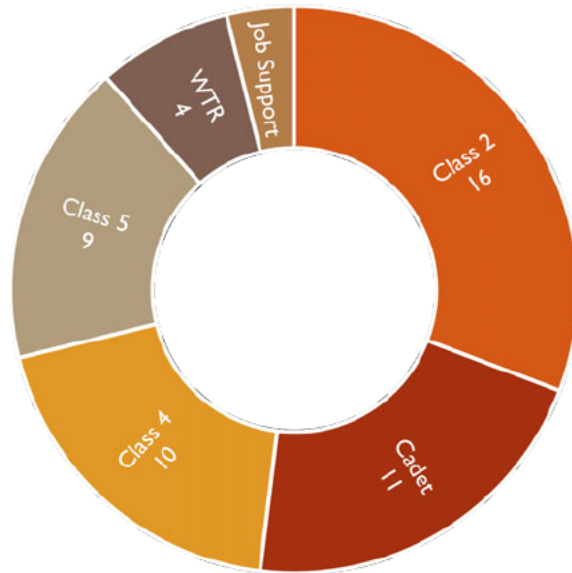
## KPIs vs Progress to Date



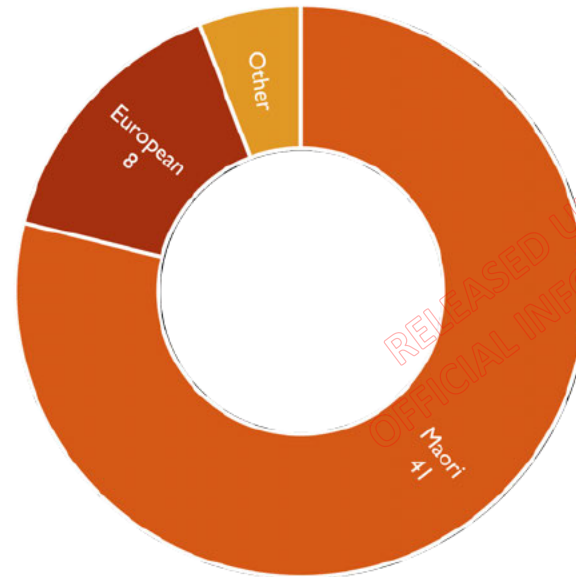


# DASHBOARD

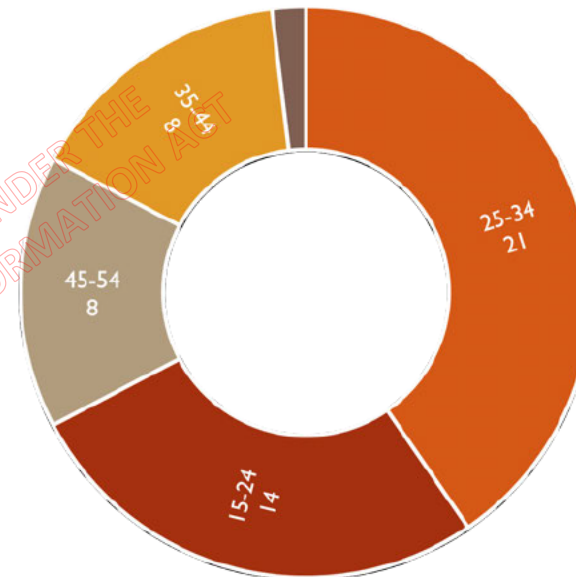
Proposed Programme



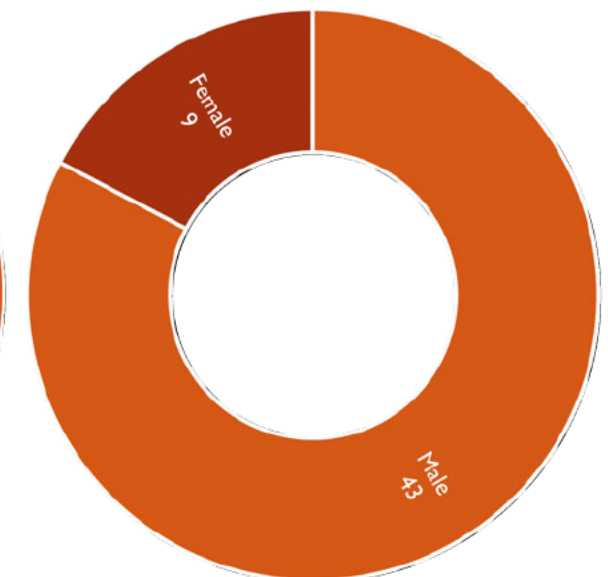
Nationality



Age Group



Gender



This first circle shows that Class 2 is the most popular programme. Majority have shown interest in progressing through to Class 5 but with the uncertainty of future funding we will progress them step by step or Class by Class. There is an even balance between the other Classes and Cadets.

