

**Civil Contractors New Zealand submission on the Health and Safety at Work
Amendment Bill (2026)**

Contact: **Alan Pollard**
Chief Executive
Civil Contractors New Zealand
PO Box 12013
Wellington

Mobile: 021 576 109
Email: alan@civilcontractors.co.nz

Introduction

Thank you for the opportunity to submit on the Health and Safety at Work Amendment Bill. CCNZ wishes to appear before Select Committee to be heard on this submission.

About CCNZ

Civil Contractors New Zealand is the industry association for horizontal construction in New Zealand. We represent more than 850 member businesses and organisations involved in horizontal infrastructure construction, including more than 500 large, medium-sized, and small businesses in civil engineering, construction, and general contracting. Our 350 associate members provide valuable products, support, and services to contractor members. We live and work in all communities across New Zealand.

Our members are responsible for the physical construction and maintenance of NZ's transport networks, ports, seawalls, airports, private developments and water networks that bring fresh water to houses and wastewater to treatment plants. The sites they work in are inevitably high-risk. Keeping workers and members of the general public safe on and around these sites is of paramount importance to members, lest serious injury or catastrophic damage occur.

Civil construction companies manage and operate a huge variety of work sites, ranging from trenches several metres underground for pipe installation and rising mains, to work in live traffic lanes, to major roading projects spanning kilometres. These roles carry significant risk and will usually sit in the top ten per cent of riskiest roles.

Because of this, contractors must manage risks very carefully, as a lack of training or risk of mistake can result in serious injury or fatality. Civil contractors have robust frameworks in place to manage health and safety risk, with lower representation across lost workdays than most comparable fields of construction.

That said, improvement is still needed, with a high representation around strains, sprains, musculoskeletal injuries and cumulative or chronic injuries from noise, dust and vibration.

CCNZ members are therefore significant stakeholders in any discussion around health and safety law reform. Members support reform that genuinely improves health and safety outcomes, reduces unnecessary compliance costs, and provides practical clarity for duty holders. However, the Amendment Bill raises operational and practical concerns. We are concerned that aspects of the Amendment Bill may not be workable in construction scenarios.

Many points in this submission are consistent with the points raised in the 2024 Ministry of Business, Innovation and Employment consultation, which has been attached to this submission as a supporting document.

EXECUTIVE SUMMARY

CCNZ submits on the following points:

1. **Clarity and Workability:** The Bill's proposed definitions, new thresholds ("critical risk"), and small business carve-outs introduce ambiguity, particularly for multi-PCBU (Person Conducting a Business or Undertaking) sites and fluctuating workforces. We are concerned about these ambiguities, and request the points raised in our detailed submission below be noted and addressed.
2. **Critical Risk Focus:** Sharpening the system's focus on genuinely life-threatening risks is welcome, but in refocussing the system, we must not dilute broader duties or create perverse incentives to under-address chronic, cumulative, or psychosocial risks, all of which can be debilitating for people working in the industry.
3. **Multi-PCBU Sites:** The Bill must provide practical frameworks for managing overlapping duties, avoiding excessive risk transfer down the supply chain (to subcontractors and SMEs), and ensuring clients (upstream PCBUs) are held accountable for safety environments. This is a key submission point.
4. **Regulatory Consistency and Guidance:** Amendments must be accompanied by robust, industry-developed Approved Codes of Practice (ACOPs) and clear, accessible WorkSafe guidance tailored to horizontal construction.
5. **Role of WorkSafe and other regulators:** CCNZ supports the shift in role for WorkSafe, to better connect with industry best practice and support good health and safety practices rather than take a prosecution-first approach where clear standards are not in place. However, adequate resourcing will be needed if WorkSafe is to fulfil its expected functions under the new legislation and foster better understanding of what is 'reasonably practicable'.
6. **Compliance Burden:** Further measures are required to address prequalification (which is used in procurement by clients to ensure contractors have effective

systems in place for managing health and safety risk on construction work sites), duplication, administrative inefficiency, and the risk of compliance burden shifting down the supply chain, from project initiators to large contractors to SMEs.

7. **Transition and Implementation:** Practical, well-resourced sector guidance and transition periods are essential to manage legislative change, particularly to avoid project delays or confusion on urgent and safety-sensitive projects.

