

# “The Tuatahi Way”

People First then PCBUs  
Tuatahi’s approach to understanding and managing overlapping duties under the HSWA 2015

## A short-ish Introduction for EEA NZ

Developed by Mitch Jones and Jennie Vickers

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## Introduction

### People First then PCBUs – The Tuatahi Way of understanding and then managing, duties under the HSWA 2015

Tuatahi has a clear sense of where its strengths and excellence lies, and our business model has, from the start identified areas of work we keep in-house and those we outsource to experts in their field.

This business model means that **we need to have a clear sense of how we balance and discharge our responsibilities to the individuals employed by us, on contract to us, and the people employed by all the other companies we work or interact with.**

Our duties overlap with a range of organisations, including our Field Partners, Ventia and Civtec, our Retail Service Providers, other businesses we engage with, and also key stakeholders like Crown Infrastructure Partners.

We want to, and need to, strike the right balance with our Partners. In New Zealand, the concept of overlapping duties in the HSWA 2015 delivers the mandate to get the balance right.

Tuatahi is committed to doing our part to ensure the protections in the HSWA work well for every person (and organisation) in our ecosystem.

We often hear this Maori proverb used in business:

*“He aha te mea nui o te ao - What is the most important thing in the world? He tangata, he tangata, he tangata - It is the people, it is the people, it is the people”*

We are committed to demonstrating to all our people, that we are not just paying lip-service to this but are committed to embedding this principle further and deeper across all aspects of our company.

This short introduction explains the way we are understanding and managing these duties for the benefit of our people.



**Mitch Jones**  
Head of Risk Management  
and Health & Safety

# The Tuatahi Way Project

**People First then PCBUs – The Tuatahi Way of understanding, and then managing, duties under the HSWA 2015**

Tuatahi has over the last 12 months accelerated progress in all areas of managing Health, Safety and Wellness (HSW).

In the last 6 months, the HSW Team has put focus on a project focused on articulating what we call the “Tuatahi Way” of Managing HSW.

The Team has embraced safety by design and agile methodologies as drivers of this project, to create a set of artefacts which we can share internally, with our Partners and with our stakeholders and shareholders.

The outcome of this Project is a set of documentation ranging from detailed analysis of the law through to illustrations

designed to help all our people (from the Board through to contractors) get to grips with our collective and individual responsibilities and how we discharge them.

**The HSW team believes that it is only by starting with the people and with each individual person, that we can properly assess whether we are doing the right things to keep them safe and to comply with the law, following good HSW practice.**

The desired outcomes and objectives of the Project are set out on the next page.....



**Jennie Vickers**  
Consultant and  
Project Lead



# The Tuatahi Way Project



# The priorities driving the Tuatahi Way Project

## Objectives and Outcomes

There were seven clear objectives and desired outcomes of this Project:

1. Understand how the HSW Team currently informs and interacts with the Board, around satisfying Tuatahi's PCBU duties and Officer due diligence;
2. Imagining what new and better approaches could be taken to identifying and articulating Tuatahi's specific HSW duties to specific workers, recognising the importance of being context specific;
3. Reporting on progress with delivery of Goal One of our new HSW Strategy 2023-2026 (Comprehensive and Smart Compliance);
4. Applying innovative thinking to assess current HSW process and procedure in Tuatahi (and overlapping organisations) to identify areas for improvement, reform or revolution;
5. To evolve the way the Team reports to the Tuatahi Board to support good HSW governance;
6. To create a new-for-Tuatahi innovative process which could be applied rapidly within Tuatahi, to current scenarios and also new HSW scenarios and to reflect any changes in regulation or new judicial guidance; and
7. To create a replicable process that would be applicable and useable by other organisations in New Zealand and Australia, as part of the Tuatahi commitment to safety leadership.

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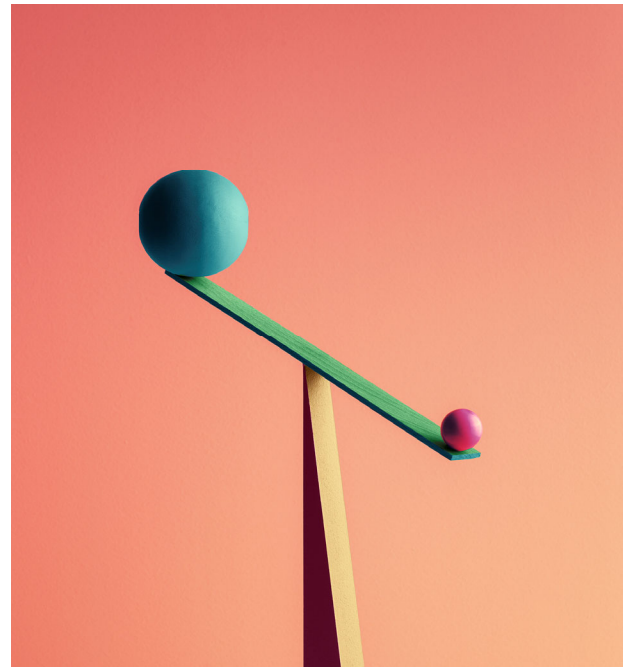


## Introduction to the Project

PCBU and Officer Duties are complex. To identify and understand the issues they need to be viewed through a Tuatahi context-specific lens

- To give clarity to the Board and Executives around the duties they have to each person in Tuatahi's ecosystem, the Team has considered and been informed by a number of overlapping frameworks from commercial and government organisations
- The Team has developed this Tuatahi specific approach, to enable the HSW Team to better articulate the way HSW risk is currently managed, for the disparate groups of specific workers
- This new approach to articulating duties and demonstrating the way we manage hazards, risks and obligations, aims to give the Executive and Board a high level of confidence in the approach to date and the continuous improvement plans set out in the new HSW Strategy 2023-2026
- This short introduction sets out high level detail of the entire person-centric process that the Team has developed
- The approach follows user-centred design principles which align with the Safety by Design philosophy.

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## The African Elephant Mouse HSW Duties are sometimes more mouse than elephant!

The Project team's working theory was:

"If HSW Duties are treated as a homogenous responsibility, the obligations can seem as large as an elephant, when the duties are nearer the size of a mouse."

**Hunting for elephants with a mouse trap is pointless but hunting for mice with an elephant gun is messy and overkill!**

This process has gone from macro level to minor level repeatedly, to unpack and discover the right balance between mouse and elephant.

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## The driver of the Person-centric Tuatahi Way

### Section 3 of the HSWA 2015

Section 3 explains the Purpose of the HSWA 2015, including the words:

*"To secure the health and safety of workers and workplaces by protecting workers and other persons against harm to their health, safety, and welfare by eliminating or minimising risks arising from work."*

Section 3 also establishes the principle that:

"Workers and other persons should be given the highest level of protection against harm to their health, safety, and welfare from hazards and risks arising from work...as is reasonably practicable."



### Health and Safety at Work Act 2015

Public Act 2015 No 70  
Date of assent: 4 September 2015  
Commencement: see section 2

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## Questions to kickstart the Project



Health and Safety at Work Act 2015  
 Status Act 2013 No. 56  
 Date of assent 4 September 2015  
 Commencement see section 2

### We started with a prioritised list of questions:

- Who are the People-the Workers as individuals and what tasks/activities do they perform ?
- Where are they working (Workplaces) and who manages that workplace?
- What hazards and risks are they facing?
- What are the legal duties needing to be considered (as they might be viewed by a Judge or Auditor)?
- Are people solely under the influence and control of Tuatahi?
- What actions do we take (or should we take) which are reasonably practicable (or better) to keep people safe and well at work?
- If people are not solely under the influence and control of Tuatahi, which other organisations (PCBUs) are involved and what should the Tuatahi Overlapping Duties Framework look like?
- Can we arrive at conclusions about the level of influence, control and reasonable practicability as a result of following a process?
- How do we practically consult, cooperate and coordinate with other PCBUs?
- How do we demonstrate that we consult, cooperate and coordinate with other PCBUs?
- What do we all need to do, to continuously improve?