Of the 52 individuals, 78% are of Maori descent & 15% are European, the remaining 3% is made up of one Brazilian descendant who is already in full time employment but wants to drive during his days off. We also an Indian and a Tongan who are also both employed in driving roles but are wanted to upskill to Class 2

25 – 34 is the most popular age category which is great for the industry. Investing in this age group will provide longevity for the transport industry.

Of the 52 we have on the programme, woman make up 17% compared to the 85% males. One young woman has upskilled to her Class 5 & transitioned from TRT to Drive35 Driver Training. Another upskilled to Class 4 & the rest are holding down Class 2 roles.

Employer
Bay Livestock
Cedenco
Character Building
CJ Milling Ltd
Dig Eastland Civil
DPS Haulage
Eastland Machinery & Tractors Ltd
Eastlite
Farmers Transport
Haenga Freight Ltd
ISO Ltd
Juken NZ
Kuru Contractors
Lumberjack Logging
Mainfreight
Nanak
Oranga Tamariki
Pak n Save
Paratene Agriculture
Petfood NZ
Pomana Contractors
Pultron
Riversun
Te Runanga o Ngati Porou
Total Contracting
Trenchline
Trotak
Waste Management
Weatherells
William Geuze

# EMPLOYERS



Listed on the left are the companies that employ our trainees, the companies that have their logo means they have at least 2 trainees employed with them.



Dave as built a strong work relationship and gained respect from the manager of Waste Management whereby he contacts Dave when there is a vacancy. He will employ anyone Dave refers to him. We currently have 2 trainees there and are helping him find another 2 drivers.



Cedenco are in their busy season and 3 of the 4 trainees will move into the transport industry once the squash season finishes. One of the trainees will remain with Cedenco he obtained his Class 2 – 5 with the programme and drives for Cedenco.



We have two employers BBL & Tairawhiti Contractors wanting to put their staff through but with the coastal road closures it has put a delay in their training. We are in regular contact with these companies to ensure we can support them with their licences.

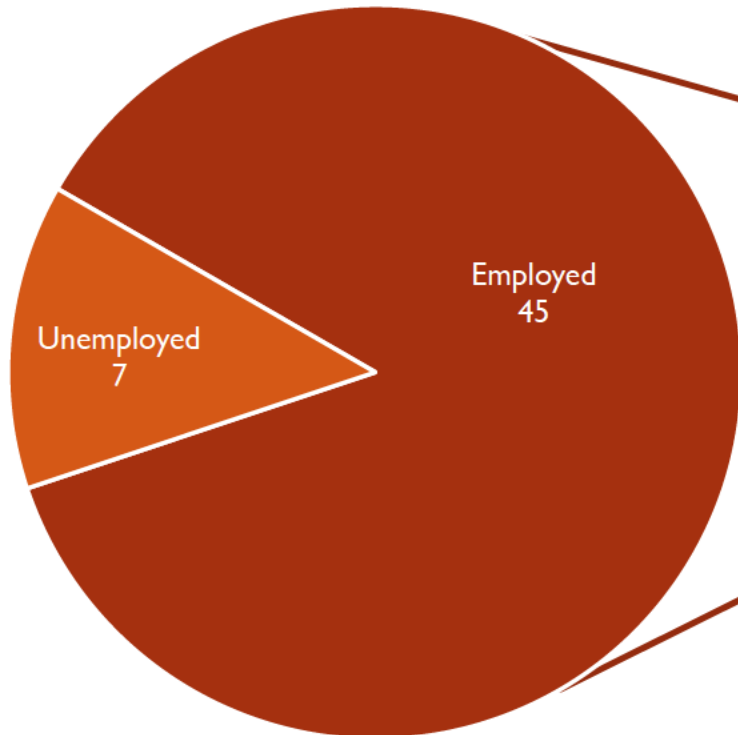


Four of these companies do civil work and are hoping to continue to put staff through with the increased work load.

