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Committee Secretariat  
Education and Workforce Committee  
Parliament Buildings  
Wellington

[via Website]

Tēnā koutou Education and Workforce Committee

**Kāpiti Coast District Council Submission to the Health and Safety at Work Amendment Bill**

1. Kāpiti Coast District Council (KCDC) is a medium sized local authority responsible for delivering a wide range of essential community services and infrastructure across the Kāpiti district. The Council employs approximately 470 staff and engages around 170 contractors across diverse operational environments, including three water treatment plants (WTPs), two wastewater treatment plant (WWTP), three aquatic centres, four libraries, community halls and facilities, extensive reserves and open spaces, the district roading network, civil defence and emergency operations, and corporate offices. These activities involve complex and overlapping duties across multiple PCBUs, often within high-risk or highly regulated environments such as water treatment, construction, maintenance, and public facing community facilities.
2. KCDC's health, safety and wellbeing approach is guided by four core principles: Kaitiakitanga (guardianship and responsibility), Kotahitanga (collaboration and unity), Pūkengatanga (knowledge and skills), and Whanaungatanga (relationships and collective care). These principles reflect the Council's commitment to ensuring safe outcomes for workers, contractors, and the community, and underpin its expectation that all PCBUs operating within the district maintain consistent, comprehensive risk management practices.
3. Given the scale, diversity, and interconnected nature of Council operations, effective management of both critical and noncritical risks is essential to maintaining safe workplaces and public spaces. The Council relies on all contractors, regardless of business size, to adhere to

full spectrum risk management practices to support safe operations, meet prequalification requirements, and uphold KCDC's statutory duties under the Health and Safety at Work Act 2015. Any legislative changes that narrow contractor obligations have the potential to materially affect the Council's ability to manage risk across shared worksites and essential public assets.

4. In this letter, we have briefly summarised our concerns and recommendations for the committee's consideration. More detailed comments are also provided in the appendix.

#### **Our concerns in summary**

5. The Health and Safety at Work Amendment Bill (No. 244–1) proposes narrowing the duties of small businesses in the management of critical risks only. This change risks weakening the intent of the Health and Safety at Work Act 2015 by excluding non-critical hazards that contribute cumulatively to serious incidents.
6. In multi contractor environments, the reduction in duties for small businesses shifts operational and legal responsibility onto larger PCBUs, increasing oversight, documentation, and liability burdens. At the same time, small contractors may face competitive disadvantage where full spectrum risk management remains a requirement for participation in Tier 1, Tier 2, and council managed projects.
7. The proposed framework also introduces regulatory uncertainty for WorkSafe, particularly regarding enforcement of non-critical hazards and the interaction of differing duty levels on shared worksites. This risks inconsistent compliance expectations and reduced safety outcomes.

#### **Our recommendations in summary**

8. Given the above concerns, we recommend the committee consider retaining comprehensive duties for all PCBUs, clarifying liability in multi-contractor settings, maintaining baseline documentation requirements, and undertaking an impact assessment of the administrative and resourcing pressures created for larger PCBUs. Updated WorkSafe guidance is essential to ensure consistent and effective risk management across the sector.
9. We thank the Committee for this opportunity to provide feedback on this critical area of council responsibility across all areas of its operations.

Nāku, nā



Darren Edwards  
**Chief Executive | Te Tumuaki Rangatira**  
**Kāpiti Coast District Council**

## Appendix – detailed comment and recommendations

### Comments

10. The Health and Safety at Work Act 2015 (HSWA) purpose is to ensure workers and others are protected. The Bill in its current state reduces obligations and may undermine the full intent of HSWA. The proposed changes risk creating conditions where cumulative minor hazards compound into serious harm events, especially in complex or high-risk environments.
11. The proposed Health and Safety at Work Amendment Bill significantly reduces the obligations of small businesses, defined as those with fewer than 20 staff, by requiring them to manage only critical risks and basic welfare provisions. While this may appear to reduce compliance burden for smaller operators, in practice it has serious implications for both small and larger PCBUs, particularly in multi-contractor work environments such as construction sites or council infrastructure projects.
12. For small businesses, the narrowed legal scope of risk management fundamentally changes how they operate on larger work sites. Small contractors will no longer be legally required to manage non-critical hazards, such as minor slips, trips, and falls, low-level dust exposure, routine manual handling, or environmental hazards that may not independently qualify as critical risks. On complex worksites, these “non-critical” hazards can interact with critical risks in ways that increase the likelihood of serious incidents. As a result, small businesses may reduce internal safety documentation, such as Job Safety Environmental Analyses (JSEAs) or Safe Work Method Statements (SWMS) and may allocate fewer resources to monitoring routine tasks. While this reduction in duties may lower compliance workload for small operators, it also creates a reliance on larger PCBUs to manage non-critical hazards, effectively shifting the responsibility for maintaining safe working conditions onto the larger entity.
13. This shift has significant commercial implications for small businesses. Tier 1 and Tier 2 contractors, as well as councils acting as principal contractor, may prefer to engage subcontractors who maintain comprehensive risk management systems. Small operators who choose to limit their internal risk management may therefore face a competitive disadvantage, reducing their opportunities to participate in projects and potentially threatening their commercial viability.
14. For larger PCBUs, including Tier 1 and Tier 2 construction companies or councils, the flow-on effects are even more critical. Despite small businesses only being responsible for critical risks, the larger PCBU retains legal accountabilities for all risks present on the site, including those no longer formally managed by smaller contractors. This increases the oversight and verification burden significantly. Larger PCBUs must ensure that non-critical hazards are identified and controlled, that small contractors’ management of critical risks is adequate, and that all combined site risks are mitigated.
15. Consequently, larger PCBUs face increased demands on documentation, administration, and human resources. Site-specific safety plans (SSSPs), JSEAs, and risk registers must account for both critical and non-critical hazards, even if small contractors are not formally documenting non-critical risks. Supervision, training, and site inductions must address all hazards to maintain

compliance and safeguard workers, placing a substantial operational burden and costs on larger PCBUs.

