

**Submission**

*By*



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*to the*

**Strategic Review of the Workplace  
Health and Safety System**

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## **STRATEGIC REVIEW of the WORKPLACE HEALTH and SAFETY SYSTEM**

### **Introduction**

CentrePort Limited is a port operations company with approximately 200 employees, and also acts as the principal overseeing a diverse range of businesses operating a wide variety of activities within its area of business. Being part of a high risk industry and being committed to the Zero Harm Forum, CentrePort Limited is very concerned about workplace accident numbers in New Zealand and has a deep interest in ensuring their reduction. CentrePort Limited is conscious that changing times, changes in the nature of work, as well as a greater recognition of accident causation have made it necessary to seek a new approach to reducing workplace accidents. As current injury statistics clearly indicate, more is required. CentrePort Limited therefore welcomes the opportunity to provide submissions which may help improve workplace health & safety and reduce injuries.

### **Key Issues**

For CentrePort Limited there are five issue areas under which the question of how best to reduce workplace accidents should be addressed. Focusing on what is proposed under each of these headings would, in CentrePort Limited's opinion, result in greatly improved health and safety outcomes.

### **Regulatory Framework**

To be effective the regulatory framework must be promoted and communicated so that it is well understood by all duty holders, able to be implemented, and ultimately enforced, preferably prior to a breach that causes harm. CentrePort Limited argues that our current framework and the way it is regulated fails to deliver in these critical areas.

CentrePort Limited would like to see a regulatory framework that is supported by active guidance on health and safety best practice to those that need it. The framework should also encourage innovation and recognise the steps taken by those organisations that accept high level accountability for health and safety practices. In the experience of CentrePort Limited, the ACC framework encourages this to some extent whereas the Health and Safety legislation and framework does not. The ACC framework does this through its' Workplace Safety Management Practices (WSMP) and Experience Rating systems which provide guidance, measures, and discounts for sound practice and performance.

CentrePort Limited is keen to see a framework that focuses on initiatives that can tangibly improve health and safety outcomes, i.e. by encouraging focus

on injury prevention through worker participation and engagement, rather than merely on investigation and prosecution after the event.

As mentioned above, one area where the current health and safety regulation framework lacks strength is injury prevention, which is currently split between the health and safety unit within the Ministry of Business, Innovation and Employment (MBIE) and the Accident Compensation Corporation (ACC). This means that there is little consensus on policy approaches in this space. If health and safety regulation is to be truly effective, there needs to be consistent direction on injury prevention, rather than relying on enforcement after workers are seriously injured or killed.

CentrePort Limited needs to deal with the complexity of accountabilities as the principal managing sites with multiple activities and businesses. There needs to be better clarity within the framework on who is accountable for health and safety on worksites where there are multiple parties and contractors. For example, the Australian Model Act requires a Person in Charge of a workplace (PIC) who is responsible for the health and safety of all people at the workplace, including visitors and subcontractors.

## **Regulator**

Apart from facilitating the development and disbursement of codes of practice and workplace guidelines, the only interface for CentrePort Limited with the regulatory body is after an accident of potential serious harm where the quality and timeliness of response and follow up has been inconsistent and often lacking in best practice. Therefore the only interaction is after any event and it is in a context of investigation and blame apportionment. It has no relationship working together with the regulator to erect the fence at the top of the cliff on preventive initiatives aimed at preventing harm.

Instead the regulator should have responsibility for:

- a) health and safety policy and practice;
- b) workplace injury prevention
- c) occupational health – surveillance, monitoring and enforcement;
- d) hazardous substances; and
- e) high risk and specialist areas, including industries, occupations, and tasks such as maritime, manufacturing, mining, scaffolders, electricians, ships lashing, and working at heights

With this responsibility, the regulator needs to be charged with delivering proactive guidance on systems and practices. Its charter should be risk management focussed with a targeted approach on high risk industries, occupations, and tasks. The primary intervention focus should be on high quality resource materials, advice, training, and education.



## **Education**

While the need for education and training in matters directly related to health and safety is self-evident, the availability of training is another matter. A greater emphasis on manager training is needed as well as on training for health and safety inspectors. Often, currently, CentrePort Limited finds the latter have had little practical experience of the port industry, whereas hands-on knowledge allows for greater understanding and the provision of more relevant and effective advice.

Training in hazard recognition and management is particularly necessary for high risk industries and occupations and could be incorporated even before trainees become employees such as into NCEA and Apprenticeship training. For workplaces it would be of most value targeted at high hazard roles and tasks such as Complex machinery operation, hazardous substance handling. The driver for this targeted education would be underlining the need for training to ensure there is a real recognition of where workplace hazards lie. Far better to provide and promote safety training than to penalise after an accident has happened. This is where practically-experienced health and safety inspectors could play an enhanced role.

CentrePort Limited would like to see the provision of high quality supporting materials to make it easier for businesses to implement the Act, as suggested in paragraph 69 of the consultation document.

The regulator should be mandated to focus on the development and maintenance of guidance material – regulations, codes of practice, posters and other materials needed by these groupings in simple language suitable for small businesses and their staff. This should include development and distribution of guidance documents for specific hazards/high risk industries that are developed with and for industries and made available for distribution through the regulator.

## **Clearly defined responsibilities and accountabilities**

Associated with the need for more education and training, for employees and managers alike, is the need to clearly define workplace health and safety responsibilities and accountabilities. The term 'employer' is inevitably too narrow and there is a real need to define more clearly the various levels of management where responsibility and accountability must lie.

The HSEA already imposes liability on directors but otherwise provides no indication of the need for training in health and safety matters. But directors of companies may have little practical experience of how an organisation works at 'factory' floor level being more concerned with governance matters. For this reason they could find themselves shouldering blame for the failure of systems and processes with which they are not properly acquainted because these have never been brought directly to their attention.

There would be value in making changes to the regulatory framework to ensure there is clear accountability for those at the very high level of business

to address concerns of Boards and/or Chief Executives who may claim they were 'unaware' of the health and safety concerns, as was recently revealed in the Pike River report.

Clarity around accountability across the full spectrum of business would be beneficial. From Governance to individual workers, recognising that everyone has a role to play in ensuring a safe and healthy workplace.

### **Specific, identifiable regulator**

As well as the complexities of multiple activities and third parties on its sites, CentrePort Limited has to deal with a wide range of legislation and regulators which can at times be very confusing with a plethora of different requirements and standards. What would help overcome this is to have more clarity of the relationship with other related Acts (e.g. ACC Act, and the Hazardous Substances and New Organisms Act (HSNO)) and the role of other regulators (i.e. Maritime NZ, MAF, and Ministry for the Environment).

Alternatively, it is suggested that for health and safety purposes, there be a single point of contact in the form of a specific identifiable regulator. While the HSEA provides for the promulgation of health and safety regulations, there is also a range of agencies with responsibility for health and safety in various areas of the economy, resulting in a degree of confusion about who is responsible for what. By contrast, as the Consultation Document points out, countries with a single-focus regulator tend to have the lowest injury rates and this is something New Zealand might do well to bear in mind.

A single regulator might encompass ACC as well, thereby helping to clarify the relationship between what are at present two distinct approaches to workplace accidents.