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## To answer the questions, we worked in stages and:

1. Created the Tuatahi People Personas
2. Identified where they are working and who manages that workplace
3. Created a series of relevant scenarios to use to test the hazards and risks faced by each Persona and Tuatahi's approach to keeping people safe
4. Considered the specific legal duties Tuatahi has to each Persona (from the perspectives of Judges, Inspectors, Auditors and Directors)
5. Identified the classes of overlapping PCBUs and key known PCBUs and considered which people (and personas) were the responsibility of other PCBUs, as well
6. Created a new Tuatahi Overlapping Duties Framework called the "Disc of Responsibility", which is both a conceptual framework and a decision tool for application in specific scenarios
7. Created two scales against which to measure criteria and support conclusions about both the levels of influence and control and the extent of reasonable practicability, of both Tuatahi and overlapping PCBUs, in a given scenario
8. Tested Tuatahi's approach to keeping people safe
9. Captured the Tuatahi expectations of other PCBUs and other PCBUs' expectations of Tuatahi, using the Disc of Responsibility
10. Looked for gaps, further risk treatments and continuous improvement opportunities
11. Streamlined the flow to arrive at the Tuatahi Way, which has 9 steps to follow

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## The result of the Project was a 9 Step Process for anyone wanting to follow the “Tuatahi Way”

### Step 1

Identify the People Tuatahi has responsibility for and create Personas to represent each group

### Step 2

Identify the range of Places and Sites and the associated Workplaces where duties exist

### Step 3

Articulate the range of potential Duties in the HSWA and their relevance to Tuatahi

### Step 4

Identify other PCBUs - Who are they, and what is the typical range of scenarios?

### Step 5

Identify hazards and risks relevant to a specific scenario involving a persona and match Tuatahi’s HSWA duties (and current process/ compliance) to that scenario

### Step 6

Understand then articulate the meaning of “So far as reasonably practicable” (SFARP) and “Influence

and Control” in the Scenario

### Step 7

Reach conclusions about SFARP, Influence and Control and overlapping duties in the scenario

### Step 8

Articulate what the findings mean for Tuatahi, Tuatahi Officers and other PCBUs

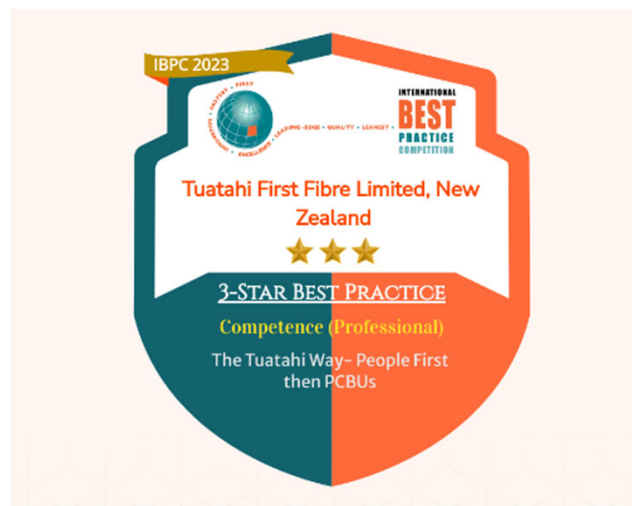
### Step 9

Identify issues/potential gaps for further investigation or continuous improvement



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## Result- 3 Stars for The Tuatahi Way



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## Result- 4 Stars for The Disc of Responsibility





**Tuatahi First Fibre Limited, New Zealand**

**- WINNER -**  
**Best Practice**

'The Tuatahi disc of responsibility - health and safety overlapping duties framework and process'



2023  
**WINNER**

Tuatahi First Fibre Limited, New Zealand

4 STARS - New Zealand Best Practice (Excellence)

★ ★ ★ ★

# The Outcomes of the Project- in action



**Before we demonstrate how the Tuatahi Way works, a quick introduction to:**

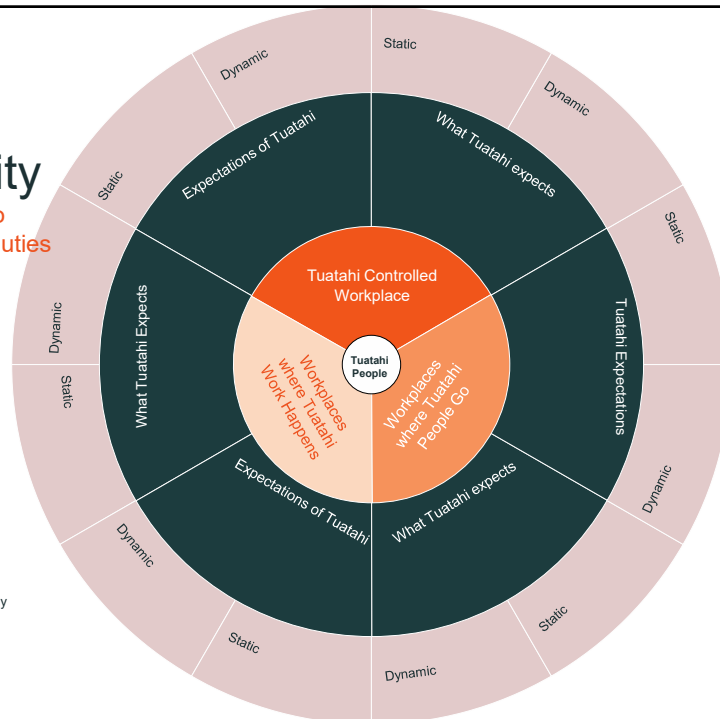
## The new Tuatahi Overlapping Duties Framework called the “Disc of Responsibility”

This is both a conceptual framework and a decision tool, for application to specific scenarios

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## The Tuatahi Disc of Responsibility

The Tuatahi approach to managing overlapping duties under the HSWA 2015  
*“Consult, Cooperate Coordinate”*



Note: All Places where Tuatahi People are, fit into 3 categories:

- Tuatahi Controlled Workplaces
- Workplaces where Tuatahi People Go
- Workplaces where Tuatahi Work Happens

Key:

- **What Tuatahi Expects:** The expectations Tuatahi has of other organisations controlling workplaces
- **Expectations of Tuatahi:** What other organisations can expect of Tuatahi in delivering on responsibilities
- **Supporting Activity-Static:** All the activities which are part of the hierarchy of controls to manage hazards
- **Supporting activity-Dynamic:** the hazard and risk assessment, management and mitigation which takes place on the day a Tuatahi Person goes to work

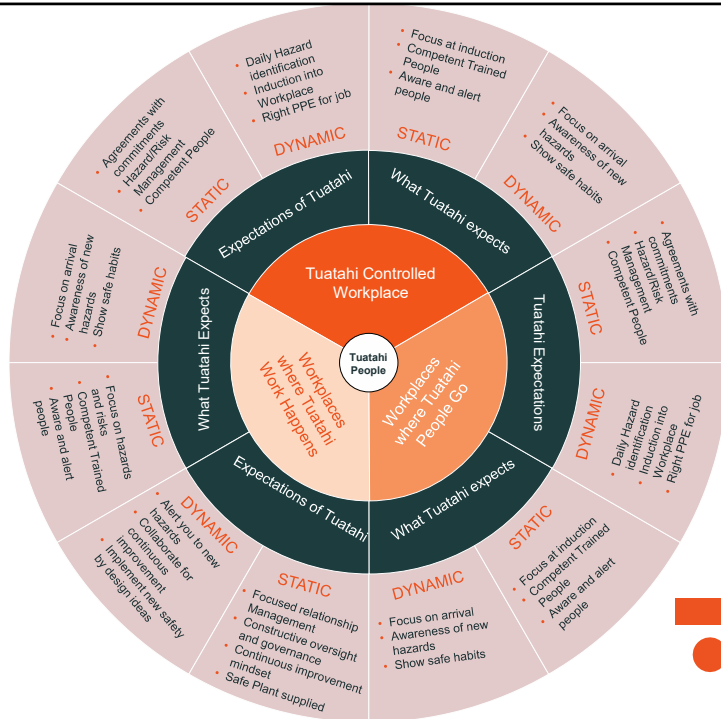
# The Tuatahi Disc of Responsibility

## Examples of Static and Dynamic requirements

**Key:**

- **What Tuatahi Expects:** The expectations Tuatahi has of other organisations controlling workplaces
- **Expectations of Tuatahi:** What other organisations can expect of Tuatahi in delivering on responsibilities
- **Supporting Activity-Static:** All the activities which are part of the hierarchy of controls to manage hazards
- **Supporting activity-Dynamic:** the hazard and risk assessment, management and mitigation which takes place on the day a Tuatahi Person goes to work

19 Note: This graphic / model speaks to the organisations which manage Tuatahi People not the people



# Introduction Keeping Tuatahi people safe

## Applying the Tuatahi Way to a real scenario to demonstrate how Tuatahi keeps a specific set of Workers safe

The following set of slides demonstrates the 9 steps and also illustrates the process relating it to one Persona, Persona 2 Tama, who is one the Tuatahi "Van Men".

