WORKPLACE RELATIONS MANAGEMENT PLAN

REVISION: C
PROJECT NAME: VARSITY LAKES TO TUGUN UPGRADE – CONSTRUCTION PACKAGE B – BURLEIGH TO PALM BEACH (P2PB)
CONTRACT NO. CN-11784

SMA INFRASTRUCTURE

VERSION HISTORY

Version No.	Prepared By	Approved By	Date	Notes
A	L. Krelle	P. Robson	30/06/2020	Tender Issue
B	D. Futcher		22/09/2020	ABCC Compliance Updates
C	B. Kennedy	G. Baines	21/10/2020	Update to section 7.4 and HSE-P-31 Drug and Alcohol Procedure

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ABBREVIATIONS AND DEFINITIONS

Act	Workplace Health and Safety Act 2011
ALARP	As low as reasonably practicable
AOD	Alcohol Or Drugs
AS/NZS	Australian Standards/New Zealand Standards
CFO	Chief Financial Officer
Client	Department of
D & A	Drug & Alcohol
EC	Emergency Controller
EW	Emergency Warden
FA	First Aid
HPI	High Potential Incident
HR	Human Resources
HSE	Health, Safety and Environment
HSEQ	Health, Safety, Environment and Quality
IMS	Integrated Management System
ISO	International Standards Organisation
JSA	Job Safety Assessment
MOP	Members of public
MUTCD	Manual of uniform traffic control devices
NCR	Non-conformance report
OFI	Opportunity For Improvement
OHS	Occupational Health & Safety
PC	Principal Contractor
PJO	Planned Job Observations
PM	Project Manager
PPE	Personal Protective Equipment
Project	Varsity Lakes to Tugun Upgrade – Construction Package B – Burleigh to Palm Beach (B2PB)
PTRA	Pre-Task Risk Assessment
RCD	Residual-current device
SCA	Safety Clarification Advice
SDS	Safety Data Sheet
SHRA	Safety Hazard & Risk Assessment
SMA INFRASTRUCTURE	Albem Operations Pty Ltd & McIlwain Civil Engineering Pty Ltd & SGQ Pty Ltd Joint Venture Pty Ltd
SWMS	Safe Work Method Statement
TMI	Traffic Management Implementation
UHF	Ultra-High-Frequency
VOC	Verification of Competency
WHS	Workplace Health and Safety
WHSMP	Work Health and Safety Management Plan
WHSR	Workplace Health and Safety Representative

1. PROJECT INFORMATION

1.1 Project Specific Details

Project Title	Varsity Lakes to Tugun Upgrade – Construction Package B Burleigh to Palm Beach (B2PB)
Contract Number	CN-11784
Principal	Department of Transport and Main Roads
Principal Contractor	Albem Operations Pty Ltd & McIlwain Civil Engineering Pty Ltd & SGQ Pty Ltd Joint Venture Pty Ltd
ABN	19 940 455 206
Contract Type	Construct Only
Date of Commencement	September 2020
Date of Completion	1050 days after the Date of Acceptance of Tender

1.2 Project Description

Transport and Main Roads (TMR) are undertaking an upgrade of the Pacific Motorway from Burleigh to Palm Beach.

1.3 Location of Works

The Varsity Lakes to Tugun Upgrade Construction Package B (Burleigh to Palm Beach (B2PB)) is located within the City of Gold Coast and extends from just south of the Burleigh Interchange (Exit 87) to just north of the Nineteenth Avenue Overpass. Approximate through Chainages are 68.942 to 72.167km (MC10010). Equivalent project chainage 68928.543 to 72141.590 (MC10010).

1.4 Scope of Works

The project works include upgrading the Pacific Motorway including:

- Widening the motorway from 4 to 6 lanes (plus auxiliary lanes) between Interchange 87 and Nineteenth Avenue
- Upgrade of Interchange 89 including new bridges and lengthening ramps
- Construction of 6 new bridges using either Super-T Girders or Deck Units
- Widening of 3 existing bridges
- Demolition of 3 existing bridges at Tsipura Drive
- New Western Service Road including bridge across Tallebudgera Creek
- Upgrade of Tsipura Drive
- Lowering of Tallebudgera Creek Road
- Public Utility Plant (PUP) protection, relocation and coordination
- Construction of new pavements and rubblisation of existing pavements
- Upgrade and installation of new drainage systems
- Amendments to road lighting
- Installation of Smart Motorway infrastructure
- Construction of noise mitigation measures (noise walls).

1.5 Key Project Dates

The key project dates will be confirmed upon contract award.

Contract Award	17th September 2020
Possession of Site	TBC
Demobilise	TBC

2. PART A – ADMINISTRATION

The responsibility of compliance to the Building Code 2016 falls on all employees and sub-contractors. The company, its executive team and the project managers have overall responsibility to ensure all areas of the business are actively complying with the requirements.

We will assign roles, responsibilities and systems controls to:

- Carry out the work defined in the contract in a timely and appropriate manner.
- Employ such individuals, competent to undertake the work and fit for work.
- Pre-qualify and manage engagement of any Sub Contractors, competent to undertake the work and manage industrial relations under this WRMP.
- Verifying the competence and suitability of employees to undertake the work and mandating a requirement for employees to participate in practical skills testing as appropriate.
- Comply with site mobilisation procedures and participate in ongoing audits relating to the details of this WRMP as so required by the Client.
- Comply with Client communication plans and reporting requirements.
- Maintain, and if appropriate, provide access to the Client for audit purposes, records kept for all personnel to be engaged on the project in accordance with National Privacy Principles referred to in the Privacy Act (1988) Cth.
- Access external industry advisors to provide industrial relations advice to the project if appropriate (see Industrial Relations Representatives Section 7.5).
- Manage labour within the terms of the WRMP, their contracts, the terms of any approved industrial instrument and/or the relevant industrial awards and all applicable labour laws.
- Comply with all statutory requirements including all relevant awards/or approved industrial instrument obligations.
- Ensure that all wages are correctly calculated in accordance with the terms of an approved industrial instrument and paid within the time periods specified by the instrument and/or relevant industrial awards.
- Initiate and maintain registration with a relevant Workers' Compensation Scheme.
- Ensure compliance with the rules and regulations of relevant superannuation and portable long service leave funds.
- Participate in Site Project Review and Issue Specific Meetings as called by the client.

2.1 WRMP Purpose and Application

The purpose of this Workplace Relations Management Plan (WRMP) is to outline the practices used by SMA Infrastructure for the execution of the Employee Relations Strategy for the proposed Varsity Lakes to Tugun Upgrade – Construction Package B – Burleigh to Palm Beach (B2PB) (the 'project') works.

This WRMP aims to:

- Provide an overview of functional industrial and employee relations management procedures to be implemented by SMA Infrastructure on this project.
- Detail accountabilities for the prompt and effective execution of these procedures.
- Promote consistent employee relations practices for the projects in accordance with the contract.
- Augment existing SMA Infrastructure employment practices and procedures, compensation, and industrial relations practice.
- The WRMP will be applicable to all levels of SMA Infrastructure's management. Employees, Sub contractors, and Sub-Tier Contractors engaged by SMA Infrastructure to work on any projects will also be required to comply with this WRMP.