16. The legal implications are also significant. In the event of an incident involving a small contractor, the larger PCBU could be held responsible for site-wide safety, even if the small contractor has complied with their limited legal duties. This creates potential ambiguity in liability allocation, which could result in costly disputes or regulatory scrutiny.
17. At the site level, these changes create a dual obligation system, where small businesses are legally responsible only for critical risks while the larger PCBU must absorb the responsibility for all other hazards. On projects such as council-managed civil infrastructure works, this could include managing cumulative risks from multiple contractors, overseeing traffic and plant interactions, monitoring non-critical hazards, and verifying compliance with critical risk controls.
18. In practical terms, the Bill shifts the operational and compliance burden away from small businesses and onto larger PCBUs, increasing both their financial and legal exposure. Small businesses may experience reduced compliance requirements and lower operational costs, but at the same time they lose some degree of autonomy in managing safety, as they must rely on the larger PCBU to oversee site-wide hazards. For larger PCBUs, this creates a highly critical and immediate challenge, requiring additional resourcing, supervision, and risk management effort to maintain safe workplaces. For councils this will increase costs that are ultimately funded by ratepayers within an environment of heightened legal responsibility and liability, but reduced direct control.
19. In summary, the proposed reduction in small business risk management duties fundamentally changes the dynamics of site safety. While intended to reduce compliance burdens for small operators, it creates a situation where larger PCBUs, including councils and Tier 1 and Tier 2 contractors, must absorb the majority of operational and legal responsibility, increasing risk exposure, administrative workload, and potential liability. These changes are therefore not merely administrative; they are critical to the safety of workers and the public and must be addressed before the Bill is enacted.

## **Recommendations**

### **20. Recommendation 1: Retain comprehensive risk management duties for all PCBUs, regardless of size**

That the Committee reconsider the proposed reduction of duties for small businesses, and/or the criteria to determine 'small businesses' to exclude works contracting companies to maintain a consistent requirement for all PCBUs to manage both critical and non-critical risks. This ensures that hazards which may appear minor in isolation, but contribute cumulatively to serious incidents, continue to be actively controlled across all worksites.

### **21. Recommendation 2: Clarify accountability and liability across multi-contractor environments**

That the Bill explicitly defines how legal responsibility is allocated when small businesses are exempt from managing noncritical risks. Larger PCBUs should not be left with disproportionate or ambiguous liability for hazards generated by other parties.

**22. Recommendation 3: Consult with industry to define critical risks within HSWA Schedule 1A and ACC Schedule 2A**

That the development and finalisation of HSWA Schedule 1A and ACC Schedule 2A be undertaken through structured consultation with key industry sectors to ensure that the definition of “critical risks” reflects the risks that have the greatest potential to cause death or serious harm across various sectors and work environments. As these schedules will determine which risks PCBUs must prioritise and manage, it is important that industries such as construction, civil infrastructure, local government, utilities, agriculture, and manufacturing are engaged in their development.

We do not believe that the Bill should be put through to Royal Assent until the Schedules are finalised, as clarifying which risks are classified as critical is essential to ensure that all PCBUs, including small and large businesses, clearly understand their obligations and can implement consistent, effective risk management practices.

**23. Recommendation 4: Require baseline documentation standards for all PCBUs**

That small businesses continue to prepare essential risk management documentation, such as JSEAs, and hazard assessments, for all relevant risks, not only critical ones, and that small contractor companies will still need to comply with larger PCBU pre-qualification processes where required by the PCBU. This will support consistent safety practices and prevent the administrative burden from shifting unfairly onto larger PCBUs.

**24. Recommendation 5: Ensure equitable commercial outcomes for small businesses**

That the Committee assess and mitigate the unintended competitive disadvantage created for small businesses that adopt the reduced duty framework. Without minimum safety system expectations, small contractors may be excluded from Tier 1/2 and council managed projects that require full spectrum risk management.

**25. Recommendation 6: Conduct an impact assessment on administrative and resourcing implications for larger PCBUs**

That the Committee commission a regulatory impact assessment focused on the increased oversight, documentation, supervision, and compliance burden (for both resourcing and financial implications) placed on larger PCBUs. This should inform whether additional support, transitional arrangements, or amendments are required.

**26. Recommendation 7: Ensure the Bill does not compromise worker or public safety outcomes**

That the Committee amend the Bill to ensure that changes to compliance requirements do not diminish safety performance across the sector, particularly in high risk or complex environments such as construction, infrastructure, maintenance, and civil works.

**27. Recommendation 8: Introduce guidance on shared risk management in mixed size contractor environments**

That WorkSafe develop clear guidelines outlining expectations for coordination, communication, and verification when PCBUs with different legal obligations operate on the same site. This should include practical examples of how to integrate critical and noncritical risk management

and updating of the existing contracting chain overlapping duties guidance on WorkSafe's website.