Recommendations:

1. Remove the small PCBU carve-out entirely. If differentiated support for genuinely small businesses is desired, that should be addressed through guidance, tools, and practical support, rather than reduced duties.
2. Retain the critical risk focus but amend the framework so that it clearly requires identification, implementation, monitoring, and verification of critical controls. The definition of critical risk should be simpler and more principles-based.

The framework must be practical for field use. To achieve this, the definition should be principles-based, with Schedule 1A illustrative rather than exhaustive, and with real emphasis on critical controls: identifying, monitoring, and verifying controls that stop catastrophic harm.

The Business Leaders Health and Safety Forum's recommendation to require businesses to demonstrate critical controls for key risks is especially relevant for civil works.

3. Incorporate a definition of 'catastrophic risk' to recognise risks that may be unlikely but will be intolerable should they occur.
4. Consider incorporating a definition that accommodates risk of chronic cumulative injuries sustained over a long period time.
5. Amend the Bill or accompanying guidance to make it explicit that prioritising critical risks does not reduce the obligation to actively manage broader work-related health risks, cumulative harm, and psychosocial risks.
6. Clarify officer duties in a way that preserves strong accountability for understanding, resourcing, and verifying management of critical risks. Provide more clarity around obligations for people in dual roles, such as managing directors or owner-operators.
7. Limit the overlap provision so that compliance with another enactment only satisfies health and safety duties where the other Act addresses the same work-related risk to an equivalent or higher standard. It should not displace construction-phase risk management duties.

8. Reform should be accompanied by clear regulator guidance, practical examples, and a transparent decision-making framework for how the new regime will be applied in sectors such as construction
9. Ensure WorkSafe is adequately resourced to fulfil its duties and support good health and safety standards
10. Proceed with ACOP reform and prioritise development of practical construction ACOPs with strong industry input and a clear process for maintenance and review. Where gaps in ACOPs are identified through incidents, these gaps should be able to be resolved in a reasonable timeframe.

DETAILED SUBMISSIONS

1. Definitions and thresholds

Risk is highly context specific. On a steep, wet hillside site it might be slips, trips and falls. On a flat site with deep excavations it might be falls from height or ground collapse. In a live road corridor, it's mobile plant and traffic management. The system should support crews and supervisors to focus on those identified risks, rather than trying to demonstrate compliance across an unlimited list of hazards.

The Bill's approach to defining "critical risk" (with dynamic Order in Council powers) raises the risk of confusion, especially at operational level. Contractors support a sharper focus on life-threatening risks but warn a rigid or ambiguous "critical risk" definition can cause confusion and legal wrangling. This is especially true for dynamic sites with multiple active companies, with changing hazards and overlapping duties.

CCNZ members have expressed concern the Bill's focus on "critical risks" as listed in a formal schedule will encourage a tick-box mentality rather than active risk management on work sites, potentially weakening the management of new or emerging risks not yet regulated in favour of incomplete standardised lists.

The "critical risk" definition should be simple and principles-based, recognising construction hazards can escalate rapidly and may not always fit neatly into prescriptive categories or current regulatory listings. The real test should be whether effective controls are in place, communicated, monitored, and verified regularly, with close attention to emerging risks. Not whether a risk is listed as 'critical'.

The Bill's emphasis on hazards likely to cause immediate serious harm may unintentionally deprioritise broader and longer-term harms such as cumulative injury, noise and vibration exposure, fatigue, psychosocial stress, and suicide prevention.

Many common harms in construction are cumulative (e.g., musculoskeletal injuries, respiratory issues, psychosocial risks like stress and fatigue). The industry fears the sharp "critical risk" distinction could see attention and resources diverted away from these, even though they cause significant harm over time.

In construction, these harms are already a major part of the sector's injury and illness burden, and they also contribute to impairment that can increase acute critical risk. The Committee should ensure the Bill does not create a legislative signal that these risks are secondary or optional.

There is also concern that at the other end of the spectrum, the legislation over-prioritises *likelihood* of critical risk, to the detriment of **catastrophic risks**, which may be unlikely, but will be intolerable if they occur.

