

Education and Workforce Select Committee  
Parliament Buildings, Wellington

Via online:

[NZ Parliament](#)

18 March 2026

**Re. Property Council New Zealand submission on the Health and Safety at Work Amendment Bill**

To whom it may concern,

As you may know, Property Council is the leading not-for-profit advocate for New Zealand's most significant industry, property. Property is New Zealand's largest industry with a direct contribution to GDP of \$50.2 billion (15 percent). We aim to enable opportunities to build sustainable and resilient communities, capable of meeting future needs.

Property Council welcomes the introduction of the Health and Safety at Work Amendment Bill ("the Bill") which, among other things, seeks to provide greater clarity on how the Health and Safety at Work Act ("the Act") interacts with other legislative regimes, including those under the Building Act 2004. Our comments are confined to this specific aspect of the Bill and should not be taken as commentary on its broader provisions.

For Property Council members, clear alignment between the Building Act and the Health and Safety at Work Act is particularly important given the Government's recent seismic reforms. The Act influences both market behaviour and life-safety expectations, so it is essential that responsibilities under each framework are well defined. In saying that, while we support the intent of the Bill, we are concerned that the current drafting may fall short of fully achieving this clarity, potentially leaving gaps or creating unintended consequences.

In principle, we support the amendment to section 37, which clarifies that where an earthquake-prone building owner is complying with their obligations under the Building Act 2004, the PCBU (whether owner or tenant) has no additional duties under section 37 in relation to seismic risk. This aims to appropriately allocate responsibility between the two legislative frameworks and provides greater certainty for building owners and occupiers.

However, further clarity is required to ensure the amendment operates as intended.

## Section 36: Primary duty of care

The Bill is unclear about whether provisions outside section 37 of the Health and Safety at Work Act 2015, particularly the primary duty of care in section 36, could still be interpreted as requiring action in relation to seismic risk affecting a building.

To address this, we recommend amending section 37(3B) to make clear that the clarification applies across the Act, including section 36: “This section *and any other section in this Act* does not require the PCBU to take any action in relation to seismic risk affecting the building, or the part of a building, included in the workplace (for example, by directing the evacuation of the building or the part of a building) unless an emergency affecting the building is occurring”.

## Secondary and non-secondary structural elements

Property Council members note that it is unclear whether secondary structural and non-structural elements (SSNS) are deemed to be “part of a building” for purposes of section 37<sup>1</sup>. If SSNS are not captured within the scope of section 37, there may be uncertainty about how seismic risks associated with these elements are expected to be managed under the health and safety framework. Clarity on this matter is required so that building owners can clearly understand the extent of their obligations.

We also note that although out of scope for this consultation, building contents are currently governed by NZS 4104:1994. This is a very old standard, and an update would be welcome as part of the broader earthquake-prone building system reform.

## Consistency with changing legislation

Finally, we note the importance of ensuring that the amendments in the Bill also take into account ongoing changes to the Building Act. While the Bill clarifies obligations under the current Building Act, we consider it essential that any amendments to the Health and Safety at Work Act also cover future changes to the Building Act, not just the current 2004 version. This certainty is critical for building owners to understand their obligations under both existing and forthcoming legislative frameworks.

We thank the Education and Workforce Select Committee for the opportunity to submit on the Health and Safety at Work Amendment Bill. Property Council supports the intent of the Bill in relation to clarifying building owner obligations under the Act and other legislative

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<sup>1</sup> [https://www.eq-assess.org.nz/assets/2017-07/Section\\_C10-Secondary\\_Structural\\_and\\_Non-Structural\\_Elements.pdf](https://www.eq-assess.org.nz/assets/2017-07/Section_C10-Secondary_Structural_and_Non-Structural_Elements.pdf)

regimes, however further clarification is needed to ensure it fully achieves its intent and leaves no gaps in managing seismic risk. **Property Council wishes to appear before the Education and Workforce Select Committee to speak to our submission.**

Any further enquiries, please do not hesitate to contact Sandamali Ambepitiya, Senior Advocacy Advisor via email: [sandamali@propertynz.co.nz](mailto:sandamali@propertynz.co.nz) or cell: 021 045 9871.

Yours sincerely,



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