

Distilled summary of member “drop-in” sessions

1. Key Amendments Discussed Across Both Sessions

1.1 Introduction of a Statutory Definition of “Critical Risk”

Both sessions discussed the amendment creating a formal definition of **critical risk** and requiring PCBUs to prioritise these ahead of other risks.

1.2 Small PCBU Carve-out (Businesses <20 workers for 9 months of the year)

Small PCBUs would only be legally required to manage *critical* risks — not all risks. This was central to both meetings.

1.3 Strengthening Approved Codes of Practice (ACOPs) and Allowing Industry-Led ACOP Development

The Bill would give ACOPs greater force (deemed compliance / safe harbour) and allow industry bodies to propose codes.

1.4 Clarification of Officer Duties

The Bill distinguishes an officer’s governance duty from their managerial role.

1.5 Regulator Priority Changes

WorkSafe would shift emphasis toward guidance, codes of practice, and education, with enforcement placed as a lower priority.

2. Areas of Strong Agreement & Alignment Across Both Sessions

2.1 Critical Risk Focus – Supported in Principle but Definition is Inadequate

Participants across sectors agreed the focus on critical risks is directionally positive, but the **current definition is unclear, risks confusion, and may exclude significant hazards.**

Key aligned concerns:

- Ambiguity around what counts as “likely to cause serious harm”. Need for consistency with existing industry practice. Fear that low-likelihood / high-consequence events will fall outside scope.

2.2 Strong, Near-Universal Opposition to the Small PCBU Carve-out

This was the **strongest area of convergence in both sessions**.

Shared concerns included:

- A two-tier safety system, with “different rules for different workers”. Increased burden on large PCBUs to uplift small businesses and monitor compliance.
- Increased likelihood of ACC claims as 75% of injuries are “non-critical”. Potential for small PCBUs to lower standards (e.g., not managing musculoskeletal or psychosocial harms).
- Even participants sympathetic to reducing SME admin acknowledged the current proposal “won’t achieve the Minister’s intent.”

2.3 Broad Support for ACOPs — If Well-Constructed and Well-Resourced

Consensus across both sessions that strengthened ACOPs are **one of the best parts of the Bill**.

Agreed benefits:

- Provide practical “how-to” guidance SMEs desperately need.
- Improve sector consistency
- Safe harbour clarity is useful if managed carefully.

2.4 Need for a Stronger, Better-Resourced System

Agreement that:

- WorkSafe needs more capability to deliver expanded guidance and ACOP functions
- Industry will also require funding if ACOP development is devolved.
- Legislative changes alone won’t fix underlying system challenges.

3. Areas of Contrasting or Diverse Opinion

3.1 Value and Risk of ACOPs

Divergent views:

- Some feared a **race to the bottom** if codes are shaped by the most vocal industry segments.
- Others (especially ports) viewed ACOPs as demonstrably successful when developed with deep engagement.

Range of differing preferences:

- ACOPs as minimum standards vs. ACOPs as aspirational good practice.
- Industry-led vs. regulator-led vs. co-designed development.
- Degree to which ACOP compliance should constitute safe harbour.

3.2 Reducing Burden for Small PCBU — *But How?*

All agreed the current carve-out was flawed, but participants differed on the *right* solution.

Options put forward (some competing):

- Provide template-based micro-guidance and simplified processes for SMEs instead of legislative exemptions.
- Upskill WorkSafe to provide direct SME support.
- Reintroduce (or strengthen) regulations rather than rely on definitions (a minority perspective).
- Use procurement leverage (standards set by customers) rather than law reform.

3.3 Role of Enforcement

Two contrasting schools of thought emerged:

View A: Enforcement is essential

- Some argued enforcement pressure has been critical in sectors like fuel, ports, and construction.

View B: Education-first model will improve behaviour

- Many welcomed WorkSafe prioritising advice, guidance, and ACOPs over punitive enforcement.
This represents a philosophical divergence about the regulator's purpose.

3.4 Officer Duties — Clarification Helpful or Not?

Views differed on whether the Bill clarifies or complicates matters:

- Some saw benefits in clearer differentiation between governance and management.
- Others argued it *fails to resolve* long-standing ambiguity, especially for CEOs who straddle both roles.

4. Supporting Arguments and Rich Discussion Themes

4.1 Supply Chain Realities

Participants highlighted real-world operational impacts:

- Most industries depend on large networks of contractors and subcontractors.
- Two-tier legal requirements will increase complexity, cost, and risk.

4.2 Lessons from Sector Examples

- **Forestry:** Mechanisation reduced critical harm but increased musculoskeletal and fatigue issues, showing “non-critical” risks still matter.
- **Ports:** Industry-driven ACOP processes result in strong cultural alignment and demonstrate value of co-design.

4.3 International Framing

Across both sessions, participants noted:

- No comparable jurisdictions use “small business carve-outs” of this nature. Other countries (UK, Australia) rely more on **regulations, design duties, and upstream clarity**, rather than definitional changes.

4.4 Psychosocial Risk as a Gap

Repeated frustration that the Bill does not address psychosocial harm, despite high prevalence and international reform trends.