The Bill should make clear that catastrophic, low-frequency, high-consequence risks are critical risks even where the probability of occurrence is low. In sectors involving hazardous substances, energy, pressure systems, or explosive atmospheres, risk significance is driven by consequence as well as likelihood, and the legislation should avoid creating any impression that rare but catastrophic events fall outside the critical risk framework.

Whatever changes are made to legislation, there must be representative sector input and robust consultation prior to regulatory amendments.

2. Small business carve-outs

CCNZ does not support the proposed carve-out for small PCBUs, which is not suited to the construction sector. Construction work is commonly delivered through multiple contractors, subcontractors, labour-only providers, specialist trades, plant operators, consultants, and temporary crews working together on the same site.

Applying different legal duties depending on the size of each PCBU will create inconsistency on the same worksite and confusion about who is responsible for managing what risks. This is a move that will not only increase risk to workers but is also likely to increase cost and project complexity through active management of different rules for different company sizes, when hazards and risks on work sites are very real, regardless of company size.

If the rules are applied as written, this will simply impose additional duties on head contractors, who will then need to regulate and enforce this across subcontractors working on site through audit, supervision and bespoke rules. This is not simplification.

We must avoid creating a "two-tier" safety system on joint work sites. In civil construction, worksites are often collaborative, dynamic, and rapidly change scale, including with use of labour hire. The proposed carve-outs do not seem flexible enough to accommodate this and carve-outs must not inadvertently increase risk to workers, particularly those in smaller or subcontracted firms.

This creates uncertainty for duty holders and a significant enforcement challenge for WorkSafe. We should not be establishing double standards in this space. This risks creating a distorted commercial environment where businesses that structure themselves to minimise duties may gain an advantage over businesses that employ directly and invest properly in systems and capability.

When consulted, members did not think it was fair or practical for workers to have **different safety training and engagement** depending on whether they work for a small company or a large one.

While such proposals may (or may not) reduce administrative burden for small, static and low-risk activities outside of the construction industry, surely a better result could be achieved through good guidance around how to manage responsibilities in different situations, as opposed to blanket changes that complicate the system.

The tendency (including at the client, agency, and regulatory levels) to see health and safety risk as an issue for the head contractor only (not for everybody) needs to be overcome if we are to be truly effective in managing health and safety risk as an industry.

In short, the proposed limitation of duties for small businesses (less than 20 workers) is not workable on construction sites, and we propose this provision is removed. Instead of attempting to address this through arbitrary staff numbers, issues of clarity and overcompliance should instead be addressed through relevant industry guidance.

3. Overlapping duties and supply chains

CCNZ supports clearer guidance and proportional compliance for overlapping PCBU duties.

However, risk and compliance obligations should not be unfairly transferred down the contracting chain. Large clients and principals must be accountable for project-level safety, so funding and enabling safe systems is critical.

CCNZ members conduct works on behalf of clients, which can be government agencies local authorities, or private clients. Contractors invest significantly in managing health and safety risk. However, a critical factor in effectively managing health and safety risk is whether the upstream PCBU supports good health and safety outcomes.

Good standards and training on health and safety is important, and the value and benefit of good health and safety training is not well enough understood outside of those companies that do it. A significant goal for most members, and something they hold up as a key goal on any project, is to have no serious harm or lost time injuries through the course of a project.

The issue is that excellent plans and procedures for understanding and managing health and safety risk can be undermined if clients aren't committed to funding good health and safety outcomes. Too often, clients will refuse to change scope, budget or timings due to health and safety concerns, yet take no responsibility if someone is hurt as a result. If the contractor pushes back on a client to change scope, or timings due to H&S and the client declines to do so, it seems logical that they should hold a part in any incident past that point.

Health and safety controls are part of the project cost, so clients have a very real role in enabling good safety outcomes on construction work sites. The safety of workers and the public should not be able to be jeopardised because a client does not wish to budget for necessary expenses on work sites, and we should not incentivise them to do so. This is why recognition of upstream PCBUs health and safety responsibilities is of critical importance.

The tendency for clients or upstream PCBUs to treat health and safety as "the contractor's problem" is no longer supported in the Bill. All PCBUs with influence over a project have duties that cannot simply be "contracted away".