2.2 Project Workplace Relations Objectives

The SMA Infrastructure workplace relations objectives are to develop and implement practices and procedures that are intended to:

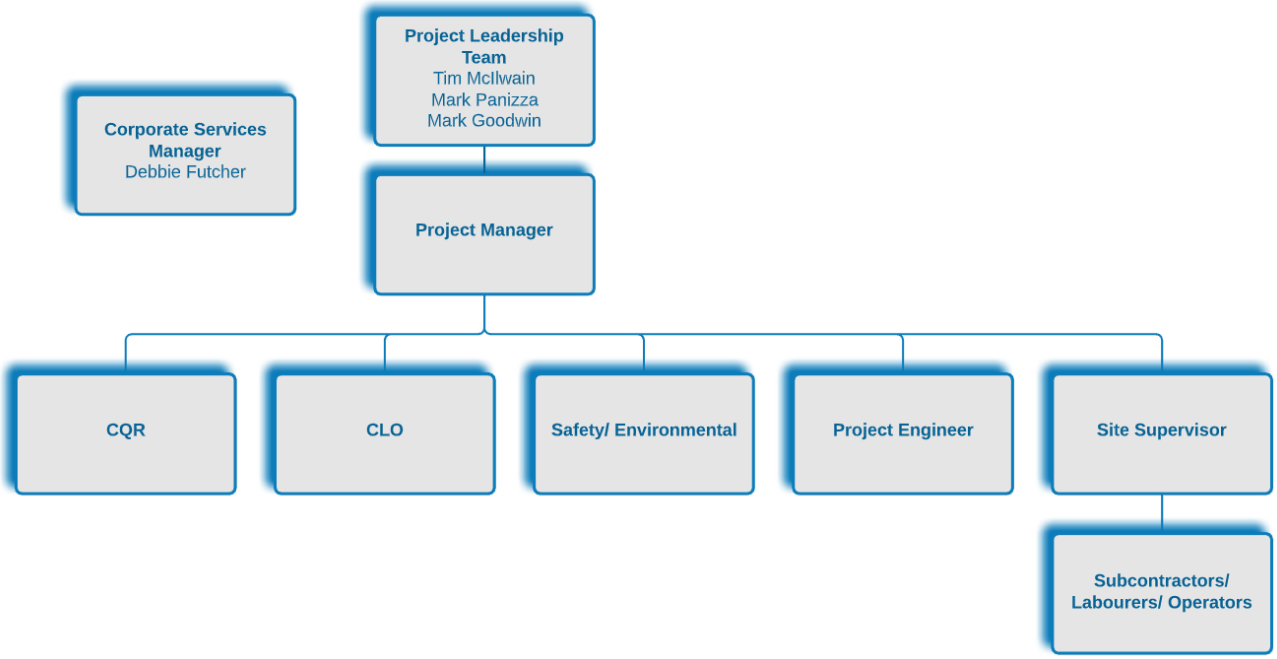
- Ensure that all works undertaken on the project are performed in accordance with relevant legislative requirements relating to employment and industrial law.
- Ensure that all personnel engaged by SMA Infrastructure and our Sub Contractors on the project are treated fairly and equitably.
- Ensure that all personnel engaged by SMA Infrastructure working on the project understand their rights, entitlements and responsibilities to the project.
- Remove any uncertainty in regard to any SMA Infrastructure industrial relations issues.
- To ensure that SMA Infrastructure respects and meets its community obligations in respect to employee relations and people matters.
- Verify that all enterprise agreements used by SMA Infrastructure contain procedures to ensure any dispute that may arise is able to be resolved quickly, efficiently and in a manner that does not set undesirable precedents for the Client, any other Subcontractors or future projects. These procedures are aimed at ensuring that no time is lost to the project due to industrial action.
- Create an environment where positive relationships are established and maintained with governmental agencies impacting upon the employment relationship.
- Ensure that the community is able to recognise that employees engaged to work on the project by SMA Infrastructure are treated fairly.

2.3 Key Performance Indicators/Targets

The following Key Performance Indicators relating to industrial relations are nominated for the project:

- Industrial relations contribute positively to the realisation of key construction targets and milestones in a timely manner, measured via the number of unresolved issues or complaints.
- No lost time or workplace limitations arising from industrial disputation and stoppages.
- The attraction and selection by SMA Infrastructure of Sub Contractors who have demonstrated that they have the suitable systems, appropriate experience, and the ability to work at the standard required by the Client.
- Strict adherence to the minimum standards in industrial instruments measured through non-conformances.

2.4 Project Organisational Structure



2.5 Roles and Responsibilities

The roles and responsibilities of each person defined in the ER/IR Organisation chart is defined below. Note these responsibilities are an indication of the responsibilities and not limited to that stipulated.

Position	Responsibilities
Project Manager	• Where applicable, chair site safety committee and ensure compliance across the site • Manage the construction works and the relevant section teams • Issuing of Subcontractor Agreements (PP-F-04) Subcontract Agreement - (Minor Works) or (PP-F-05) Subcontract Agreement - (Major Works) whichever is applicable • Ensuring subcontractors are compliant with the Building Code 2016 • Ensure any grievance management issues are handled in accordance with the procedure and reported to HR • Overall governance of the Project Management Plans including, but not limited to: Safety, Quality Assurance and Environmental • Overall responsibility for the efficient delivery of the project for all Stakeholders and user groups • Facilitate provision to the client requirements • Manage the construction through the Site Supervisor during the construction phases • Manage and monitor the project program and ensure the milestones are achieved • Provide advice and recommendations on subcontracts • Manage industrial relations issues that may arise • Overall financial control – cost, budgets, approval of invoices, etc. Stakeholder and user group outcomes • Overall responsibility of project adherence to the requirements of the Building Code 2016
Superintendent	• Proactively lead a targeting zero harm culture and support supervisors in compliance with WHSMP requirements

Position	Responsibilities
	• Supervise and coordinate all site personnel, plant and subcontract resources • Liaise with the engineering team in relation to plant, personnel and other resources required to complete the project – coordinating resources for optimal usage between • Liaise with the engineering team in relation to quality, budget, cost controls productivity, and programme objectives • Mediate all HR/ IR issues with employees (including grievance management) • Ensure performance management and disciplinary action of all direct reports is well managed in conjunction with HR • Ensure the quality and consistency of daily supervisory records • Ensure all documentation is complete accurately in coordination with the Site Engineer
Supervisors	• Responsible to the Project Manager for the day-to-day management of on-site construction activities • Manage site teams and daily construction activities on site • Manage resources and maintenance on-site to meet program milestones • Monitor the construction program and initiate remedial action where necessary • Provide advice on sub-trade packaging and package options • Monitor safety procedures and ensure compliance • Lead and Manage direct employees • Communicate requirements of the Building Code 2016 to work crews including contractors and subcontractors • Ensure relevant issues are communicated to the PM & HR
Project Engineer	• Implement and actively manage safety, promote a target zero harm culture and ensure compliance with the WHSMP including participation in pre-starts & toolboxes • Monitor & deliver labour productivity • Initiate subcontractor / service provider approval process • Ensure all conditions of (PP-F-01) Supplier & Subcontractor Prequalification Questionnaire have been met including compliance with the Building Code 2016 • Review and update construction programs in consultation with the delivery team • Manage RFI's, variations and communications in consultation with Project Manager • Establish and communicate targets for productivity and monitor progress vs. target • Ensure regular interface between site and engineering teams • Assist Project Manager in collation of information and preparation of reports for project performance and routine reporting

Position	Responsibilities
	• Ensure all appropriate documentation and their revisions are issued to the delivery team • Prepare scope for external resources • Ensure quality control processes are implemented, managed and maintained • Escalate to Project Manager any issues that may potentially have an adverse effect on the delivery of project and /or community impact • Communicate with the supervisor regarding all quality constraint/ hold points and ensure the completion of all QA documentation • Coordinate accurate completion of all site documentation by Site Supervisor
Site Engineer / CQR	• Implement and monitor all WHSMP requirements including participation in pre-starts & toolboxes • Ensure quality control processes are implemented, managed and maintained • Maintain all registers (RFI, EOT, Lot, NCR, R&O, correspondence etc) • Maintain project management tools including Expert Project, Civil Pro and productivities • Escalate to Project Manager/ SPE / Project Engineer any issues that may potentially have an adverse effect on the delivery of project and /or community impact • Coordinate accurate completion of all site documentation by Site Supervisor • Conduct project audits • Super user for Civilpro • Project set up in Civilpro • Provide training and support for SMA Infrastructure Quality systems and Civilpro • Ensure continuous alignment of SMA Infrastructure systems to the ISO9001:2015 and project specifications • Solve QA issue • Driving a continuous QA improvement
Safety Advisor	• Manage the effective application of all safety related documentation • Provide training to all SMA Infrastructure staff on best safety practices • Mentor and support Safety Advisors • Coordinate and participate in regular reviews and audits • Drive a safety culture throughout sites • Drive continuous improvement of the SMA Infrastructure safety procedures
Environmental Advisor	• Provide environmental advice and assistance • Development and implement Environmental Management Plans, Sediment and Erosion Control Plans and other environmental documentation as required • Development and delivery of environmental training and inductions • Conducting onsite inspections and audits • Support the preparation of Environmental Control Plans • Preparation of environment related approval applications