The 9 Steps of the Tuatahi Way which we applied, are set out on the following slide.

In the following slides the Tuatahi Way is applied to Tama working in one specific scenario and then tested by comparison with two other scenarios.

Further Slide Packs are available which apply the Tuatahi Way to a selection of other scenarios.

Application of the Tuatahi Way demonstrates best practice agile thinking, to assist Executives and Officers evaluate what they are doing to keep people safe and to identify what more should, and could, be done.

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## Application of the Tuatahi Way to a Persona in a Scenario

### Step 1

Pick a Persona

### Step 2

Identify a place or site where the persona works

### Step 3

Pick a scenario then select the HSWA duties of PCBUs relevant to the persona

### Step 4

Identify all the PCBUs relevant to the persona and the scenario

### Step 5

Identify key hazards and risks relevant to the persona in the scenario and match them to Tuatahi's HSWA duties (and current process/ compliance)

### Step 6

Understand then articulate the meaning of "So far as reasonably practicable" (SFARP) and "Influence and Control" to the scenario

### Step 7

Reach conclusions about SFARP, Influence and Control and overlapping duties in the scenario

### Step 8

Articulate what the findings mean for the Persona, Tuatahi, Tuatahi Officers and other PCBUs




### Step 9

Identify issues/potential gaps for further investigation or continuous improvement




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## Step 1 – Pick a Persona-20+ to choose from




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1	Officer Olivia	<ul style="list-style-type: none"> <li>• Director of Tuatahi</li> <li>• Contracted to Tuatahi – not an employee of Tuatahi</li> <li>• Works in own home/business office doing Tuatahi work</li> <li>• Visits Tuatahi offices and occasionally a range of worksites of Tuatahi and field partners worksites (while doing Tuatahi work i.e. officer site visit)</li> </ul> <p>Under HSWA = Tuatahi worker</p>	
2	Tuatahi Tama	<ul style="list-style-type: none"> <li>• Tuatahi field delivery specialist – van team</li> <li>• Employee of Tuatahi</li> <li>• Works at Tuatahi managed worksites (office and infrastructure) and at worksites managed or controlled by other PCBUs</li> </ul> <p>Under HSWA = Tuatahi worker</p>	
3 & 4	Tuatahi Jane & Giovanni	<ul style="list-style-type: none"> <li>• Jane and Giovanni are office workers</li> <li>• Jane is based at HQ</li> <li>• Giovanni works at Tauranga office</li> <li>• Tuatahi employees (or individual contractor or employee of a contractor)</li> <li>• Work at Tuatahi managed worksites and occasionally at worksites managed or controlled by other PCBUs</li> </ul> <p>Jane – Under HSWA = Tuatahi worker Giovanni – Under HSWA = Tuatahi worker</p>	




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5	Tuatahi Cameron	<ul style="list-style-type: none"> <li>• Tuatahi HSW or contract relationship manager</li> <li>• Employee or individual contractor</li> <li>• Works at Tuatahi managed worksites and also frequent visitor to a range of worksites managed or controlled by other PCBUs e.g. field partner sites</li> </ul> <p>Under HSWA = Tuatahi worker</p>	
6	Tuatahi AJ	<ul style="list-style-type: none"> <li>• Tuatahi Fibre Ambassador</li> <li>• Employee</li> <li>• Works at Tuatahi managed worksites and also frequent visitor to residential customer homes and customer offices (= Tuatahi worksites) and a range of worksites managed or controlled by other PCBUs</li> </ul> <p>Under HSWA = Tuatahi worker</p>	
7	Visitor Valerie	<ul style="list-style-type: none"> <li>• Sole Trader trading as Valerie's Visual Flowers</li> <li>• Self Employed</li> <li>• Works at Tuatahi managed worksites making weekly visit</li> </ul> <p>Under HSWA = Tuatahi worker – only when on a Tuatahi worksite</p>	




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8	Handyman Henri	<ul style="list-style-type: none"> <li>Office maintenance, painting, electrical, plumbing and carpentry</li> <li>Sole trader and individual contractor business called "Henri loves Heights"</li> <li>Works at KBD Tuatahi head office on an ad hoc basis</li> </ul> <p>Under HSWA = Tuatahi worker – only when working at Tuatahi workplace</p>	
9	Safety Samantha	<ul style="list-style-type: none"> <li>Employee of Annual Auditors Limited (Contractor company to Tuatahi)</li> <li>Visits Ventia and Civtec infrastructure and office worksites to do HSW auditing for Tuatahi</li> <li>HSWA – worker – of AAL</li> <li>"Other person" (visitor) of Ventia/Civtec</li> </ul> <p>Under HSWA = Tuatahi worker – when on Ventia/Civtec site for Tuatahi Under HSWA = Tuatahi worker – when on Tuatahi worksite</p>	
10	Ventia Vince	<ul style="list-style-type: none"> <li>Trench digger – expert in identifying other utilities</li> <li>Employed by Ventia</li> <li>Works at Ventia managed worksites</li> <li>Ventia HSWA worker – when on a Ventia worksite</li> </ul> <p>(Similar scenario with Civtec employees – see Civtec Carlos) Under HSWA = Tuatahi worker – when on a Ventia worksite working on Tuatahi job</p>	




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11	Civtec Subbie Charlie	<ul style="list-style-type: none"> <li>Network technology specialist</li> <li>Owner/operator of CCL which is a sub-contractor to Civtec (providing expertise needed for Tuatahi work that Civtec does not have)</li> <li>Works at Civtec worksites</li> <li>Civtec HSWA – Worker – only when at Civtec workplace</li> </ul> <p>Under HSWA = Tuatahi Worker – only when at Civtec workplace working on Tuatahi project</p>	
12	Civtec Subbie Cyrils (Team of 4)	<ul style="list-style-type: none"> <li>Experts in installations in building ceilings</li> <li>Employees of Capacity Contractors Company Limited (CCCL)</li> <li>CCCL provides workers to give extra capacity to Civtec</li> <li>Team of 4 Cyrils work from time to time at Civtec worksites</li> <li>Civtec HSWA – workers – only when at Civtec workplace</li> <li>CCCL Employees on any worksite where working for CCCL</li> </ul> <p>Under HSWA = Tuatahi workers – only when at Civtec workplace working on Tuatahi project</p>	
13	Public Pete	<ul style="list-style-type: none"> <li>Member of the public lawfully in proximity to a Tuatahi managed worksite (office or infrastructure on private or public land)</li> </ul> <p>Under HSWA = Tuatahi responsibility – other person covered by S 36(2)</p>	



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14	Public Patricia	<ul style="list-style-type: none"> <li>Member of the public lawfully in proximity to a Civtec/Ventia managed worksite</li> <li>An other covered by S 36(2) – not worker</li> <li>Civtec/Ventia have obligations to Patricia on Civtec/Ventia worksites doing Tuatahi work</li> </ul> <p>Under HSWA = Tuatahi has a PCBU overlap duty with Civtec/Ventia concerning duties to other persons (Section 36(2))</p>	
15	CIP Charlotte	<ul style="list-style-type: none"> <li>Manages relationship between CIP and Tuatahi</li> <li>Employee of CIP</li> <li>Visits Civtec/Ventia worksites checking on HSW approach as permitted by Tuatahi agreements</li> <li>CIP HSWA – worker</li> <li>“Other person” for Civtec/Ventia on Civtec/Ventia sites</li> </ul> <p>Under HSWA = other person for Tuatahi on Civtec/Ventia sites which are carrying out Tuatahi work</p>	
16	Regulator Reggie	<ul style="list-style-type: none"> <li>An employee or contractor to a regulator e.g. worksafe or ComCom</li> <li>“Other person” for Tuatahi when visiting Tuatahi/Civtec/Ventia sites which are carrying out Tuatahi work</li> </ul> <p>Under HSWA = other for Tuatahi when visiting Tuatahi sites</p>	