Most of the trainees wanting to get through to their Class 5 intend on moving into logging so we will monitor their progress to ensure they get ample experience leading up to the role.

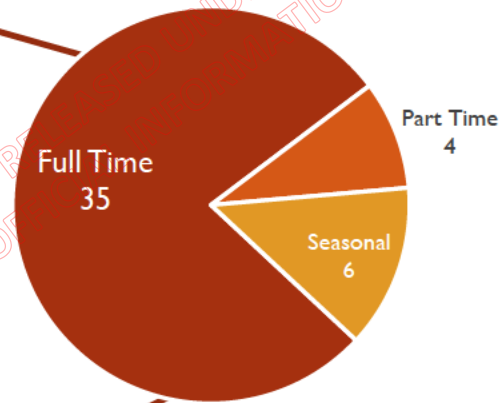
# EMPLOYMENT DATA

Employment Status



■ Employed ■ Unemployed

Employment Status



■ Full Time ■ Part Time ■ Seasonal

INDUSTRY	NO
Agriculture	14
Automotive	1
Civil	10
Construction	1
Electrical	1
Forestry	3
Hospitality	1
Retail	2
Social Service	3
Transport	7
Waste	2
Job Seeker	7

# RISKS

# TRENDS

Risk	High	Impact	Risk Management Approach/Mitigating Actions
Coronavirus	High	High	The coronavirus is still managing to spread through the community, wear a mask if you are feeling any of the Co-Vid symptoms.
Natural Disasters	High	High	Gisborne's coastal region was affected by a flood at the end of January, temporarily closing the roads from the coastal residents and transport industry. Cyclone Gabrielle hit the region on February 14 <sup>th</sup> causing extensive damage to the already damaged areas.

- ❖ There has been an influx of interest into the transport industry, with the damaged produce in the region after the cyclone.
- ❖ With the programme only funding 50% of the training now, we weren't sure how it would be received. Majority of the enquiries are still satisfied with that support. There are still a few that felt that paying 50% of the cost is still out of their reach, TRT have an agreement with providers to allow trainees to time pay
- ❖ Fulton Hogan, Downer and Pro Traffic held seminars at Work & Income looking to take on at least 10=15 workers each. The seminars attracted a lot of interest, we had 9 current and previous trainees attend and two of the Fulton Hogan positions were offered to our trainees. Only one accepted the job.

# A & P SHOW 2022



We had decided to not host a stall at the A & P Show, people are there to either shop or enjoy the rides and stalls, the A & P Show 2020 only had a few enquiries and nothing eventuated from those enquiries.

However s 9(2)(a) had not participated in this event within his role so asked if we would help Eastland Wood Council run and man their site.

We had all our resources on display and Natasha was on hand to answer any questions about the programme. Pacific Haulage supplied a loaded truck and Philip sourced the machine.

Also pictured here is our local MP Meka Whaitiri, Mr Larson of Larsons Sawmill, and 3 female drivers from Farmers Transport including our very own s 9(2)(a) who appears on our Case Study slide.



# BUILD THE WHARE

Drive35, Pacific Haulage & GCA Logistics were invited to attend a Secondary School Career Expo named 'BuildThe Whare' which included all the industries involved with a house build right from forestry, transport to drainage and roofing. Was a very busy two days with lots of thoroughfare luckily we had lots of helpers on hand at our site/s. We had 2 trucks on site, a logging truck and a truck that held a packet of timber milled at Kiwi Lumber.

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

# OPERATIONS

## The TRT Team

Dave Pardoe – Programme  
Manager  
Natasha Tuapawa –  
Administration / Pastoral Care

## Advisory Group

Made up of Industry  
representations

**Governed by a leadership group**  
to meet governance and reporting requirements  
and is made up of:

Andrew McNaught – MBIE,  
Campbell Gilmour – PHL  
Dave Pardoe – TRT  
Guy Allan – Hinau  
Mark DeCosta – DeCosta Enterprises  
Richard Harding – Bain & Sheppard Chartered  
Accountants  
Natasha Tuapawa



Tash with a prospective trainee during an interview  
in the new office space.