Position		Responsibilities
		• Preparation of environmental reports
Contracts Administrator /Site Engineer		• Procurement of subcontractors, suppliers, plant and equipment and other resources • Manage and report on budget, cost and revenue targets • Establish and manage site files, records and documents • Manage and maintain data flow between all stakeholders • Manage and process subcontract claims including assessment and agreement of claims • Prepare, manage and maintain subcontractor agreements and terms of agreement • Manage and process payment of project accounts.
Corporate Services Manager (HR) – SMA Infrastructure		• Ensure Management and Supervision have a working knowledge of legal and other requirements applicable to SMA Infrastructure responsibilities for the Work Scope of this project and location • Ensure procedures are in place for Grievance management and overall responsibility for collating any employee and sub-contractor issues • Ensure recruitment facilities are properly resourced and operating in accordance with applicable SMA Infrastructure and Client procedures • Completing systems and practice audits of the Project HR/IR procedures • Provide advice and support to the Project Manager and Site Supervisor • Authorise variations and amendments to the WRMP if and when required
Name	Debbie Futcher	
Email	debbie.futcher@mcilwain.com	
Telephone Number	07 3348 8199	
Mobile Phone	0402 095 859	

3. PART B – WORKPLACE RELATIONS RISK AND PAST EXPERIENCE

Prior to mobilisation to site, we will review and identify all possible risks and hazards that may occur through the construction phase and define the appropriate control measures to reduce and isolate these during the works onsite. This process will include:

- The development of a Site Personnel Competency Analysis which ensures that personnel nominated for the project have the adequate skills and qualifications required for their position. It will also detail possible gaps in the site requirements and ensure early notification to fill these gaps through upskilling or recruitment
- A project commencement checklist (Appendix B) will be completed to identify adequate requirements for site office requirements including technology set-up, ablution and crib facilities
- A Site Establishment Plan that will include:
  - Site access and egress to site
  - Location of Site Compound including office, ablution and crib facilities
  - Site Security
  - Location of car parking for staff and visitors
  - Modifications required to existing site for access
  - Hoardings, temporary fencing and signage requirements
  - Sediment and environment controls across the site
  - Services requirements and connections; and
- Safety controls will be set in place and communicated to all stakeholders, where applicable.

Risk	Description Tools	Indication of IR Issue	Severity of Risk	Action Mitigation Plan
Industrial instruments that insulate the Project from Protected Action.	McIlwain Enterprise Agreement 2016 SGQ Group Enterprise Agreement 2018 Albem Operations Pty Ltd – General Enterprise Agreement 2016	Expiry date of the McIlwain Enterprise Agreement and Albem Operations General Enterprise Agreement is September 2020.	Minimal Current agreements will remain in place until the revised agreements are finalised	Development of revised agreements is already underway.
Recruiting and retaining a suitable workforce.	Recruitment and development processes.	SMA Infrastructure is unable to staff project to sufficiently carry out works. Undue pressure is put on minimal crew, which could result in resignations or excessive leave.	Minimal SMA Infrastructure do not employ for project needs. When we employ, it is with the intention that the employee will remain with either SMA Infrastructure and be deployed to projects as and when needed. This has resulted in a large, reliable and flexible work force. In addition to permanent staff we have multiple casual employees who can also be deployed to site as needed. SMA Infrastructure also have a large database of candidates that have approached the business looking for opportunities who can be contacted should the need arise.	Please see section 9 of the WRMP plan.
Breach of Industrial instruments, the Code and IR Legislation.	Examples include: Fair Work Act Industrial Instrument used by SMA Infrastructure Building Industry Code 2016	Examples include: Adverse action Unfair dismissal Mismanaged terminations, redundancies or performance issues.	Minimal SMA Infrastructure operate within the required guidelines of all applicable industrial instruments.	SMA Infrastructure utilises the services of Drayton's Workplace Consulting and Cooper, Grace Ward for external IR support and clarification as and when needed.

Conflict resolution / lost time through Industrial Action.	Protected Industrial Action.	Strike - Collective withdrawal of labour by employees.	Minimal We will remain diligent to resolve any IR issues before they escalate to Fair Work Commission for a protected action ballot by continuing to practice open communication to all site personal and retaining easy accessibility for site staff to escalate concerns through Supervisors, Superintendents, PMs and HR representatives.	Should protected industrial action occur, we have a large pool of alternative site personnel that can be deployed to site with minimal notice.
Right of Entry disruptions.	Organisation official permit holder enters premises to hold discussions with one or more employees.	On site union meetings, resulting in disruption to work and possible escalation of IR issues.	Minimal A permit holder must provide an entry notice to the occupier at least 24 hours before entering premises to hold discussions and must only enter premises during working hours and hold discussions only during mealtimes or other breaks.	We will provide training to Site Supervisors and Superintendents with regards to the right of entry process, to ensure correct management and minimal disruptions.
Security, mobilisation and induction procedures.	Site staff are adequately inducted and informed on site security and mobilisation procedures.	Inadequate inductions could result in safety incidents occurring due to staff not understanding the required processes.	Minimal SMA Infrastructure have a very structured and mandatory approach to inductions. All site staff are also provided with a Project Appointment Letter which outlines their mobilisation conditions.	All site staff participate in the mandatory online site inductions before they can deploy to site. Once at site staff participate in an on-site induction with the Safety Advisor that covers all site procedures (including security and mobilisation).
Workforce alignment	SMA Infrastructure and Subcontractor workforces are working together to achieve business goals.	Work force is not working towards common goals, becomes non-cohesive resulting in misalignment and a fractured culture (which results low workforce	Minimal SMA Infrastructure will communicate its business changes and developments at site level. SMA Infrastructure will also practice open	Daily toolboxes will continue to be held that include overview of both project and business milestones and achievements.

		satisfaction and an increased risk of IR issues).	communication and easily accessible support for site staff and subcontractors.	Regular site visits from Senior Management to provide information and updates on business changes and values will be undertaken. Regular HR presence to allow escalation of queries or issues at site level.

3.1 Track Record on Time and Budget

Project	Principal	Value	Contract Completion	Actual Completion	Time VS Budget	Referee
D'Aguilar Hwy Safety Improvements and Rehabilitation	TMR	$7.4m	30 Aug 2016	13 Aug 2016	Project completed before time and on budget	Rowdy Goudens TMR Superintendent 0417 756 593
Moggill Road Cycle Bridge	TMR	$5.8m	11 Jan 2016	27 Nov 2015	Project completed before time and on budget	Bernard Tham TMR Superintendent (07) 3137 8924
Ashmore Intersection Upgrade	TMR	$9.5m	1 Oct 2016	27 Jul 2016	Project completed before time and on budget	Greg Bostock TMR Superintendent's Representative (07) 5563 6639

3.2 Efficient and Productive Work Practices

As demonstrated by the efficient delivery of the above projects, McIlwain, SGQ and Albem have strong track records of adopting efficient and productive work practices. We have included actual examples of labour productivities from a past project (please refer to APPENDIX A). Further examples are available on request.

SMA Infrastructure will manage productivities and performance through a master program with daily work goals to achieve milestones and the critical path of the projects we undertake. Daily work goals are set at the commencement of each shift. A progress meeting is held with work crew supervisors including subcontractor managers/supervisors to review the days agreed targets and productivities. If the planned work is not complete a review of the issues is undertaken, and additional support/resources allocated as required.

SMA Infrastructure's proactive approach to workplace relationship management has meant that, to date, the company has not had any workplace relations management issues that have caused or been a factor in cost escalation or delay to a project.

4. PART C – INDUCTION

All nominated employees engaged to work on the project by the SMA Infrastructure and their Sub-Contractors will be required to satisfactorily complete all necessary industry inductions, and a site-specific induction prior to being accepted to enter the site.

SMA Infrastructure and Sub Contractor employees will undertake the SMA Infrastructure inductions which may include (depending on the specifics of the role).

In addition to these inductions, pre-mobilisation workshops will be undertaken with the entire crew on the day before first rosters commence. These workshops outline and remind all employees of expected behaviours, attitudes and employment rules so everyone receives a consistent message.

The inductions facilitated by SMA Infrastructure will include, but are not limited to:

- SMA Infrastructure overview
- Project overview
- Requirements of the Building Code 2016 such as:
  - Compliance with laws, decisions, directions and orders
  - Unregistered written agreement and other agreements
  - Contents of agreements and prohibited conduct, arrangements and practices
  - Sham contracting
  - Collusive practices
  - Security of payment
  - Disputed payments
  - Engagement of non-citizens or non-residents
  - Above-entitlement payments and related matters
  - Freedom of association
  - Entry to premises where building work is performed
  - Dispute settlement
  - Industrial impacts
  - Fitness for work – alcohol and other drugs
    - Requirements of the Implementation Guideline to the Queensland Code of Practice for Procurement: Building and Construction July 2013
    - Industrial relations rights and obligations
    - Site specific industrial relations issues
    - Project HSEQ policies and procedures
    - Preservation of cultural heritage sites and cultural recognition
    - Drugs, alcohol and smoking
    - Project discrimination and harassment policies and procedures
    - Security and access
    - Absence due to sickness/injury
    - Transportation rules and vehicle access
    - Clothing including PPE
    - Use of information technologies and social media; and
    - Site accommodation and catering procedures (as/where relevant).