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17	Ventia Valentino	<ul style="list-style-type: none"> <li>Machine operator e.g. excavators and ditch witches for trenching</li> <li>Employee of Ventia</li> <li>Works at Ventia managed worksites</li> <li>Ventia HSWA Worker – when on a Ventia worksite</li> </ul> <p>(Similar scenario with Civtec employees – see Civtec Subbie Charlie)</p> <p>Under HSWA = Tuatahi Worker – when on a Ventia worksite working on Tuatahi jobs</p>	
18	Subbie Simon	<ul style="list-style-type: none"> <li>Asbestos detection specialist</li> <li>Employee of specialist services Limited which is a sub contractor to Ventia (providing expertise needed for Tuatahi work that Ventia does not have)</li> <li>Works at Ventia worksites</li> <li>HSWA – SSL worker</li> <li>Ventia HSWA – worker – only when at Ventia workplace</li> </ul> <p>Under HSWA = Tuatahi worker – only when at Ventia workplace working on Tuatahi project</p>	
19	Newbie Nelson	<ul style="list-style-type: none"> <li>20 year old in first job after school</li> <li>New employee of Tuatahi</li> <li>Joining the Van Team as an apprentice</li> <li>Works at Tuatahi managed worksites (office and infrastructure) and at worksites managed or controlled by other PCBUs</li> </ul> <p>Under HSWA = Tuatahi worker</p>	

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20	Lone Worker <b>Leroy</b>	<ul style="list-style-type: none"> <li>• New site preparation worker – one man team</li> <li>• Employee of Downer</li> <li>• Works at Downer managed worksites</li> <li>• Downer HSWA Worker – when on a Downer worksite</li> </ul> <p style="color: #f4a460;">Under HSWA = Tuatahi Worker – when on a Downer worksite working on Tuatahi job</p>	
21	Subbie Steve	<ul style="list-style-type: none"> <li>• Traffic management specialist</li> <li>• Employee of Civil and Polite Traffic Management Limited (CPTML) which is a sub contractor to Civtec (providing Traffic Management expertise needed for Tuatahi work)</li> <li>• Works at Civtec worksites</li> <li>• HSWA – CPTML worker</li> <li>• Civtec HSWA – worker – only when at Civtec workplace</li> </ul> <p style="color: #f4a460;">Under HSWA = Tuatahi worker – only when at Civtec- workplace working on Tuatahi project</p>	

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		<h2 style="color: #f4a460;">Meet: Tama</h2>	
2	Tuatahi <b>Tama</b>	<ul style="list-style-type: none"> <li>• Tuatahi field delivery specialist – van team a “Van Man”</li> <li>• Employee of Tuatahi</li> <li>• Works at Tuatahi managed worksites (office and infrastructure) and at worksites managed or controlled by other PCBUs</li> <li>• Tama does not ordinarily work from home</li> <li>• Tama has a work vehicle assigned to him</li> </ul> <p style="color: #f4a460;">Under HSWA = Tuatahi worker</p>	

## Step 2 – Tama’s Workplace(s) in a specific scenario

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Six Categories of Worksites where Tuatahi has responsibility and 3 further scenarios for Partners e.g. Civtec and Ventia

TFF		TFF Contractors e.g.	
		 	
 1. Office	 2. Infrastructure Site	 7. Office	 8. Infrastructure site
 3. Tuatahi Vehicles	 4. Workers' homes	 9. Contractor vehicles <i>(workers moving between Tuatahi Sites)</i>	 10. Contractors' workers' homes
 5. Residential Customer Homes/Premises	 6. Commercial customer premises		

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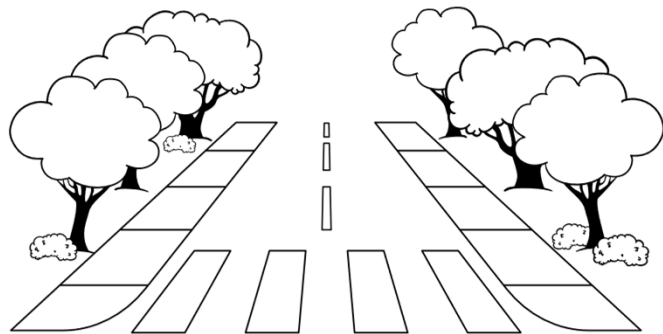
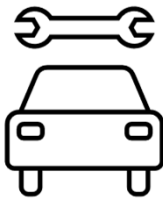
## Steps 3 and 4 – A specific scenario involving Tama and other identified PCBUs

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### Scenario 2A Tama working in Roading Corridor

Travels from HQ



- Drives Tuatahi vehicle from KBD



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Scenario 2A Description	Tuatahi Tama	<ul style="list-style-type: none"> <li>• <b>Tuatahi Field Delivery Specialist – Van Team</b></li> <li>• Employee                             <ul style="list-style-type: none"> <li>○ <b>HSWA-Tuatahi Worker</b></li> </ul> </li> </ul>	
Scenario 2A Description	Location Date, Time and Conditions	<ul style="list-style-type: none"> <li>• Thursday 15/12/2022</li> <li>• Cloudy and occasional rain</li> <li>• Working in pavement/road corridor of Girvin Rd Mount Manganui in a Tuatahi Cabinet and Pedestal, to deliver outcome of connections in proximity. Work/hazards including blowing fibre and splicing fibre</li> <li>• Place working = Tuatahi Managed Worksite</li> <li>• Travelled in Tuatahi Vehicle to Site= Vehicle is also a Tuatahi Managed Worksite</li> </ul>	
	Management and Control of Site	<ul style="list-style-type: none"> <li>• Tuatahi-For Pavement Area working on</li> <li>• Tuatahi - Site Supervisor is also Tama because he is Lone Worker</li> <li>• Tama's Manager is based in Tuatahi Office Hamilton-KBD</li> <li>• Tama-For the Vehicle while in transit</li> </ul>	

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<b>Scenario for Persona 2 Tuatahi Tama</b>	<ul style="list-style-type: none"> <li>• TFF Field Delivery Specialist –Van Team</li> <li>• Employee of TFF</li> </ul> <p>Works at TFF Managed Worksites (Office and Infrastructure) and working at Worksites over which other PCBUs have some ownership or influence and control</p> <p><b>Under HSWA=TFF Worker</b></p>	
Overlapping PCBUs	TFF has Overlapping Duties with Tauranga City Council TCC (which manages the road not Waka Kohtahi) and with all other utilities with their equipment/assets in the road corridor/pavement eg Powerco	
Key HSWA and GRWMR Duties towards Tama-The responsibility of Tuatahi	<ul style="list-style-type: none"> <li>• S34 - Consult other PCBUs - <b>Yes</b> when on another PCBU's sites e.g. road corridor. Test: SFARP</li> <li>• S36 - Primary Duty of Care- 26(1) or 36(3) – <b>Yes</b> - not be put at risk from Tuatahi work Test: SFARP</li> <li>• S37 - <b>YES</b> Tuatahi Manage or control these sites</li> <li>• S39 - Design - <b>Yes</b> - (2) (f) Test: persons in vicinity and SFARP</li> <li>• S40/41 - Import/Supply - <b>Yes</b> -(2) (f) Test: persons in vicinity SFARP</li> <li>• GRWMR-Yes-Reg 21 remote or isolated work</li> </ul>	