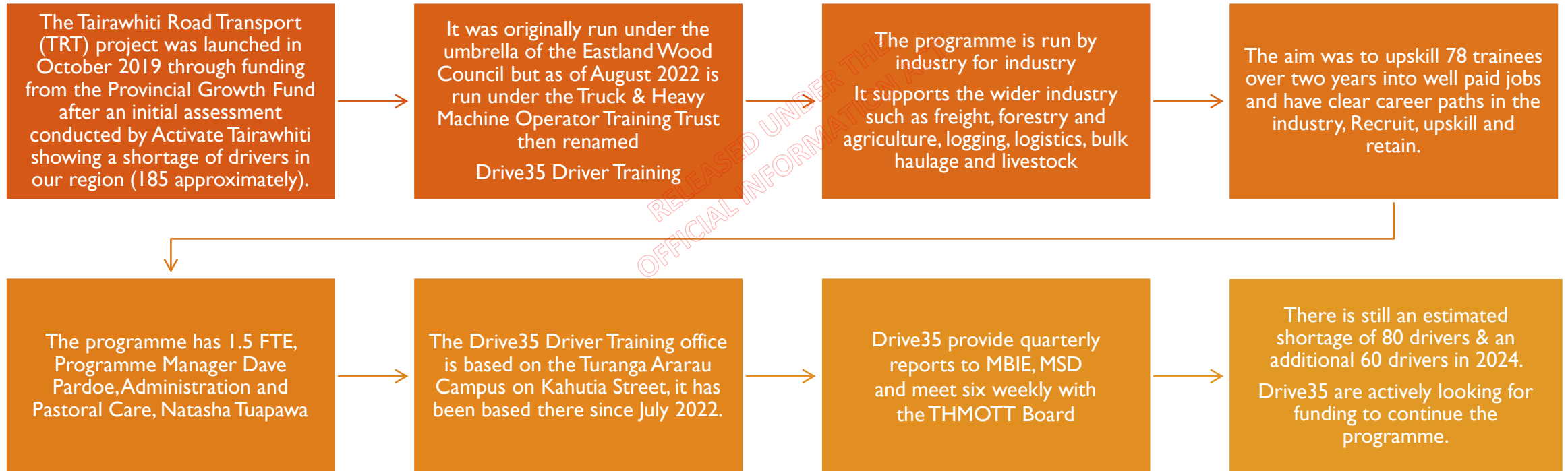
# REPORT JUNE 2023

**Dave Pardoe: Programme Manager**  
**Natasha Tuapawa: Admin/Pastoral Care Leader**



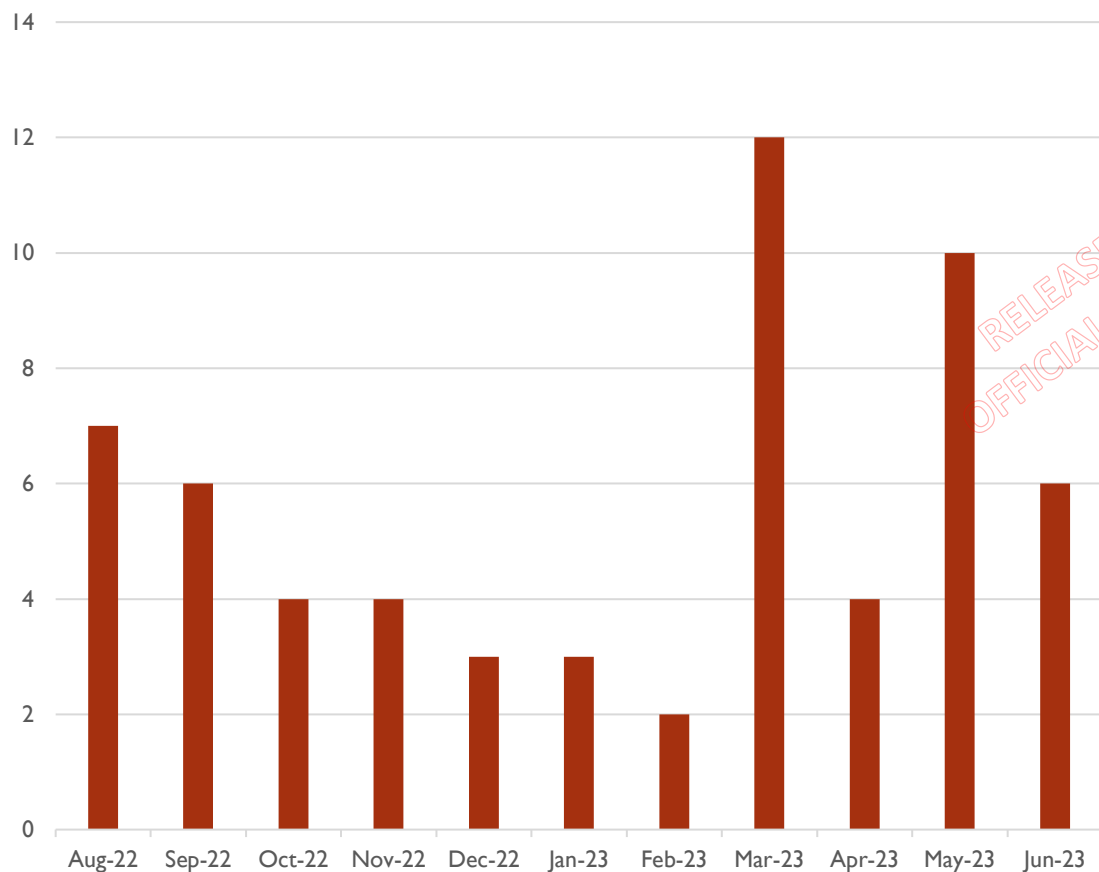
# DRIVE 35 DRIVER TRAINING DRIVER TRAINING