The site induction outlining the above items will also advise all site personnel of any relevant and associated documentation including but not limited to industrial relations fact sheets, this WRMP and evacuation/ emergency response diagrams.

SMA Infrastructure will ensure that no officials, delegates or other representatives of building associations do not undertake or administer induction processes, including secondary inductions.

5. PART D - COMMUNICATION

SMA Infrastructure will communicate the requirements of the Building Code 2016 to all contractors and building industry participants on site. This will be done via education and training to employees and subcontractors during on-site meetings, subcontractor compliance meetings and during the onboarding / site induction process that applies to every person who attends a SMA Infrastructure site.

SMA Infrastructure will communicate the relevant requirements of the Building Code 2016 to staff and subcontractors at the pre-start meetings which are run by the Supervisor/Foreman/Leading Hands prior to the commencement of each shift and as required during the course of a shift where personnel are transferred to a new task or location. Particular attention will be the promotion of a fair, lawful, efficient and productive workplace and the delivery of the project on time and within budget.

All employees are required to present ready and fit for work on a daily basis. Any concerned of a person's fitness for work will be addresses at pre-start meetings. All SMA Infrastructure employees, contractors and subcontractors will be subject to random drug testing, the frequency of which will be agreed upon by management and communicated to all staff, contractors and subcontractors at the commencement of the

project. Higher risk activities, voluntary testing and for-cause, where there is reason to believe someone is affected, will attract targeted testing.

Records of pre-start meetings are documented on the *(WHS-F-02) Prestart Meeting*. These records will be retained as per *(QM-P-01) Controlling Documents, Plans & Data* procedure and for audit purposes.

Toolbox meetings are held weekly and are attended by all members of SMA Infrastructure's work group including SMA Infrastructure's Project Management, Supervisors and subcontractor's personnel. These meeting provide an overall review of the project and are an opportunity for management to formally brief individuals and work crews on their adherence to the requirements of the Building Code 2016.

Minutes of toolbox meetings are recorded on the company standard toolbox meeting form *(WHS-F-22) Toolbox Meeting*. All employees attending these meetings are required to sign a meeting attendance sheet. These records are retained as per *(QM-P-01) Controlling Documents, Plans & Data* procedure and for audit purposes.

SMA Infrastructure convenes bi-annual System Committee Meetings to discuss the performance of the company systems including the requirements of the Building Code 2016

6. PART E – SUBCONTRACTOR MANAGEMENT

6.1 Subcontractor Selection

When calling for expressions of interest or tenders (however described) and when entering into agreements with subcontractors*, we will use Model Clause Type B available from the ABCC website at:

https://www.abcc.gov.au/sites/g/files/net2406/f/model_clauses_type_b_for_contractors_and_subcontractors.docx.

SMA Infrastructure will require subcontractors* to provide a Declaration of Compliance, including mandatory Attachment A, at the time they express interest in, quote or tender for the project [the Declaration of Compliance is found in Model Clause Type B].

SMA Infrastructure will request a copy of the relevant Self-Declaration or Letter of Compliance from subcontractors at the time they express interest in, quote or tender for the project [and check the ABCC eligibility to tender webpage to determine whether a Self-Declaration or Letter of Compliance is required].

SMA Infrastructure will check the ABCC website for notifications of sanctions and not enter into an agreement with a subcontractor that is subject to a sanction under the Code, or excluded by a State or Territory government unless approval to do so is provided by the ABC Commissioner.

Before entering into a subcontract with subcontractors, we will provide all subcontractors with a copy of this WRMP and advise subcontractors of the requirement to comply with this WRMP.

SMA Infrastructure will require subcontractors to:

- report any discrimination, coercion, undue influence, or undue pressure to us and to the ABCC
- provide monthly statutory declarations which demonstrate they are meeting their Code obligations, including wages and entitlements and applicable laws and other requirements in relation to the security of payments, and report to the ABCC any allegations of non-compliance
- notify when they have subcontracted out a part of their works, including providing details of the lower tier subcontractor to us and evidence of their eligibility to tender and compliance with the Code
- We will ensure, as far as reasonably practicable, that subcontractors we engage rectify non-compliant behaviour
- We will not discriminate against, coerce, unduly influence or unduly pressure subcontractors to make above-entitlements payments or to contribute to a particular fund or scheme, or support a particular product, service or arrangement.

Further processes adopted by SMA Infrastructure to select qualified and credible suppliers that comply with the Building Code 2016, include:

- Contractor's experience
- References
- Analysis of current and future works pipeline
- Contractor's capacity to undertake these works
- Contractor's management capability

- Compliance with the Building Code 2016
- Evidence of processes for managing industrial relations in regard to its workforce
- Contractor's management availability for our project
- Scrutiny of contractor resources
- Evidence of capability

6.2 Subcontractor Management

The management of sub-contractors in ensuring they are managing their work, their workforce and industrial relations in full compliance with the Queensland Code of Practice for Procurement, the Implementation guidelines to the Queensland Code of Practice for Procurement: Building and Construction, the Code for the Tendering and Performance of Building Work 2016 and this WRMP is a key duty of SMA Infrastructure.

Initially, all sub-contractors will be required to complete a Compliance Schedule with their final tender submission to SMA Infrastructure. No subcontract will be let unless the Compliance Schedule is signed and submitted.

Also included in the final documentation provided to the sub-contractors for pricing their scope of works will be an electronic copy of this WRMP. It will be strict a requirement that each subcontractor will provide in their final tender submission the processes and procedures it will undertake in managing the industrial relations issues associated with its workforce. Such issues may include, but are not limited to:

- Risk assessment in regard to potential industrial relations issues with the project
- Identification of a person within the company responsible for Industrial Relations
- Any industrial instruments their employees are engaged under for their workplace
- Their understanding of right of entry policies and procedures, Freedom of Association and Grievance Management procedures
- Commitment from the subcontractor to adhere to the above policies and procedures relevant to the project including commitment to stopping unprotected industrial action and recovering any costs associated with such action from relevant parties
- SMA Infrastructure will ensure that subcontractors are not discriminated against, or coerced, unduly influenced or unduly pressured to make above-entitlement payments or to contribute to a particular fund or scheme, or support a particular product, service or arrangement. Subcontractor will be encouraged to report any breaches perceived or otherwise.
- Their commitment and processes to remain compliant with relevant legislation and aforementioned codes
- Induction and mobilisation (over and above that is undertaken by SMA Infrastructure in the site induction)
- How labour productivity of their employees will be measured; and
- Confirmation of proposed subcontractor site accommodation (that is not provided by SMA Infrastructure).

This documentation will be reviewed by the Project Manager and if it fails to adequately address how they will manage workplace relations then they will be requested to revise the documentation to achieve compliance. No subcontract will be awarded unless the subcontractor meets the eligibility requirements of Section 23 of the Building Code 2016, including that they are not covered by an enterprise agreement that does not meet the requirements of Section 11 of the Building Code 2016.

Throughout the project Subcontractors performance will be monitored to ensure that they act consistently with the Building Code 2016. Any subcontractor or employee of that subcontractor will be encouraged to report any perceived or actual breaches of the

compliance with the statutory workplace rights on the project, including compliance with Commonwealth industrial instruments and any instances of underpayment (and similar).

The Project Manager will be responsible for managing the subcontractor industrial relations on the project and ensuring they undertake their duties in full compliance with their subcontract documentation and this WRMP. Subcontractor representatives will be requested to report any grievances, disputes, threatened or actual industrial action relating to workplace relations or WHS matters that may impact on the project costs, related contracts or timelines to the Project Manager within a 24-hour period. The subcontractors must provide regular updates to the Project Manager about the steps being taken to resolve such grievances, disputes, threatened or actual industrial dispute.

6.3 Subcontractor Performance

Subcontractors are required to provide a program of work and sign a contract with agreed start and completion dates for the required works. We have clauses which are written into all contracts to encourage subcontractors to achieve the agreed program and productivities for the work.