## Step 5 – Identifying key hazards and risks and matching them to Tuatahi's HSWA duties and current processes


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<p><b>Scenario for Persona 2</b></p>	<ul style="list-style-type: none"> <li>• Tuatahi Field Delivery Specialist – Van Team</li> <li>• Employee <ul style="list-style-type: none"> <li>○ HSWA-Tuatahi Worker</li> </ul> </li> </ul>	
<p><b>Scenario 2A Hazards and Risks – Examples for illustration (further Hazards and Risks in the ROP)</b></p>	<ul style="list-style-type: none"> <li>• Tuatahi Hazard and Risk Register identifies Activities, Hazards and associated Risks including: <ul style="list-style-type: none"> <li>• Multi-duct jointing –using small tools working in awkward positions-risk of abrasions/lacerations/sprains/strains</li> <li>• Multi-duct testing using compressed air-risk of uncontrolled release of compressed air-risk of fatality, air injection, crush or serious injuries</li> <li>• Handling and working with Fibre-optic Cables-manual handling incorrect use of tools etc-risk of abrasions/lacerations etc</li> <li>• Cable hauling-fleeting cables-control-risk of slip, trip or fall leading to injury</li> <li>• Lone worker risks</li> <li>• Driving hazards</li> </ul> </li> </ul>	



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<p>Matching Scenario 2A to HSWA Duties</p>	<p>Tuatahi Tama</p>	<p>• TFF Field Delivery Specialist –Van Team <b>Under HSWA=TFF Worker</b></p>	
<p><i>Tuatahi Obligations in detail and how Tuatahi complies</i></p>	<p><b>S36-Primary Duty of Care - 36(1)</b></p>	<ul style="list-style-type: none"> <li>• (1) TFF Must ensure SFARP HSW of own workers</li> <li>• (3) a-g obligations</li> <li>• TFF Complies by for example:             <ul style="list-style-type: none"> <li>○ Regularly assessing all hazards and HSW risks of the activities being carried out by Tama on that day</li> <li>○ Only technicians with minimum Cert-Telecon Technician Level 3 allowed to do work</li> <li>○ Work only with equipment covered by agreed specs</li> <li>○ Range of JSA and SWIs</li> <li>○ TFF Mobile provided and Work Vehicle</li> <li>○ Training provided to Tama on managing these specific hazards/risks</li> <li>○ Working to a Lone Worker Standard</li> <li>○ providing to Tama-Job PreStart and JSA covering hazards and risks of the work to be undertaken on that day</li> <li>○ Supervising Tama in person or by phone before start or during day</li> <li>○ Provide PPE including a means of effective communication</li> <li>○ Annual Health monitoring and CultureAMP</li> </ul> </li> </ul>	



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<p>Matching Scenario 2A to HSWA Duties</p>	<p>Tuatahi Tama</p>	<p>• TFF Field Delivery Specialist –Van Team <b>Under HSWA=TFF Worker</b></p>	
<p><i>Tuatahi Obligations in detail and how Tuatahi complies</i></p>	<p><b>S37-TFF Manage or control sites</b></p>	<ul style="list-style-type: none"> <li>• Obligation SFARP to ensure: means of entering and exiting the workplace, and anything arising from the workplace are without risks to the health and safety of any person.</li> <li>• Tuatahi complies with obligations by, for example:             <ul style="list-style-type: none"> <li>○ See above re TCC Rules</li> <li>○ See the Utility Operators Access to Transport Corridors National Code of Practice (NZUAGCOP)</li> <li>○ JSAs and Job Pre-Start Form will identify and specify particular risks/hazards relevant to that worksite eg presence of other utilities or other contractors</li> <li>○ Range of processes to deal with specific extra hazards</li> <li>○ Design of the cabinets and equipment</li> <li>○ Cert-Telecon Technician Level 3 minimum</li> <li>○ Procedures to protect public near sites</li> </ul> </li> </ul>	


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Matching Scenario 2A to HSWA Duties	Tuatahi Tama	<ul style="list-style-type: none"> <li>• TFF Field Delivery Specialist –Van Team Under HSWA=TFF Worker</li> </ul>	
<i>Tuatahi Obligations in detail and how Tuatahi complies</i>	<b>S37-TFF Manage or control sites</b>	<ul style="list-style-type: none"> <li>• Obligation SFARP to ensure: means of entering and exiting the workplace, and anything arising from the workplace are without risks to the health and safety of any person.</li> <li>• Tuatahi complies with obligations by, for example:               <ul style="list-style-type: none"> <li>○ See above re TCC Rules</li> <li>○ See the Utility Operators Access to Transport Corridors National Code of Practice (NZUAGCOP)</li> <li>○ JSAs and Job Pre-Start Form will identify and specify particular risks/hazards relevant to that worksite eg presence of other utilities or other contractors</li> <li>○ Range of processes to deal with specific extra hazards</li> <li>○ Design of the cabinets and equipment</li> <li>○ Cert-Telecon Technician Level 3 minimum</li> <li>○ Procedures to protect public near sites</li> </ul> </li> </ul>	

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Matching Scenario 2A to HSWA Duties	Tuatahi Tama	Tama - Working at a site on road corridor which is therefore/effectively a TFF Infrastructure Worksite	
<i>Tuatahi Obligations in detail and how Tuatahi complies</i>	<b>S34-Consult other PCBU</b>	<ul style="list-style-type: none"> <li>• Other PCBUs are Tauranga City Council as Road Controlling Authority and Powerco as electricity network owner</li> <li>• TFF Obligation SFARP to:               <ul style="list-style-type: none"> <li>○ Consult</li> <li>○ Cooperate</li> <li>○ Coordinate</li> </ul> </li> <li>• TFF Complies by:               <ul style="list-style-type: none"> <li>○ Complying with all TCC Rules on working in corridor</li> <li>○ Training our people in working with TCC Rules</li> <li>○ Notifying TCC in advance (as required)</li> <li>○ Notifying Worksafe if applicable</li> </ul> </li> <li>• TCC as Overlapping PCBU becomes aware of the overlap when Tuatahi notifies and TCC can visit to inspect if they choose to, but not obliged under the to</li> <li>• TFF has arrangements with Powerco for work in proximity to Powerco lines</li> </ul>	

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Matching Scenario 2A to HSWA Duties	Tuatahi Tama	Tama - Working at a site on road corridor which is therefore/effectively a TFF Infrastructure Worksite	
<i>Tuatahi Obligations in detail and how Tuatahi complies</i>	<b>S39/S41 Duty of PCBU who designs plant, substances, or structures and Duty of PCBU who imports plant, substances, or structures</b>	<ul style="list-style-type: none"> <li>The Tuatahi Asset Management Team has quality systems to ensure that all <b>design</b> for plant, substance or structures used on a Tuatahi Worksite complies with all applicable standards, codes of practice etc</li> <li>The Tuatahi Asset Management Team has quality systems to ensure that all plant, substance or structures <b>imported</b> by Tuatahi and used on a Tuatahi Worksite complies with all applicable standards, codes of practice etc,</li> </ul>	
	<b>GRWMR-Yes-Reg 21 remote or isolated work</b>	<ul style="list-style-type: none"> <li>Tuatahi provides a range of devices to ensure effective communication</li> </ul>	

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## Resources relevant to Tama at Work in Scenario 2A



### Regulatory documentation

- Includes:**
- HSWA 2015 and all HSWA Regulations
- National Code of Practice for Utility Operators' access to Transport Corridors
- A guide to working safely on roadsides
- NZIECP 34:2001 Electrical Safe Distances



### Tuatahi Waka rules

- For example, Tuatahi People/Workers must:**
- Obtain authorisation before entering confined spaces;
  - Know and apply the Working Alone, in Isolation or restricted spaces Processes;
  - Apply with any applicable Working Alone or in Isolation Management Procedures;
- Further Waka Rules apply*



### Tuatahi procedures and processes

- Includes:**
- Working near live services - Safe Work Instruction (SW-006)
  - Safety when working on or near roads - Safe Work Instruction (SW1-005)
  - Working alone or in isolation SWI guidelines
  - Job Safety Analysis Working Alone #16



### Documentation of overlapping duty holders

- Includes:**
- Powerco is a signatory to the National Code of Practice for Utility Operators' access to Transport
  - Powerco Standard-39S114 Fibre Optic Attachments to Powerco Assets
  - BeforeUdig cable locations
  - Powerco Approved Contractor Process

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# Steps 6 and 7 – SFARP, Influence and Control and PCBUs relevant to Tama, in this scenario with conclusions

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## Understanding then articulating and matching “So far as reasonably practicable” (SFARP) and “Influence and Control” to the scenarios and reaching conclusions

**Sitting behind this Overview is a substantial amount of analysis and application to the Tuatahi context**

Sources of information included:

1. Sections 22 and 33 HSWA
2. NZ and Australian Case Law
3. Agreements with other parties
4. Worksafe Guidelines
5. Expert Commentaries
6. Other NZ Organisations

The following slides demonstrate a selection only of the detail

The analysis allowed the team to pick out key points and match the findings to the context.