We hope the changes made in the Bill go some way towards addressing ongoing sector concerns about continued lack of client accountability and inconsistent application/enforcement of overlapping duties, especially in multi-tier contracting chains; however to be successful this will require ongoing vigilance and commitment.

The same goes for use of overlapping legislation. Drafting must ensure compliance with other legislation only displaces HSWA duties where equivalent or better safety outcomes are delivered. Otherwise, risk of regulatory gaps, argument, and inconsistent controls will rise, undermining protection at the phase where injuries most frequently occur.

4. ACOPs and implementation

CCNZ welcomes the intent to strengthen ACOPs and supports active industry involvement in drafting practical guidance. These should be sector-specific, addressing features such as emergency response, typical construction techniques, and operational realities on infrastructure projects.

If properly supported and prioritised, ACOPs will go some way towards addressing the lack of guidance and clarity between legislation and hands-on operations. However, we should be setting sights on establishing clear 'good standards', rather than 'minimum standards'.

CCNZ backs the shift to Approved Codes of Practice (ACOPs) as compliance pathways, but only if they are industry-led, practical, well-funded, transparently developed, and regularly maintained. The Business Leaders Health and Safety Forum and sector agree that co-design and ongoing review are critical for codes to remain practical and effective.

Endorsed industry guidance such as ACOPs can be successful if endorsed by authorities (i.e. WorkSafe), better meeting the health and safety needs of companies, workers and others.

However, better support is needed from Government agencies such as WorkSafe to ensure contractors have confidence they are taking the right steps to manage health and safety risk appropriately.

At present, while member businesses strive for excellence in health and safety, there is little in the way of certainty. WorkSafe is currently in the situation where it holds and maintains a huge amount of guidance that can be interpreted subjectively, and is not presently resourced to update the vast amount of information it holds. Perhaps an alternative model where WorkSafe is adequately resourced to engage with industries to review and endorse industry good practice would be a more sensible use of resources.

Robust, industry-backed and regularly reviewed construction ACOPs can deliver the clarity and certainty the sector needs in the field. However, if a contractor is meeting said ACOPs, and in hindsight those practises left room for improvement or were found wanting, there is a risk that improvements may not be recognised till someone fell short of them, and it is a stretch to lay any deficiencies at the feet of the contractor.

5. Reducing cost of compliance, including legislative overlap

CCNZ urges Government to further address excessive and duplicative health and safety prequalification systems, which can act as a barrier. Prequalification should add value and align with good standards.

Contractors use internationally compliant ISO standards (in the health and safety space, this is [ISO 45001](#)) to set and follow audited systems and processes for good health and safety outcomes. These systems are based on the nature of their businesses. These standards are good, but are geared to managing risk in large companies.

Better guidance and toolsets are needed to support smaller businesses. In short, the standards are good standards, but they are hard to implement at small scale and doing this comes at a massive cost.

For smaller players, technology and templated systems need to catch up to better support smaller players in the market. The [Totika system](#) for recognising health and safety prequalification amongst suppliers, is a huge step in the right direction, as it sets one universal standard, with one cross-recognition framework, that incorporates external assessment and certificate schemes through recognition of ISO 45001 certification, SafePlus On-site assessments and Q-Safe certification.

Further endorsement and support for a single, risk-based national standard (e.g. Totika) should be prioritised, and Government clients encouraged to adopt such a standard across all procurement.

The overlap clause could be useful where there is genuine duplication, but it creates real safety risk if it is read too broadly. With the Building Act especially, the biggest danger is assuming that compliance with building or consent requirements automatically covers the risks created by the way the work is actually carried out.

We support reducing unnecessary duplication, but compliance with other legislation such as the Building Act should only be treated as satisfying HSW duties where the other Act addresses the same work-related risk to an equivalent or higher standard.

Building law compliance should not displace duties relating to work method, sequencing, supervision, coordination, temporary works, or other construction-phase controls. Or worse, put inappropriate controls relevant to another industry in place without considering their application to the situation and environment they are applied to.

Education is also a key consideration. It should be noted that workers do not enter the industry with industry-specific health and safety knowledge, and the (necessary and worthwhile) training of new entrant workers to understand the systems they operate under comes at significant expense to companies and their clients, who also bear necessary training expenses as part of project cost.