Daily work goals are set at the commencement of each shift. A progress meeting is held between the SMA Infrastructure project team and subcontractor managers/supervisors to review the days agreed targets and productivities. If the agreed work is not completely a review of the issues is undertaken and additional support/resources allocated as required.

In addition to the daily meetings, we have weekly construction meetings with key subcontractors to discuss current site issues and planning for future works

The complete process for the prequalification, selection and performance management of subcontractors is detailed in the Subcontractor Management Plan.

7. PART F – CONDITIONS OF EMPLOYMENT

We will take all necessary steps to ensure that works undertaken on the project by the SMA Infrastructure are appropriately regulated by the McIlwain Enterprise Agreement 2016, the SGQ Group Enterprise Agreement 2018 and the Albem Operations Pty Ltd – General Enterprise Agreement 2016, providing fair and market competitive terms and conditions of employment and are compliant with the Guidelines, specifically matters relating to the management of industrial relations matters.

Each JV entity will conduct regular payroll audits in respect of our workforce to ensure underpayments and similar do not occur. Where underpayments of our employees' wages and entitlements are identified, we will rectify the underpayment and report this to the ABCC in accordance with our obligations under section 17 of the Code.

SMA Infrastructure will investigate complaints of underpayment or non-payment of entitlements in respect of our workforce, take steps to rectify non-compliance and report any actual or suspected non-compliance that has been identified to the ABCC in accordance with our obligations under section 17 of the Code.

SMA Infrastructure will report complaints of underpayment or non-payment of entitlements in respect of employees of subcontractors to the ABCC in accordance with our obligations under section 17 of the Code.

7.1 Industrial Instruments & Legislation

The industrial agreement that covers employees engaged by McIlwain for the project is the McIlwain Enterprise Agreement 2016. The industrial agreement that covers employees engaged by SGQ for the project is the SGQ Group Enterprise Agreement 2018. The industrial agreement that covers employees engaged by Albem for the project is the Albem Operations Pty Ltd – General Enterprise Agreement 2016. These agreements provide the base or minimum conditions of employment under the SMA JV.

The individual Enterprise Agreements were successfully negotiated with the employees and approved by the Fair Work Commission. The Enterprise Agreements are agreements made solely with the employees of McIlwain, Albem and SGQ with no union or employee association parties involved during the bargaining or approval.

Any salaried employees engaged directly by SMA JV on this project will be employed under an individually negotiated common law contract outlining the terms and conditions of their employment. All contracts provide for employment terms in accordance with all relevant legislation including the Fair Work Act 2009 and other such legislation as it may apply.

7.2 Dispute Resolution Procedure

The SMAJV parties observe the following Industrial Dispute Resolution procedure in respect to disputes relating to the operation of the associated Agreements and the application of National Employment Standards.

The employer or the employee may appoint a representative at any of the steps in the dispute process.

- The employee concerned will first meet and confer with their immediate supervisor.
- If the matter is not resolved at such meeting the parties will arrange further discussions involving more senior management as appropriate.

- If the matter remains unresolved, the Employer or employee may refer it to more senior level of management for consideration
- In the event of the matter remaining unresolved, either party may refer the matter to the Fair Work Commission for conciliation
- Where conciliation of the matter is unsuccessful, either party may refer the matter to the Fair Work Commission for arbitration.

Except in situations where there is a perceived immediate and significant threat to the employee health and safety, work will continue and consideration of the needs of the business will remain a priority.

7.3 Right of Entry

We acknowledge the rights of union officials with appropriate permits to access a workplace in certain circumstances under the *Fair Work Act 2009*.

Right of Entry is managed in accordance with the procedure outlined in Clause 14.3 of this WRMP, as per the terms of Part 3-4 of the *Fair Work Act 2009 (Cth)*. SMA Infrastructure will not, at any time, relax the right of entry provisions for officials of unions or other relevant organisations and will not enforce any industrial instrument, policy or workplace procedure allowing the same. Union officials or delegates will not be permitted to access any workplace for the purpose of holding discussions or employee/ employer records unless done so in accordance with this legislation and the SMA Infrastructure procedure.

SMA Infrastructure personnel will receive regular training on the Right of Entry procedure and rights and obligations of all parties. McIlwain's HR Manager is also allocated to the project and is available to the site team for advice and support should it be required.

7.4 Managing Lawful and Unlawful Industrial Action

SMA Infrastructure will work closely with its workforce and subcontractors' workforces to manage the potential for occurrence of industrial action, whether lawful or unlawful.

Any threatened or action industrial action will be reported to the ABCC (or nominee) and the Client within 24 hours of the threatened or actual industrial action. SMA Infrastructure will continue to provide regular updates to the ABCC and the Client about actions being taken to prevent or resolve any likely or actual industrial dispute.

In the event of unprotected industrial action, SMA Infrastructure will take all reasonable measures to prevent or end such action occurring on or affecting the project, including the engagement of legal counsel on its behalf. We maintain professional relationships with industry IR specialists and the Civil Contractors Federation and will call on these groups for assistance where necessary.

7.5 Company Industrial Relations Contact Details

The following personnel will hold responsibility on behalf of SMA Infrastructure for industrial relations matters and execution of this WRMP:

Name	Debbie Futcher
Position	Human Resources Manager
Address	1283 Lytton Road, Hemmant QLD 4174 (PO Box 47, Morningside QLD 4170)
Telephone	07 3348 8199
Mobile	0402 095 859
Email	debbie.futcher@mcilwain.com

Name	Tim McIlwain
Position	General Manager - McIlwain Civil Engineering Pty Ltd
Address	1283 Lytton Road, Hemmant QLD 4174 (PO Box 47, Morningside QLD 4170)
Telephone	07 3348 8199

Mobile	0402 452 112
Email	tim.mcilwain@mcilwain.com

Name	Mark Panizza
Position	Director – Albem Operations Pty Ltd
Address	Level 34/123 Eagle Street, Brisbane QLD 4000 (GPO Box 3104, Brisbane QLD 4001)
Telephone	07 3229 6377
Mobile	0408 772 502
Email	markpanizza@albem.com.au

Name	Mark Goodwin
Position	Managing Director – SGQ Pty Ltd
Address	3/12 Technology Drive, Warana QLD 4575 (PO Box 1491, Hervey Bay QLD 4655)
Telephone	07 5493 2233
Mobile	0407 034 832
Email	Mark@sgq.net.au

Company	Drayton's Workplace Consulting
Address	201 Wickham Terrace, Spring Hill QLD 4000
Telephone	07 3831 7099
Company	Cooper Grace Ward Lawyers
Address	21/400 George Street, Brisbane QLD 4000
Telephone	07 3231 2444

7.6 Equal Employment Opportunity, Discrimination and Training

SMA Infrastructure will endeavour to provide a positive and friendly work environment, free from harassment and discrimination in any form.

SMA Infrastructure is not currently required to be registered with the Workplace Gender Equality Agency and do not submit yearly reports to the agency. The company does not employ 100 or more employees' and therefore has not met the threshold required to comply with registering and reporting to the Workplace Gender Equality Agency.

SMA Infrastructure practices a philosophy of equal employment opportunity for all employees without regard to their race, colour, religion, sex, sexual orientation, age, national origin, ancestry, handicap and marital status. SMA Infrastructure has the appropriate policies and representatives in place to monitor and verify that this approach is carried out and will require Sub-Contractors to follow these standards.

Opportunities for training, transfer, promotion and recruitment will always be based on merit.

7.7 Bullying and Harassment

We will endeavour to provide a work environment that is free from bullying and harassment in any form. SMA Infrastructure has the appropriate policy and representatives in place to implement this approach. This policy will be adhered to by Subcontractors on site.

8. PART G – LABOUR PRODUCTIVITY

8.1 Mobilisation and Accommodation

8.1.1 Travel

SMA Infrastructure will adhere to its industrial agreement and project specific rules for the purposes of travel to and from the project camp and site. SMA Infrastructure will either fly, bus or carpool employees and subcontractor employees from a mobilisation point as required.

Generally, each employee will be paid for travel time home from the job at the end of roster, and will be expected to be back at site/camp in readiness for the commencement of the first shift of the next roster.

8.1.2 Accommodation

If required SMA Infrastructure will supply all employees and sub-contractor employees with appropriate and suitable accommodation.