# BACKGROUND



# REVIEW

## Monthly Intake



## April – June 2023

Our region continues to cope with the effects of Cyclone Gabrielle and the flash flood that followed shortly after, these natural disasters have created an unbelievable amount of work from clearing silt, roading, slash clearing, house rebuilds, transporting temporary housing and flood prevention planning and constructions to name a few.

Those living on the coastal areas where majority of the work demand is, were not able to travel to Gisborne to complete the training because of road closures or had to travel an alternate route adding 4-6 hours to their travel time. This is reflected in the April intake as well as employers having to reschedule training dates to meet their workload demands, needing all hands on deck.

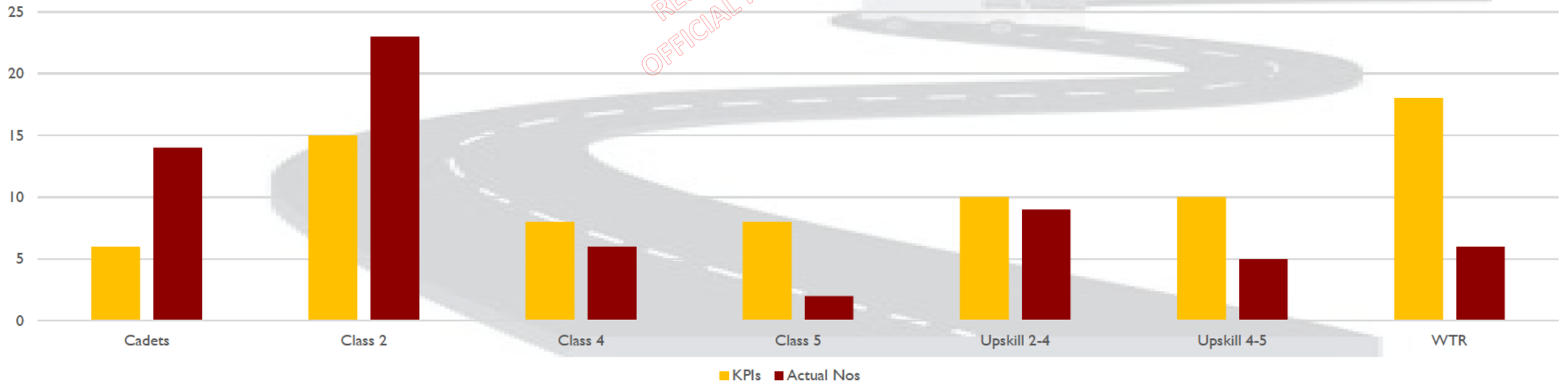
We have also had people approach Drive35 for training as they need to switch or retrain from agriculture and forestry to either civil or transport industries because of the damage to crops which is illustrated in the May intake.