If New Zealand's education system could provide more safety preparation and better health and safety knowledge by delivering competency at the schools and pre-employment levels, this may reduce the burden and expense of training, as employers would need to assess capability and provide training and education at site and activity specific levels, as opposed to educating new workers on all facets of health and safety from the ground up.

More use of universal health and safety competency training systems, including consideration of a universal learning management system accessible to employers, may

reduce the burden of training and education currently borne by individual companies, which is perhaps something for WorkSafe to consider in its re-prioritised role.

The topic of education and its role in delivering good health and safety outcomes for new workers entering the civil construction industry is discussed more extensively in CCNZ's [Developing a Skilled Civil Construction Workforce](#) report.

6. Role of Worksafe and other regulators

The Bill amends the purpose of both the Health and Safety at Work Act (HSWA) and the WorkSafe New Zealand Act to explicitly prioritise the management of "critical risks"—hazards likely to cause death, notifiable injury, occupational illness, or major incidents. The Bill also prioritises WorkSafe's statutory functions, with guidance and approved codes of practice at the top of the list.

This shifts WorkSafe's main objective from a broad, "balanced framework for securing health and safety" to providing guidance on managing critical risks from work. This focus will reset both the regulatory system and WorkSafe's day-to-day activities.

CCNZ supports re-prioritising WorkSafe towards a 'support first, prosecute last' approach by changing the hierarchy in the legislation. The intent of directing WorkSafe to take a more active role in good standards and guidance is positive, and will provide an answer to WorkSafe saying it has no capacity to ratify or even consider industry guidance, and then trying and prosecute companies when they haven't met an unclear standard.

Legislative changes alone will not guarantee improved practice without effective, collaborative enforcement and guidance, and CCNZ strongly supports the shift in focus for WorkSafe who, with other regulators, will need to be more consistently resourced and responsive, with ongoing engagement with industry.

The lack of guidance and engagement around expectations for industry is currently a significant issue, and a shift in role to better connect WorkSafe with industry best practice and support good health and safety practices is welcomed by industry.

The regulator plays a significant role in providing certainty of what is 'reasonably practicable'.

Firstly, WorkSafe could (and should) provide a role in advising on what steps may be reasonable, even if it's not a formal endorsement. At present, companies are left with a lot of uncertainty about what is 'reasonably practicable' for businesses at varying scales and in varying environments, with few ways of confirming this prior to an incident. If WorkSafe had capability and capacity it could (and should) act as a partner and guide for businesses trying their best to keep workers and the public safe.

Secondly, WorkSafe also needs the resources to check and enforce deliberate cutting of corners. It's not good enough for companies to be penalised at the tender box for pricing in appropriate measures to keep workers and the public safe.

While the proposed focus on critical risks may assist WorkSafe to target its effort more clearly, the Bill also introduces new thresholds and classifications that may create uncertainty unless supported by clear operational guidance and disciplined implementation.

Currently, there is an over-reliance on reactive measures in managing health and safety risks, with actions often taken after incidents occur. A shift towards a more proactive, anticipatory approach is a welcome change and could enhance safety culture and reduce workplace accidents. Consistent regulation will depend at least as much on WorkSafe's frontline practice, capability and published decision-making framework as on the statutory amendments.

7. Transitional risk

Changes must be sequenced and supported to avoid unintended compliance gaps or delays to the infrastructure pipeline through inevitable teething problems as any changes bed in.

Adequate notice, practical training, and phased introduction will be needed to manage risk to project delivery.

CONCLUSION

Thank you for your time in reading this submission.

CCNZ seeks an ongoing partnership approach to health and safety regulation and requests to appear before the Select Committee to expand on this submission.

We support efforts to streamline law and clarify critical risk, but the Bill must ensure:

- Proportionate and practical compliance for infrastructure delivery;
- Clear, workable PCBU duties;
- An equitable approach for contractors of all sizes;
- Better prioritisation around the role of the regulator, so finite resources can be used more effectively.
- Reduction in regulatory duplication and compliance cost escalation.

We also encourage the Committee to consult directly with CCNZ member businesses to ensure the Bill supports practical, effective, and proportionate health and safety improvement across civil construction.

Kind regards,



Alan Pollard
Chief Executive
Civil Contractors New Zealand Inc.