8.1.3 Roster And Allowances

On award of the project, SMA Infrastructure will work closely with the project representatives to demonstration the ability to achieve the objectives of the Queensland Code of Practice for Procurement: Building and Construction in relation to:

- Restrictions on when work can be performed, such as mandated or fixed rostered days off and one-in-all-in arrangements
- Potential for unexpected costs or increased costs during the life of the project, such as site allowances which are not quantifiable at the time of contracting
- The adoption of terms and conditions common to a project or industry and which are not specific to, or reflect, the needs of the enterprise; and
- Impositions or restrictions on the engagement or utilisation of labour.

8.2 Inclement Weather

Inclement weather is dealt with by the aforementioned industrial instrument. Unless surpassed by project specific rules, the agreement provides for inclement weather entitlements for employees.

In the event of inclement weather, work will continue in each work area until it can no longer be done safely and efficiently by employees in that work area.

During inclement weather, employees will continue to perform useful work which is safe to carry out and is within the employees' skill, training and competence. Alternatively, training is available to provide where the flexibility exists to do so.

In cases of inclement weather, the site management team will liaise with the Project Manager and Supervisor / Superintendent to determine the best course of action. Usual practice is for employees to stay onsite at the ready for up to four hours. If the rain event is so significant or exceeds four hours or the Supervisor / Superintendent closes the site, employees then return to accommodation but must stay at the ready. A further determination is made to decide on additional action such as abandonment of roster or evacuation from accommodation.

8.3 Heat Stress

SMA Infrastructure ensures proactive preventative measures to avoid heat stress. Heat stress is caused by direct exposure to the sun and high humidity with excessive sweating, loss of salt and fluids. If untreated, heat stress may lead to heat stroke, where the core body temperature rises to a dangerous level. Heat stroke is a serious medical condition and requires immediate medical attention.

During hot weather SMA Infrastructure will ensure adequate breaks and the provision of fresh drinking water for all work crews in line with *(HSE-P-25) Fatigue Management Procedure*.

Managing the risk of heat stress is essential to the success of the project.

- Work crews are encouraged to take plenty of fluids before work begins
- At each break consume enough water to replace lost fluids
- Where possible plan any difficult, hot or confined work activities to earlier parts of the day
- Ensure plant air-con is in good working condition and keep door closed
- Where possible erect temporary shade structures over worksite.

All staff are trained in the awareness of the symptoms of heat stress, such as.

- Excessive sweating / moist cool skin
- Heat rash or 'prickly heat'
- Headache / irritability
- Nausea / vomiting
- Tired / dizzy

- Muscle cramps
- Rapid pulse

First aid

- Help move person out of the hot environment and into recovery position
- Rest and cool down in the shade or cool place
- Satisfy thirst with water only
- Start with small drinks of water only – to much water to quickly may lead to vomiting
- Apply ice packs to cramped muscles
- Slowly reintroduce person back to outside temperature once recovered
- If the persons condition worsens, call an ambulance immediately

8.4 Rostered Days Off

The daily ordinary hours of work shall be 8 hours, with 0.4 hours accruing towards a scheduled/designated Rostered Day Off (RDO) in each four-week cycle.

The taking of RDOs will be subject to agreement between the individual employee and the employer. Employees may elect to receive payment in lieu of accrued RDOs during the annual shutdown of each year provided that a minimum balance of 3 days is maintained. The payment in lieu will be for that period of time at the ordinary time rate.

Any banked RDOs not taken at the employee's termination or completion of assignment on the project will be paid out at ordinary time.

8.5 Performance Management

SMA Infrastructure Supervisors have the responsibility to manage the performance, behaviour and conduct of their employees. Poor performance, inappropriate behaviour or serious misconduct must be addressed as soon as the issue is identified.

SMA Infrastructure expects all employees and Sub-Contractors to:

- Comply with all McIlwain and client policies and procedures including Fitness for Work (as outlined in section 9.4)
- Treat other people with respect and dignity and in a way that they themselves would want to be treated
- Treat all property with appropriate care, as if it were their own; and,
- Perform work to the standard as directed.

For matters involving poor performance, inappropriate behaviour or serious misconduct, disciplinary procedures and actions will be consistent with the principles of procedural fairness. SMA Infrastructure have a Human Resource procedure which includes performance management and can be found at APPENDIX F, which ensures the principles of procedural fairness are applied when managing situations of performance management.

The Project Manager will be ultimately responsible for the management of unsatisfactory performance on the project in coordination with a representative from the HR team.

8.5.1 Advice And Investigation

When an allegation of poor performance, inappropriate behaviour or serious misconduct is made against an employee, SMA Infrastructure will advise the employee of the allegation, allow the employee to respond and then conduct a thorough investigation into the allegation.

Where the performance/behaviour/misconduct is more complicated, we will:

- Subject to the industrial instruments, may stand down an employee from duties during the course of the investigation into poor performance, inappropriate behaviour or serious misconduct
- Advise the employee of the results of the investigation and allow the employee to comment and/or respond to those results
- Consider any comment or response by the employee; and,
- Determine an appropriate outcome.

8.5.2 Outcomes/Remedies Available

The available disciplinary outcomes/ remedies include the following:

- Verbal warnings
- Written warnings
- Removal from the project; and
- Termination of employment.

We will determine the appropriate disciplinary action after objective evaluation of the results of the investigation and any other facts and circumstances considered to be relevant and in line with the Performance Management procedure.

Some of the factors that may be examined when determining appropriate outcomes include but are not limited to:

- The seriousness of the conduct
- Repetition or duration of the conduct
- Prior conduct and/or disciplinary action
- Previous responses to disciplinary action; and/or
- Any mitigating circumstances.

8.5.3 Removal from Site for Serious Misconduct

SMA Infrastructure may, at any time, withdraw approval for any employee to be on site in cases of serious misconduct.

8.6 Preparedness to Work

Employees will perform all work and follow all instructions that the SMA Infrastructure reasonably requires them to do, provided that they are within the limits of the employee's skills, competence, training and statutory requirements.

8.7 Personal Protective Equipment (PPE)

Company employees engaged to work on the project will be issued with appropriate PPE by SMA Infrastructure. Failure to wear issued PPE will be dealt with in accordance with performance management procedures contained in this plan.

8.8 Measurement of Productivity and Performance

Productivity on the project will be reported on monthly. The report will analyse hours worked by the SMA Infrastructure employees and all subcontract employees against progress claims for the month.

A formula will be created that summarises total turnover per month per employee. The monthly turnover is adjusted for supply only items.

The formula gives a baseline indicator on the productivity of the site labour and ability to compare month by month and with other projects.

In regard to labour performance, we will collect data on lost time due to any reason including IR issues such as union right and entry issues, illegal union disruption and safety incidents. It is noteworthy at this point to mention that we have lost no time on previous projects due to IR issues, righto of entry or illegal or legal IR action.

A detailed review of performance metrics and productivity will be conducted on a monthly basis during scheduled project reviews by SMA Infrastructure Project Manager and actions for improvement or rectification outlined at this point. Any areas for improvement or rectification identified during this forum will be advised to the Client representative as required.

9. PART H – ENGAGEMENT OF DIRECT LABOUR

9.1 Recruitment And Selection

SMA Infrastructure will demonstrate that we possess the necessary skilled labour within our current workforce or have in place appropriate employment processes to attract that labour. Generally, we deploy

50% of all staff on any project from existing ranks; the remainder are recruited for the project (unless sufficient resources exist within the business). This enables our very important culture to spread throughout new staff and new projects.

SMA Infrastructure will only employ such persons who are skilled and experienced in their respective professions and callings, for the performance of the work under the contract. This will include the sourcing, selection and training of suitably experienced construction Supervisors.

At all times SMA Infrastructure will professionally manage the recruitment and selection of craft labour to work on the project in accordance with the detailed Recruitment Procedure (see APPENDIX D). This process outlines our recruitment process which includes: a minimum of two reference checks, pre-employment medicals, confirmation of relevant tickets and qualifications and inductions.

SMA Infrastructure and their subcontractors will exercise co-operation with other contractors on the site in order to maintain a stable industrial relations environment.

Any information provided by SMA Infrastructure to the Client regarding candidates will be distributed and maintained in accordance with the Privacy Act 2001 (Cth).

9.2 Skill Shortages and Labour Hire

SMA Infrastructure will closely manage workforce labour requirements throughout the duration of the project to ensure it is appropriately resourced. Each project completes weekly Four Week Look-Ahead Programs for all plant and personnel requirements that are used to compile a weekly group wide labour analysis to establish likely labour shortfalls or surplus.