# KPI'S

Cadets:	At least 6
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Class 5:	At least 8 participants licensed to drive a class 5 vehicle
Upskill 2 to 4:	At least 10 participants with a class 2 licence to drive a class 4 vehicle.
Upskill 4 to 5:	At least 10 participants with a class 4 licence to drive a class 5 vehicle
WTR:	3 x courses with 6 participants

This graph shows the KPIs and are represented by the yellow bar, the maroon bar shows the progress we have made to date 30 June 2023. In 11 months we have exceeded the targets for both Cadets and Class 2, which is the beginning of their journey into the transport and civil industries. By the next report we will have achieved the Class 4 target and the Upskills for both 2-4 and 4-5 as we have quite a few over the next 3 months. The WTR course is harder to achieve as the main training provider for the one week course is having staffing issues, we have one booked in early August.

KPI's vs Progress to Date



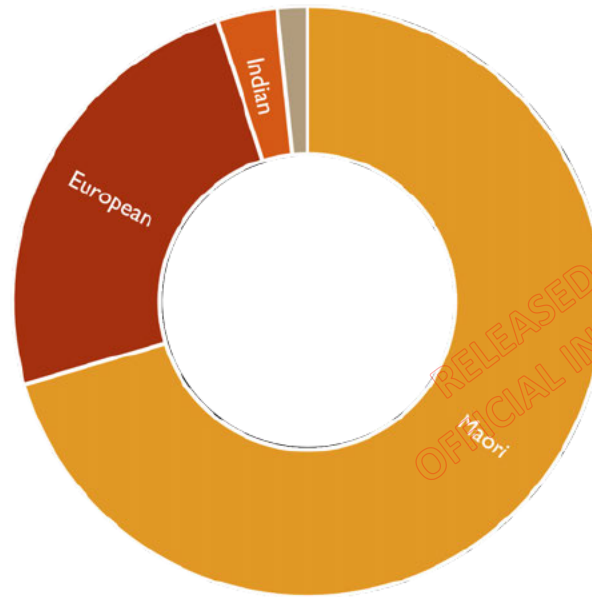
# DASHBOARD

Proposed Programme



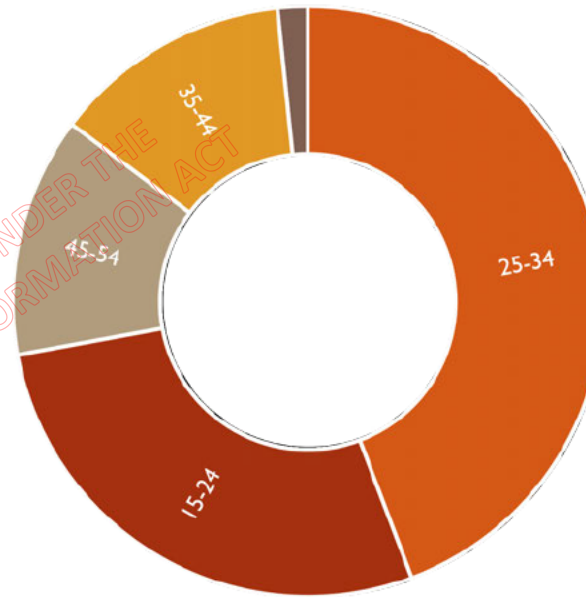
This first circle shows that Class 2 is the most popular programme. Majority have shown interest in progressing through to Class 5 but with the uncertainty of future funding we will progress them step by step or Class by Class. There is an even balance between the other Classes and Cadets.

Nationality



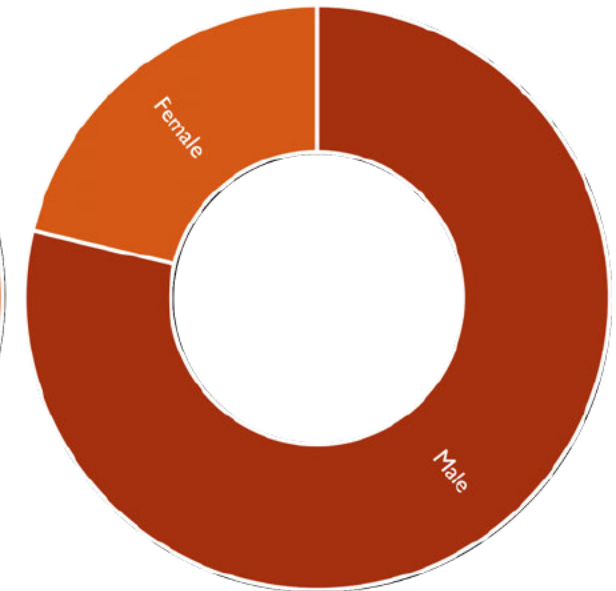
Of the 61 individuals, 70% are of Maori descent & 25% are European, the remaining 5% is made up of one Brazilian descendant, a Tongan and 2 from India.