Through detailed analysis of key cases, the Team has identified the correct order to follow in reaching conclusions

The next few slides illustrate a small number of the results.....

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## Influence and Control and SFARP-Approaches in NZ and Australia





- In Athenberry (and the linked cases) the employer of a worker plead guilty.
- Overlapping PCBUs (Athenberry and Hume) were found not guilty.
- In McCD (and the linked cases), an employer plead guilty.
- McConnell Dowell as an overlapping PCBU (which had outsourced the work), plead not guilty but was found guilty, for a number of reasons, which could be of significance and interest to Tuatahi.
- These cases refer to both Influence and Control and SFARP.



## Applying the analysis to the Tama Scenario, conclusions were reached



## Colour Key of the Scales of (1) Influence and Control and (2) SFARP

Scale of Influence and Control	Scale of Influence and Control-Colour Codes	Scale of SFARP	Scale of SFARP-Colour Codes
Nil		Nil	
Negligible		Very little	
Some		Not Much	
Substantial		A lot	
Total Control		Considerable	

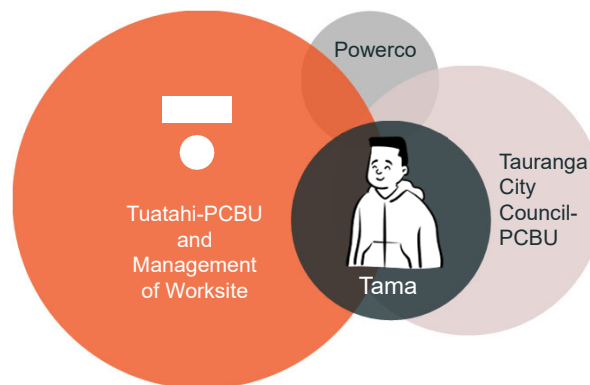
## Tama Scenario 2A

The PCBUs with Overlaps

Tama-Working at a site on pavement/road corridor which is a TFF Infrastructure Worksite-

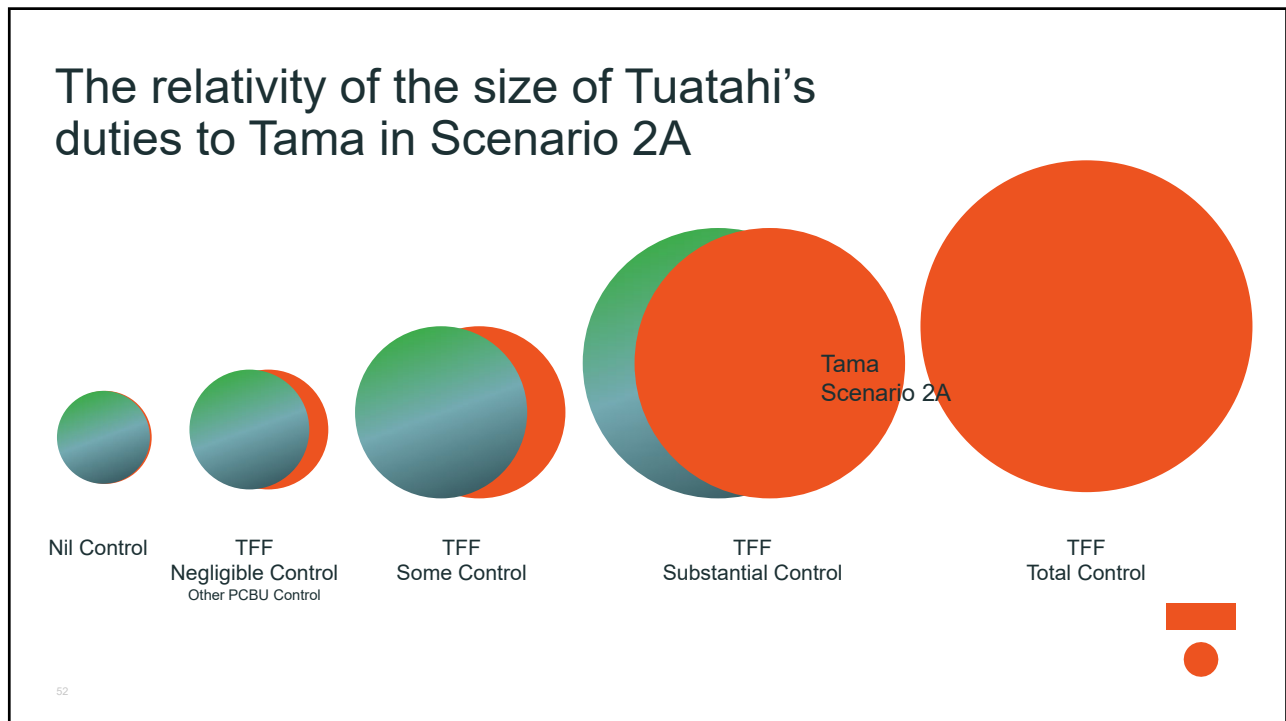
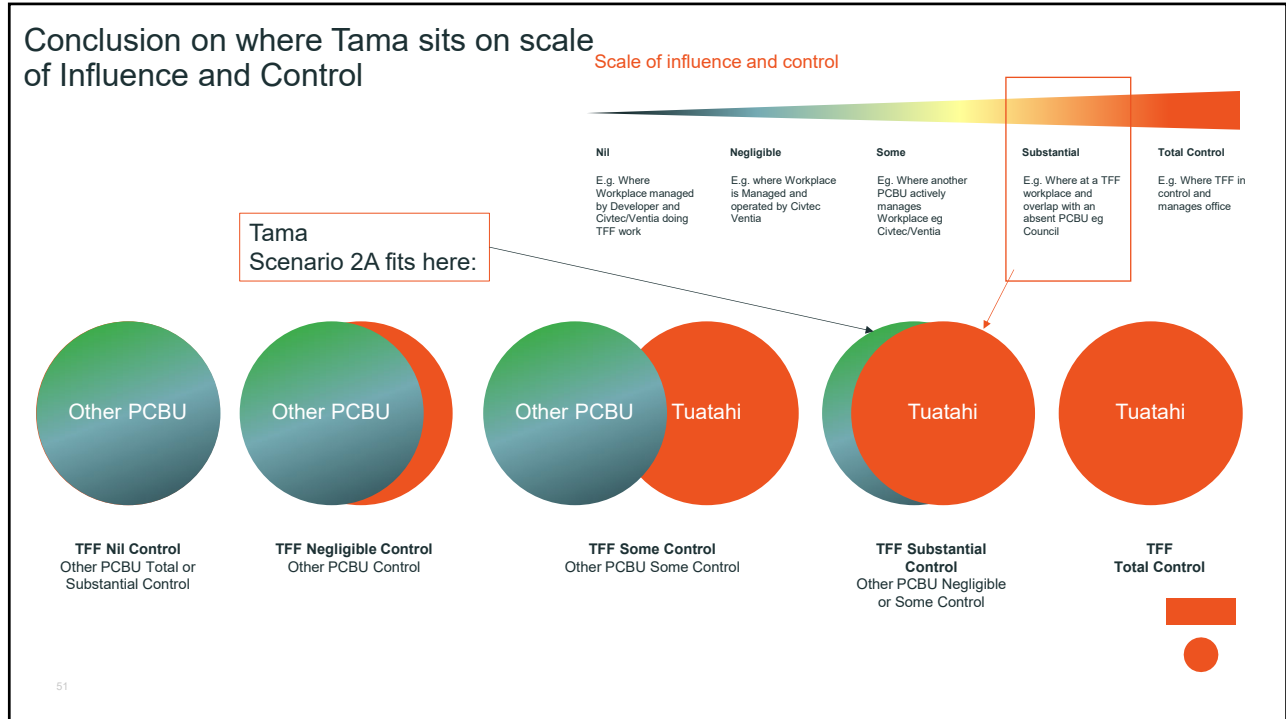
Overlaps with:

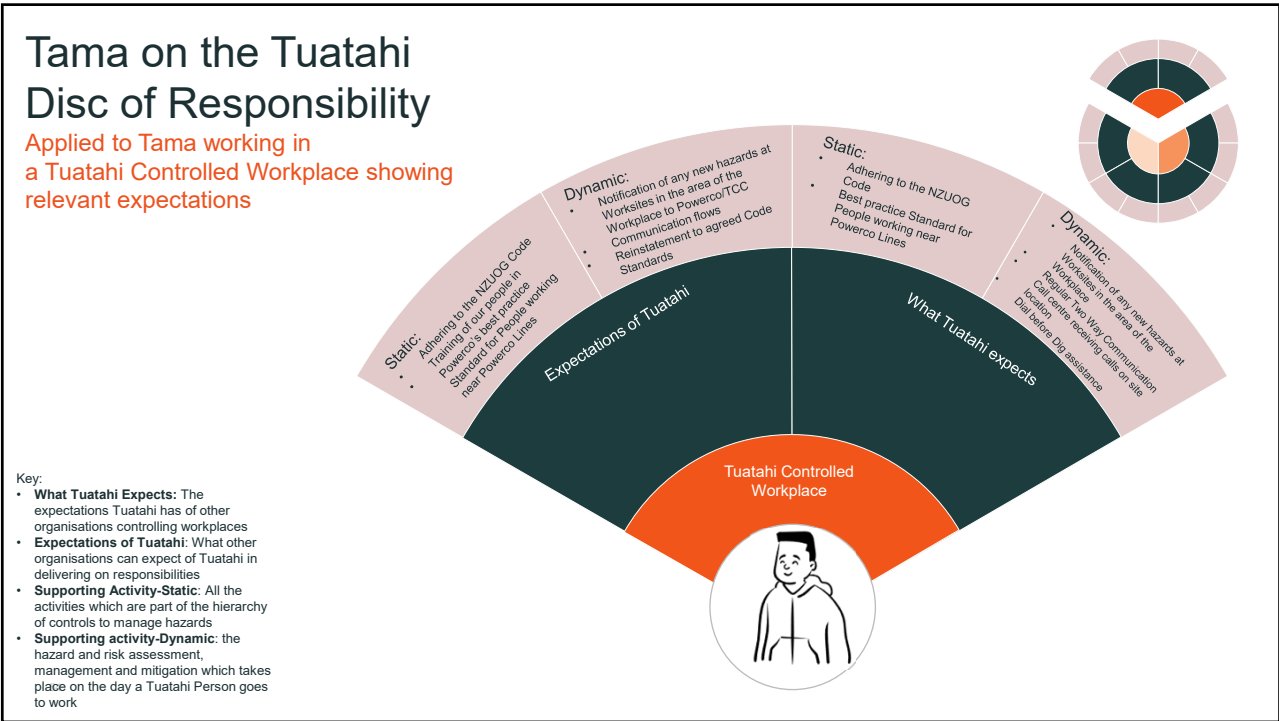
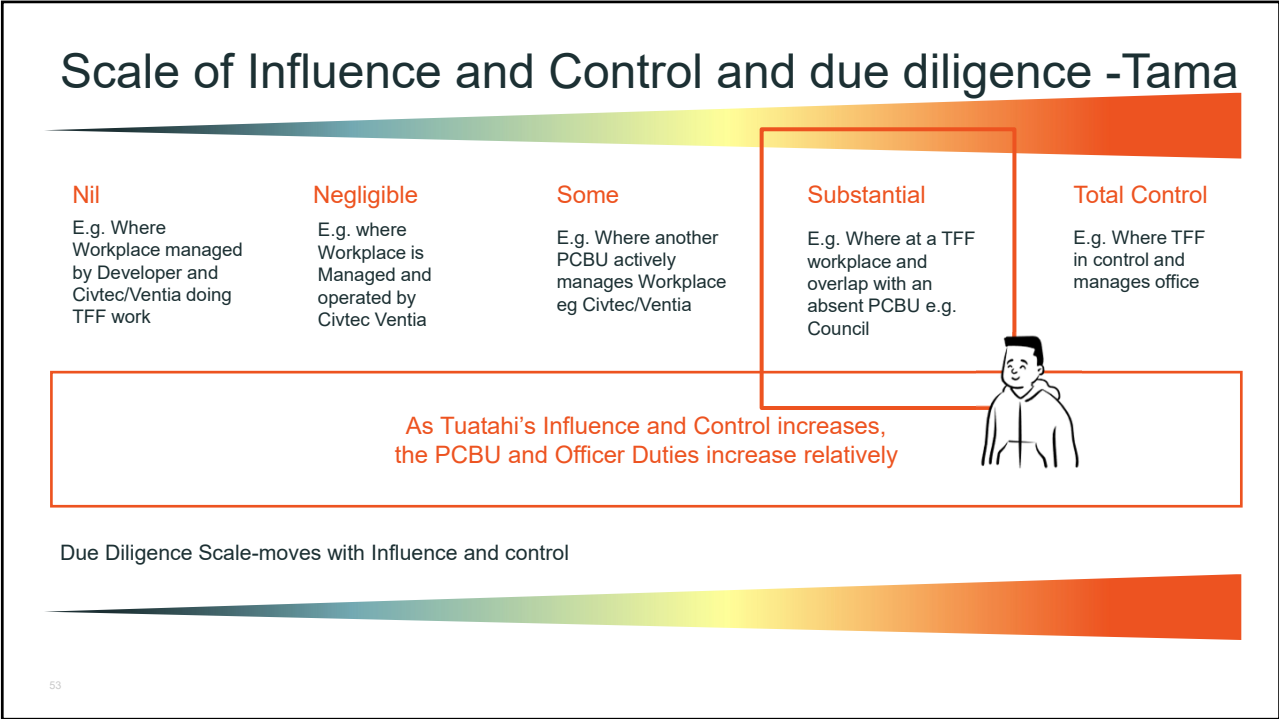
- Tauranga City Council and with
- Powerco (because working in proximity to Powerco's network)



Overlapping Duties



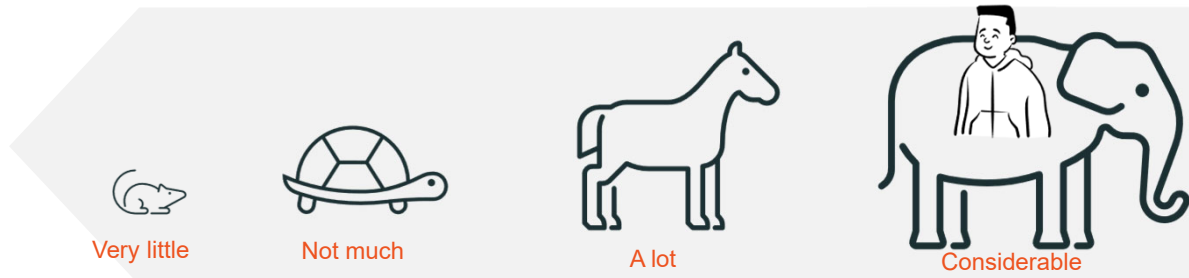




## Conclusion on what is “Reasonably Practicable” for Tuatahi towards Tama on the day for Scenario 2A

### Two questions:

1. what is possible in the circumstances for Tuatahi to do, to ensure health and safety of Tama?
2. of the possible actions, what is reasonable for Tuatahi to do?