Where it is identified that a shortfall may exist, the HR team will work closely with the Project Manager to determine whether recruitment of direct labour or external labour hire is the most suitable option, based on project needs and requirements.

SMA Infrastructure maintain strong working relationships with Labour Hire agencies in each of the major centres in which we work to ensure short term or emergent labour needs can be met as they arise.

9.3 Attraction Points of Difference

We pride ourselves on very low employee turnover rates and attribute this to a number of factors that differentiate us as a true employer of choice, and some of these are:

- **Employee review program**. This is a comprehensive employee engagement program that ensures all employees have regular and consistent opportunities for contact with the organisation. This starts when we provide new starters with an on-boarding plan, a 6-month review and then annual reviews thereafter.
- **Treating employees fairly and with dignity**: We value hard work and believe that employees who go beyond the call of duty should be rewarded. Regular recognition and rewards are provided to such staff. We pay competitive remuneration to ensure we attract talented employees means employees generally feel well paid.
- **Taking Safety Seriously:** Culturally, employees realise we are serious about their safety. This affects their attitude in the workplace. We have developed a workgroup committed to the ongoing improvement of safety attitudes and behaviours with a focus on ensuring the creation of a 'Safety Culture' and implemented a Safety Culture program.

9.4 Fitness for Work

SMA Infrastructure and their Sub-Contractors as required ensure that all prospective employees nominated to commence work have successfully completed an appropriate vocational medical/ health assessment examination prior to such nomination, including full drug and alcohol testing.

SMA Infrastructure site-based employees undertake regular routine vocational medicals throughout the term of their employment and drug and alcohol testing on a random, daily or for cause basis in accordance with the *(HSE-POL-04) Fit for Work Policy* and *(HSE-P-31) Drug and Alcohol Procedure*.

9.5 Competency Assessments

Any Plant Operators employed by SMA Infrastructure and their Sub-Contractors need to show competency through experience and training or undertake a competency assessment as part of the pre-employment process. If required, each employee undertakes a practical assessment for each competency "ticket" they

possess. SMA Infrastructure has both internal and external trainers and Assessors for ongoing and site specific vocational competency assessments.

9.6 Performance Management

We will monitor the performance of all employees in a fair and equitable manner, in accordance with Section 8.5 above.

9.7 Drug and Alcohol Testing

All employees, and Sub-Contractor employees, will comply with the Fitness for Work Policy and accompanying Drug and Alcohol Procedure. SMA Infrastructure's policy and procedures are modelled on the same used by major construction companies and developed after consultation with leading industry experts AWDTS.

SMA Infrastructure acknowledges and agrees that their employees will participate in site testing to be performed on a random, for cause and as self-test basis conducted by SMA Infrastructure.

9.8 Leadership Training

SMA Infrastructure will provide training to Supervisors / management to develop their understanding of this WRMP and its implications, prior to commencement on site and at regular intervals during their employment.

The training includes industrial relations legislation, Right of Entry and dispute resolution, workplace rights, mentoring and leadership skills, effective pro-active and reactive management of practical industrial relations issues on site, effective communication and issue management. SMA Infrastructure consider these areas as selection criteria for any potential applicants, particularly supervisors, during recruitment.

9.9 Site Entry and Security

SMA Infrastructure, their employees and their Sub-Contractor employees will comply with project security and access procedures.

Notwithstanding any site security arrangements made by the Client, SMA Infrastructure will be responsible for all aspects of security.

SMA Infrastructure and its employees will be responsible for all tools and equipment on issue to or being used by its employees and shall provide suitable lock-up facilities for that purpose.

9.10 Absence Management

SMA Infrastructure recognises the importance of good timekeeping and effective management of absenteeism.

Daily records of employees' attendance and timekeeping will be maintained by the SMA Infrastructure and their Subcontractors.

Should any problems arise, the direct supervisor will ascertain the reasons for lateness or absenteeism of the employee(s) concerned and then determine whether there was a justifiable reason for the absence.

If the employee is unable to provide a valid explanation for their lateness or absence, the Supervisor will address the matter in accordance with the Human Resource Procedure (APPENDIX F).

9.11 Fatigue Management

SMA Infrastructure have in place a *(HSE-P-25) Fatigue Management Procedure* that provides direction for the management of fatigue by recognising the associated symptoms of fatigue and implementing methods for the prevention of employees/subcontractors becoming fatigued.

Fatigue management is a shared responsibility between management and workers as it involves factors both inside and outside of work. SMA Infrastructure takes responsibility for risk management and workers ensure that they make appropriate use of their rest days and are fit for duty on rostered shifts. Particular attention is paid to travel arrangements at the beginning and end of the roster to mitigate potential risks.

10. PART I – FREEDOM OF ASSOCIATION

Consistent with the Queensland Code of Practice for Procurement: Building and Construction Industry, the Fair Work Act 2009, the Queensland Industrial Relations Act 1999 and the Building Code 2016, SMA Infrastructure acknowledges all parties have the right of freedom of association. This means that parties are

free to join or not to join an industrial organisation of their choice and that they are not to be discriminated against or victimised on the grounds of membership or non-membership of an industrial organisation. A person must not be forced to pay a bargaining fee to an industrial organisation if not a member and if approached to pay they are encouraged to report such requests.

SMA Infrastructure will ensure that a person is:

- Free to become, or not become, members of a building association
- Free to be represented, or not represented, by building associations
- Free to participate in, or not participate in, lawful industrial activities
- Not discriminated against in respect of benefits in the workplace because they are, or are not, members of a building association.

Policies and procedures are in place that promote freedom of association. The following practices will not be tolerated on the project:

- providing the personal information of staff, job applicants, contractors or subcontractors to building associations (All personal information will be dealt with in accordance with the Privacy Act 1988 and FW Act)
- no ticket, no start signs, show card days or any other similar practices (refusing to allow non-building association members to work will not be tolerated on SMA Infrastructure Sites)
- employers unlawfully encouraging or discouraging employees to join a building association (SMA Infrastructure will neither encourage nor discourage employees to join a building association)
- using employee representatives, site delegates or other building association representatives to administer site induction processes (SMA Infrastructure will not use employee representatives, site delegates or other building association representatives to administer site induction processes. Only SMA Infrastructure Site Management will be responsible for undertaking induction processes)
- discriminating against or disadvantaging elected employee representatives (no employee will be discriminated against based on association status)
- using forms requiring the employee to identify their building association status, or requiring employers and contractors to identify the building association status of employees or subcontractors (there is and will not be any proviso, written or otherwise, for employees to disclose their association status)
- refusing to employ, or terminating an employee's employment, because of their building association status (no person will be refused employment or have their employment terminated based on their building association status)
- refusing a reasonable request from a workplace delegate to represent an employee or employees in relation to grievances and disputes or discussions with members (all reasonable requests will be granted)
- the request, threat or imposition, or attempted imposition, of a requirement for any contractor, subcontractor or employer to hire any individual nominated by a building association or to employ a non-working shop steward or job delegate (requests, threats or impositions of this nature will not be tolerated).
- Signs that seek to vilify or harass employees who participate, or do not participate, in industrial activities will not be allowed and will be removed from site if present.
- a requirement by a building association that an employer display building association or other logos, mottos or other signage at the worksite or on property or equipment supplied by an employer (all such signage will be removed from site if present)

Compliance with the Building Code 2016 and this WRMP will be continuously monitored throughout the life of the project and will be a topic covered at pre-start meetings, toolbox meetings and other project meetings. SMA Infrastructure encourages reporting of any compliance breaches.

10.1 Compliance

We will ensure compliance with the freedom of association requirements of the Code by:

- Having a documented freedom of association policy that applies to all persons on site which requires compliance with the items in Appendix M. This policy will be communicated to our employees. In addition, we will display this policy within site offices and meal rooms [the freedom of association policy should not be attached to the WRMP]
- Reviewing the policy's effectiveness and making amendments where necessary
- Communicating to all persons on site, the freedom of association requirements of the Code

- Conducting and recording regular site inspections to ensure compliance with the freedom of association requirements of the Code including, by ensuring, that:
  - 'no ticket, no start' signs or similar, are not displayed and such arrangements are not implemented
  - Signs that seek to vilify or harass employees who participate, or do not participate, in industrial activities are not displayed; and
  - Building association logos, mottos or indicia are not applied to clothing, property or equipment supplied by, or which provision is made for by, the employer or any other conduct which implies that membership of a building association is anything other than an individual choice for each employee.
- Ensuring site induction processes are not undertaken or administered by officials, delegates, or other representatives of a building association. Induction processes will be undertaken or administered by site management.
- Ensuring secondary inductions are not undertaken or administered by officials, delegates, or other representatives of building associations.
- Handling and storing personal information in accordance with the Privacy Act 1988 and the Fair Work Act 2009.
- Not providing the names of staff, job applicants, contractors or subcontractors to third parties other than as required by law.