Age Category



We have a large number of 15 – 24 year olds, but still the most popular age category is 25-34. This great for the industry, investing in these age groups will provide longevity for the transport industry. There have also been a lot of 35-54 wanting to change from field work to a less physical job.

Gender

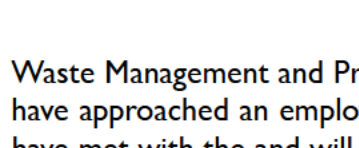


Of the 61 we have on the programme, woman make up 22% compared to the 78% males. We have one female cadet who is upskilling to Class 4 she has 2 civil companies offering a change of employment from her current delivery driver position.

# EMPLOYERS

## List of the Trainee's Employers

- Alcuin
- Bay Livestock
- Cedenco
- Character Building
- Dig Eastland Civil
- Downers
- DPS Haulage
- Eastern Bay Orchards
- Eastland Dig
- Eastlite
- EC Civil
- Employer Unknown
- Farmers Transport
- ISO Ltd
- Jason Haenga
- JCR Services
- Lumberjack Logging
- Mo Parata
- NZ Petfoods
- Nanak
- Narellan Pools
- NZ Petfoods
- Pak n Save
- Paratene Ag
- Ravensdown
- Self Employed
- Super Air
- Toby Parker
- Total Contracting
- Treemarkables
- Trenchline Contracting
- Trotak
- Waste Management
- William Gueze



**Eastland Machinery  
& Tractors Ltd**

Waste Management and ProTraffic are both frequently looking for staff, they have approached an employment agency based in Hawkes Bay "Adecco", we have met with the and will work alongside them to find employment for our trainees.

Sadly Cedenco has to limit their food production because of the lack of produce post Cyclone Gabrielle, we have approached our trainees that are there and offered support to find new employment.

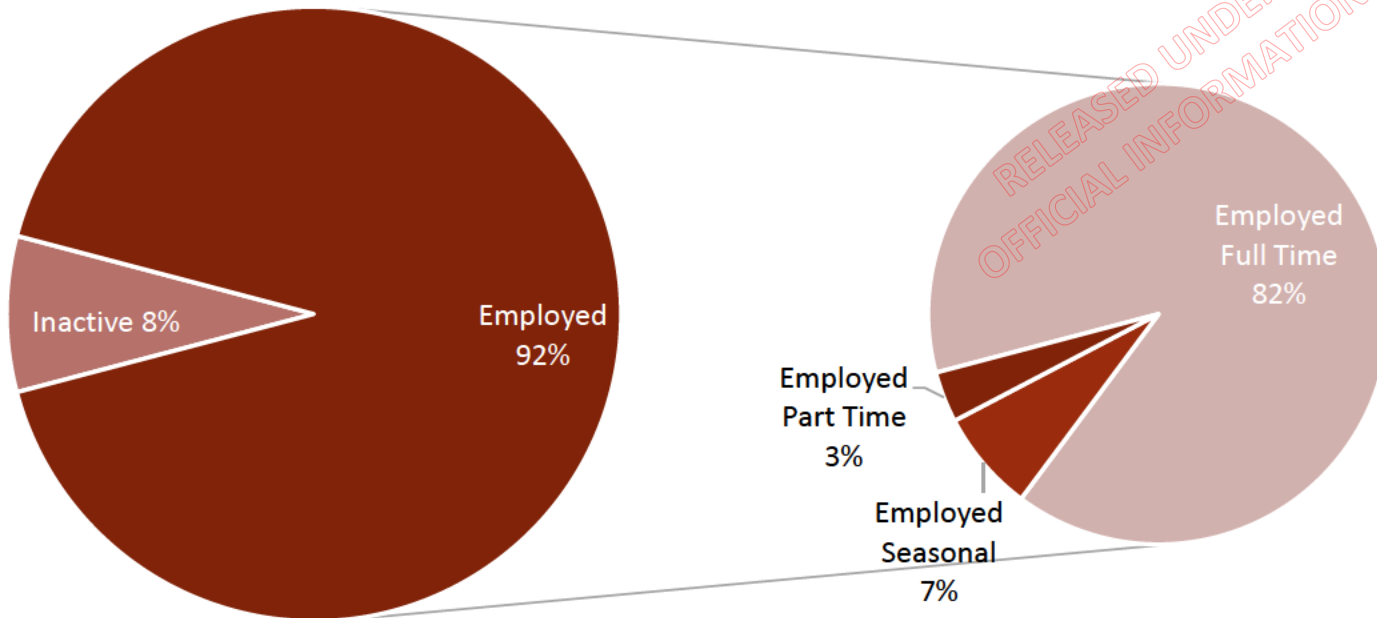
There is still plenty of work out there, Tash combs through the online jobsites and shares all the civil and transport jobs that are available. A minimum of 6 jobs a week are getting shared on our Drive35 Facebook page.