### Factors:


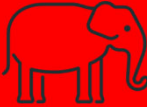
- Tuatahi understands the risks and is responsible for activity at Tuatahi Controlled workplaces
- Tuatahi employs Tama and can manage with a range of tools including: training, supervision, implementing a range of controls and providing PPE

Answer: What is practicable for TFF is:  
Considerable

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## Step 8 – Articulating what the findings mean for Tuatahi and for Tuatahi Officers in relation to Tama in scenario 2A

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Scenario	TFF Tama	Tama-Working at a worksite on Girvin Road Mount Manganui in road corridor (in and around cabinet) which is therefore/effectively a TFF Infrastructure Worksite Overlapping duties with Tauranga City Council Work includes Blowing Fibre and Splicing Fibre	
Conclusions  Scale: • Nil • Very little • Not Much • A lot • Considerable	S22 SFARP- Reasonably Practicable for TFF	<ul style="list-style-type: none"> <li>• Considerable</li> <li>• Need a high level of focus on hazards and risks faced by Tama</li> <li>• TFF has ability to have a range of controls to manage the risks</li> <li>• All elements of S.22 must be considered</li> <li>• Only disproportionate costs can be disregarded</li> </ul>	
Scale: • Nil • Negligible • Some • Substantial • Total Control	TFF Influence and Control Rating Scale:	<ul style="list-style-type: none"> <li>• TFF Influence and Control rating is</li> <li>• Substantial</li> </ul>	
Overlapping Duties-Relative Responsibilities of TFF and Others		<ul style="list-style-type: none"> <li>• Overlaps with:             <ul style="list-style-type: none"> <li>○ TCC and Powerco</li> <li>○ SFARP:                 <ul style="list-style-type: none"> <li>○ fulfilled well with all the COP protocols around working in road corridors</li> </ul> </li> </ul> </li> </ul>	

## Step 8-Tama Scenario 2A

Officer Duties-HSWA S44

Influence and Control	SFARP in HSWA Duties	SFARP in Overlapping Duties
Substantial	Considerable 	Tuatahi Controlled Workplace



**Where there is a duty or obligation** on a “person conducting a business or undertaking” (PCBU) under the HSWA, there is a **corresponding duty** on an “officer” to exercise due diligence to **ensure that the PCBU complies with that duty** or obligation.(Chapman Tripp Advice 2022)

What else can the Officers be doing?  
What Continuous Improvement Opportunities are there?



## Applying Step 8 to Tama Scenario 2A Officer Duties-HSWA S44

### General duties

- a) to acquire, and keep up to date, knowledge of work health and safety matters; and
- b) to gain an understanding of the nature of the operations of the business or undertaking of the PCBU and generally of the hazards and risks associated with those operations; and
- c) to ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking; and
- d) to ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards, and risks and for responding in a timely way to that information; and

### Relative duties

- e) to ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under this Act; and
- f) to verify the provision and use of the resources and processes referred to in paragraphs (c) to (e).

### Obligations to Tama in context of:

- **Influence and Control - Substantial**
- **SFARP - Considerable**
- **SFARP Overlap - Tuatahi Controlled Workplace**
  - Ensuring sufficient budget for all aspects of keeping Tama safe
  - Oversight that training and required competencies are up to date and sufficient
  - Assurance around Process and Procedures
  - Site visits by Board to observe work practices and hear from Tama
  - Reviewing Management Reporting to check for negative trends
  - More....



**Where there is a duty or obligation** on a “person conducting a business or undertaking” (PCBU) under the HSWA, there is a **corresponding duty** on an “officer” to exercise due diligence to **ensure that the PCBU complies with that duty** or obligation. (2022 Chapman Tripp advice)

What else can the Officers be doing?  
What Continuous Improvement Opportunities are there? See final slide



<b>Scenarios for Persona 2 Tuatahi Tama</b>	<ul style="list-style-type: none"> <li>• TFF Field Delivery Specialist –Van Team</li> </ul> <p>Employee of TFF Works at TFF Managed Worksites (Office and Infrastructure) and at at Worksites Managed or controlled by other PCBUs <b>Under HSWA=TFF Worker</b></p>	
<b>Scenario 2A</b>	<p>Tama-Working at a worksite on Girvin Road Mount Manganui in road corridor (in and around cabinet) which is therefore/effectively a TFF Infrastructure Worksite Overlapping duties with Tauranga City Council Work includes Blowing Fibre and Splicing Fibre</p>	
<b>Scenario 2B</b>	<p>Tama-Working at a site on commercial premises (Existing original Multi Unit Medical Centre Girvan Rd) which is therefore a TFF Infrastructure Worksite and</p> <ul style="list-style-type: none"> <li>• worksite managed and controlled by another PCBU ie the Medical Centre Managers</li> </ul>	
<b>Scenario 2C</b>	<p>Tama working at Girvin Road Mount Manganui in road corridor (2A) and then has to access the construction site of Classic Builders (building extension of medical facility to build more medical consulting rooms) on Girvin Road</p> <ul style="list-style-type: none"> <li>• Works at TFF Managed Worksite, then</li> <li>• Classic Builders Managed worksite for part of the job</li> </ul>	

■ Total Control

Scenarios A, B and C TFF Tama-Summary	Scenario A	Scenario B	Scenario C
S37-Tuatahi Management and Control of Workplace	Yes	No	No
S34 - Consult other PCBUs	Yes	• Yes	Yes
S36 - Primary DoC	Yes	Yes	Yes
Influence and Control	Total Control	Substantial	Some
SFARP	Considerable	A lot	A lot - Not much

## Scale of Influence & Control – Comparing AJ, Tama, Jane, Henri and Valentino

<p><b>Nil</b></p> <p>E.g. Where Workplace managed by Developer and Civtec/Ventia doing TFF work</p>	<p><b>Negligible</b></p> <p>E.g. where Workplace is Managed and operated by Civtec Ventia</p>	<p><b>Some</b></p> <p>E.g. Where another PCBU actively manages Workplace eg Civtec/Ventia</p>	<p><b>Substantial</b></p> <p>E.g. Where at a TFF workplace and overlap with an absent PCBU e.g. Council</p>	<p><b>Total Control</b></p> <p>E.g. Where TFF in control and manages office</p>
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As Tuatahi's Influence and Control increases/decreases, the PCBU and Officer Duties increase/decrease relatively

Due Diligence Scale-moves up and down with Influence and control

Due diligence obligations



### Scale of Influence & Control – Through Due Diligence lens: Comparing AJ (Persona 6) to Tama

Nil	Negligible	Some	Substantial	Total Control
E.g. Where Workplace managed by Developer and Civtec/Ventia doing TFF work	E.g. where Workplace is Managed and operated by Civtec Ventia	E.g. Where another PCBU actively manages Workplace eg Civtec/Ventia	E.g. Where at a TFF workplace and overlap with an absent PCBU e.g. Council	E.g. Where TFF in control and manages office

As Tuatahi's Influence and Control decreases, the PCBU and Officer Duties decrease relatively

Due Diligence Scale-moves up and down with Influence and control



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## Step 9 - Identifying areas for further investigation or continuous improvement in relation to the safety of Tama

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## Improvement opportunities relevant to Tama at Work in Scenario 2A



### Controls and Treatments of risks

- Issue cotton long sleeve shirts to wear in vehicles moving between sites to minimize UV exposure hazards (when hi-viz not necessary)
- Hazard/Risk assessment tool available on mobile devices for pre start risk assessments
- Manager/Tama monthly joint site hazard/risk assessments



### Tuatahi Process and Procedures

- HSMS Documentation Refresh
- New LMS Module- Fire extinguisher use
- Informa Refresher on all Extreme Risk Hazards



### Training and Competencies

- Powerco Network Safety Induction competency and/or refresher
- Sitesafe construction training competency and/or refresher
- STMS and MEWP competency and/or refresher
- Working at Height Training competency and/or refresher
- First Aid competency and/or refresher



### PCBU Overlap activities

- Increase Contract Management Interactions between Tuatahi and Powerco Tauranga City Council TCC
- Consider adding a specific HSW Section to the minutes of the regular meetings with Powerco
- Encourage TCC to hold more regular forums with all road corridor users together

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## Project Outcomes:

1. A new Overlapping Duties Framework that is both conceptual and a tool
2. A 9 Step Process that is easy to apply and enables Executives and Boards to better understand what is expected in specific scenarios and if more is needed
3. Clarity and more certainty in an area that is causing angst across New Zealand
4. A process Tautahi can share to support better safety outcomes in New Zealand

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# Connect Better

