

NZCB Submission

WorkSafe Draft Approved Code of Practice (ACOP)

May 2026

Overview

New Zealand Certified Builders Association (NZCB) supports the intent of the Residential Construction ACOP and agrees with the two-tier system that has been proposed, which would reduce H & S compliance requirements for small PCBU's (a business with fewer than 20 people).

This proposed approach achieves a good balance between maintaining proper H&S standards and not making compliance overly arduous for SME builders (many of whom NZCB represents).

However, despite our support for the general intent of the ACOP, we don't believe it will be effective as currently drafted. This is a problem because if SME builders believe the ACOP is too complicated for them to follow, or doesn't allow for the realities of working on simple, everyday jobs, they will disengage from the process entirely, which potentially causes a greater problem than the current situation.

In particular:

- The action lists are too long for small operators to follow for everyday jobs. A sole trader doing a bathroom renovation cannot realistically meet the same documentation requirements as a large building company.
- The scaling allowance (Section 3.4.6) is set out in a single sentence with no practical guidance.
- The ACOP does not recognise that on small builds, a single person is simultaneously the client, principal contractor and worker. The ACOP gives no single integrated path for this person.

Recommendations:

- Add a worked example of what safe harbour compliance looks like for a simple 1–3 trade residential job.
- Recognise that many residential builders also take on small commercial projects, which are generally simpler and less complex than residential building projects. The ACOP should make clear whether the requirements

extend to a residential builder across all project types or are restricted to residential building work only.

Clarity of the ACOP

The before/during/after structure and worked examples are clear. However:

- The legal language used throughout (PCBU, duty holder, HSWA Section 34, overlapping duties etc.) will not be understood by most tradespeople on site.
- The ACOP is organised into different sections according to the roles involved in a project: 1. Principal Contractor, 2. Contractor, and 3. Worker.

On small projects, however, a single builder will often undertake all three roles. Ideally, the ACOP would account for this reality, and would be organised in such a way that the builder could read a single set of obligations on them, without it depending on which aspect of the job they were performing.

Recommendations:

- Produce a plain English one-page summary card per role. Written so a first-year apprentice can act on it. The legal document remains the enforceable document, while the summary card is directed to changing behaviour on site.
- Create a single integrated checklist for sole trader principal contractors combining all three roles into one practical document.

Practicality of the ACOP

Core safety actions such as hazard identification, worker induction, trade coordination, and incident management are all important, and competent SME residential builders will already carry these out.

However, the following requirements are impractical for small residential jobs:

- Creating formal contingency plans for weather and supply delays on a specific job. This is normal job management.
- Undertaking post-construction lessons-learned reviews. SME builders will find this too time-consuming and arduous, which will lead to them either not doing these reviews, or factoring them into their pricing.
- Producing written handover packs including information to the homeowner on how to maintain their home safely, which will be deemed by SME builders to be excessive for very small projects such as a bathroom or kitchen renovations.
- Sign in/out systems using an app, which will be unworkable on sites in which there are only one or two people.
- Formal emergency equipment plans for short-duration residential work.

Recommendations:

- Tier the action lists: mandatory core actions for all jobs, and additional actions that scale with project size and complexity.
- Clarify the expectations as to what information the builder needs to provide to the homeowner on how to maintain their home safely. Specifically, whether the builder would be held liable for any future homeowner accident that occurred due to a shortcoming of that documentation.
Failing to simplify this requirement will lead to considerable time and cost for a builder to cover all bases. This investment will be unfeasible for simple bathroom/kitchen projects.

Compliance costs

The most serious practical problem is the cumulative compliance cost that will be imposed on SME builders and their subcontractors, and the flow-on impact in terms of increased cost and time on the residential construction workforce.

For example, a typical medium-sized residential build would have 15-20 different trades visit the site. Under the ACOP as written, each one must independently identify hazards, agree site rules, produce task-specific risk information, induct workers and complete their own lessons learned.

For a tiler or painter doing one or two days on site, that is potentially half a day of non-billable compliance time before a tool is touched, which could translate to a 20%-25% increase in cost to the project.

SME builders facing this burden have three options:

- They price it into their invoices, which leads to their costs (and those of their sub-trades) being passed on to clients.
- They stop taking short-duration residential jobs, as they become uneconomical once the compliance requirements are taken into account.
- They ignore the requirements altogether, which leaves workers unprotected and the principal contractor exposed.

None of these outcomes improves safety, while all of these outcomes are detrimental to the construction sector.

The problem is the ACOP treats every PCBU as independent. The reality is that the principal contractor has already done the heavy lifting via hazard identification, creating a site safety plan, determining exclusion zones, and developing emergency procedures.

A visiting subcontractor should be able to plug into that system and only deal with their own trade-specific risks. They should not have to duplicate the whole process from scratch.

Recommendations:

Adopt a Site Compliance Passport model:

- Principal contractor establishes the overall site safety plan.
- Visiting subcontractors sign a simple one-page site induction confirming they understand the plan and will manage their own trade risks.
- Subcontractor PCBU compliance is treated as met upon sign-on.

This is already how well-run sites operate. The ACOP should formalise it, not work against it.

Worked examples

The worked examples are the strongest part of this document and NZCB commends WorkSafe for including them. They are realistic and directly useful. However, as explained previously, there is no allowance for simple jobs where a sole trader performs multiple roles.

There also need to be a clearer explanation of what ‘Safe Harbour’ means. Will a builder be safe from prosecution if they met the ‘Safe Harbour’ provisions? If it doesn’t, what is the benefit to the builder of meeting the ‘Safe Harbour’ requirements?

Recommendations

- Add an example of a small renovation, for example a simple bathroom upgrade undertaken by a builder and a plumber. This example would show what Safe Harbour compliance looks like at that scale.
- Clarify the implications of meeting, or not meeting, the ‘Safe Harbour’ requirements.

Reference materials

The glossary and HSWA duties summary are useful reference material. However, a time-poor SME builder of one to two people, working on a busy site is unlikely to work through appendices supplementary to an already long document.

Recommendation

A one-page quick reference sheet per role. This would be produced alongside the formal ACOP, which would reach the builders who most need it.

Safe Harbour

NZCB strongly supports the Safe Harbour concept. Builders need certainty, and they will respond positively to the notion that if they follow the process, they will be protected.

But acquiring a position of Safe Harbour is out of reach for most small builders as written:

- Following ALL listed actions is required. This is problematic as proposed, as the lists are too long and include actions disproportionate to small jobs.
- Action tables are not differentiated by PCBU size. A sole trader and a large contractor are given the same list with no guidance provided as to what their minimum obligations are, based on their PCBU size.

Small builders face an unachievable threshold while larger operators with H&S advisors meet it comfortably. That is not proportionate regulation.

Recommendations

For each role, define clearly:

- Minimum actions a small PCBU must take to achieve safe harbour on a standard residential job.
- Additional actions for larger PCBUs or complex projects.
- Define critical risks in plain language with residential construction examples so small operators can apply the document without needing a consultant.