We have noticed a lot of new civil company names popping up around the region which will aid in the clean up.



# EMPLOYMENT DATA

Employment Status



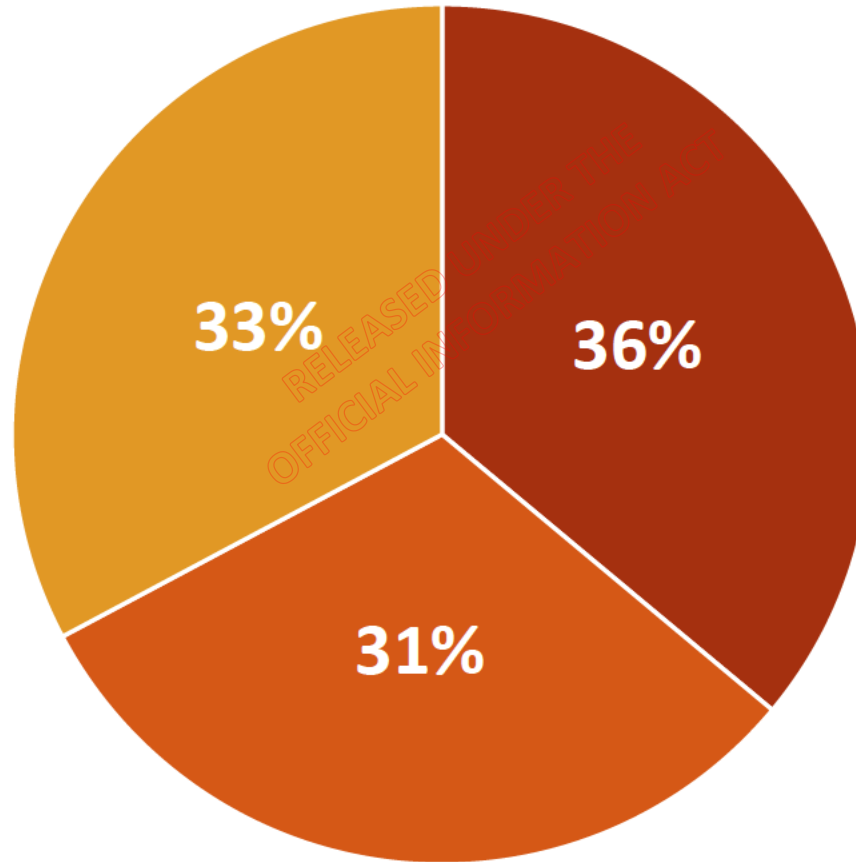
■ Full Time ■ Unemployed ■ Seasonal ■ Part Time

Industry	No
Agriculture	14
Civil	22
Construction	1
Forestry	7
Mechanical	3
Transport	6
Waste	3

# SOURCE OF TRAINEES

Represents trainees already working in the transport &/or civil industries and looking to upskills

Represents trainees working in another industry, wanting to transition to the transport &/or civil industries.



■ Not employed ■ Employed in another industry ■ Employed in the industry

Represents trainees receiving support from either Work & Income, ACC, Studylink or no income. E.g. living at home, in-between jobs or moved back to NZ from Australia and are living on savings until they find employment.