Rectifying any identified non-compliance and reporting it to the ABCC.

11. PART J – ENTRY TO PREMISES

11.1 Right of Entry Requirements, Procedures and Permission

Union officials must hold a valid entry permit and entry notice to enter employer premises in accordance with the *Fair Work Act 2009* and the *Building Code 2016.* These entry rights must also be adhered to by all project subcontractors. The project will be continuously monitored to ensure compliance with the Building Code 2016 right of entry requirements.

Approval to access any Project work areas will only be provided after the following points referred to below are met.

A permit holder may only enter the site in accordance with the *Fair Work Act 2009* (Cth) and the *Building Code 2016*.

- Investigate suspected breaches of the Fair Work Act 2009 (Cth) or an applicable registered agreement or an award
- Hold discussions with eligible employees only; or
- Investigate suspected breaches of any occupational health and safety legislation.

Access to hold discussions regarding a suspected breach of the Fair Work Act 2009 (Cth) or any registered agreement or Award:

To access the site to investigate a suspected breach of the *Fair Work Act 2009 (Cth)* or any registered agreement or Award, the Permit Holder must be entitled to represent the industrial interests of persons performing work on the site, and:

- The Permit Holder must have reasonable grounds for suspecting a breach
- The member must be performing work on the site
- The breach must relate to, or affect, the member or their work; and
- The entry must occur during work hours.

During working hours (only), the Permit Holder may:

- Inspect any work, process or object relevant to the suspected contravention
- Interview any person about the suspected contravention who agrees to be interviewed and whose industrial interests the permit holder's organisation is entitled to represent; and
- Inspect and make copies of any record or document relevant to the suspected breach. This excludes non-member records or documents unless the non-member authorises it in writing.

A Permit Holder may be permitted entry to hold discussions with persons:

- Who perform work on the premises
- Whose industrial interests the permit holder's organisation is entitled to represent; and
- Who wish to participate in discussions; and
- May only take place during recognised meal or other breaks.

Union officials must demonstrate to be a fit and authorised official acting on behalf of the union and will not be permitted to hold discussions with personnel in any residential areas associated with the project site.

A request to enter any area of the project worksites, an entry notice must be sent to SMA Infrastructure and state the purpose and section of the *Fair Work Act 2009* (Cth). The notice must give at least 24 hours' notice but no more than 14 days' notice. The notice must specify the day entry is sought.

Upon receipt of this request SMA Infrastructure will notify the Client if required, as soon as is practicable.

Access to Investigate Suspected Breaches of Occupational Health and Safety Legislation, or to Hold Discussions Regarding Safety

Occupational Health and Safety Legislation currently in place within Queensland includes the *Work Health and Safety Act 2011.* Under this legislation trade unions may apply to the Queensland Industrial Relations Commission to become an authorised health and safety representative. SMA Infrastructure will recognise the rights of permit holders relating to Right of Entry, pursuant to the *Fair Work Act 2009 (Cth*) in concert with the *Work Health and Safety Act 2011.*

Under this legislation, Permit Holders may access the site to:

- To hold discussions regarding workplace health and safety matters; and
- To investigate a suspected safety breach.

Access to Investigate a Suspected Breach of the *Work Health and Safety Act 2011* (QLD):

If accessing the site to investigate a safety breach the permit holder must provide a notice of entry as soon as practicable after the entry has occurred. The trade union must also tell SMA Infrastructure of their presence.

SMA Infrastructure will recognise the ability of permit holders to inspect, or to seek the production of documents which are employment records; providing that at least 24 hours but not more than 14 days prior to the proposed entry, written notice has been provided of the intention to exercise this power, and providing that the notice given complies with legislated requirements of Section 120(4) of the *Work Health and Safety Act 2011* (QLD) and Regulation 29, Part 2.4 of the *Work Health and Safety Regulations* 2011 (QLD).

A Permit Holder, will only be permitted to access the projects site if:

- The area to be accessed is a relevant workplace.
- The access relates to an eligible member of the permit holder's organisation.
- A reasonable suspicion of a contravention of the Work Health and Safety Act 2011 (QLD) relating to the place to be accessed exists.

After entering the site, we will permit the Permit Holder to:

- Inspect any plant, substance or other thing relevant to the suspected breach (only).
- Observe work carried on in the relevant area relating to the suspected breach (only).
- Speak to an employee (with the employee's consent), who is an eligible member of the permit holder's organisation.
- Speak with the relevant person conducting business or undertaking about anything relevant to the suspected breach.
- Request and inspect documents, relevant to the suspected beach (only).
- Take copies of a document relevant to the suspected breach (only).
- Warn any person whom the Permit Holder reasonably believes to be exposed to a serious risk to his or her health or safety, emanating from an immediate or imminent exposure to hazard, of that risk.

SMA Infrastructure will, where appropriate, give the permit holder reasonable help to exercise these roles.

Access to Hold Safety Discussions

If the Permit Holder is seeking access to site to hold discussions with employees, SMA Infrastructure will require the production of an entry notice at least 24 hours but not more than 14 days prior to the proposed entry.

A Permit Holder for an employee organisation will be permitted by SMA Infrastructure to access the site to discuss matters relating to workplace health and safety on site if:

- The discussions occur within the work area
- The employee/s involved is an eligible member of the permit holder's organisation who wish to take part in discussions

Preconditions for Right of Entry generally:

When dealing with any requests for Right of Entry, SMA Infrastructure will:

- Request the union official to produce their original entry permit and notice (or exemption certificate) as per the Fair Work Act 2009 (Cth) and the Work Health and Safety Act 2011 (Qld)
- Request the Permit Holder to comply with Workplace Health and Safety requirements applying at the premises
- Request the Permit Holder to conduct interviews or hold discussions in the rooms or areas of the premises agreed with the occupier of the premises. If the permit holder and occupier cannot agree on the room or area to hold discussions or interviews, the permit holder may hold discussions or interviews in rooms where persons take meal or other breaks.
- Ensure a Permit Holder must not intentionally hinder or obstruct any person, or otherwise act in an improper manner.

The Permit Holder must comply with the reasonable requests of SMA Infrastructure whilst on site.

What is an unreasonable request?

- The request is made to intimidate, discourage or impose difficulties for participating persons.

Disputes over whether a request is reasonable may be dealt with by the Fair Work Commission.

A person must not:

- Refuse or unduly delay entry onto premises by a Permit Holder who is entitled to enter the premises.
- Hinder or obstruct a Permit Holder exercising their rights.
- Make misrepresentations about Right of Entry.

Notwithstanding the above, entry under the Work Health and Safety Act 2011 (QLD) can be made in relation to any relevant worker, not just a member of a building association.

11.2 Site Standards, Security and Access

The project site facilities will be fully fenced with either temporary fencing or permanent fencing and be at a height and type that will provide site security and prevent easy illegal entry where possible.

The Site Supervisor will be responsible for monitoring the site access points to ensure that all site visitors proceed directly to the designated Site Office.

Signs will be erected stating that all visitors are to report to the Site Office upon entry and noting that this is a strict requirement.

Should a breach occur, the Site Supervisor or his delegate will challenge the individuals concerned and see that they have the relevant permit. If they do not, they will be asked to immediately leave the site. If they refuse, the police will be called to attend.

All SMA Infrastructure site staff will be given detailed training in regard to right of entry requirements and procedures provided for under the *Fair Work Act* and relevant WH&S legislation. This will include clear

understanding of the requirement for Union officials to have the relevant permits or access to site will not be granted.

11.3 Compliance

SMA Infrastructure will comply with all laws of the Commonwealth and each relevant State and Territory that apply and give a permit holder a right to enter premises.

All officers of building associations who attend the Project will be required to produce their relevant permits.

SMA Infrastructure will, so far as is reasonably practicable, ensure that officers of building associations only enter the site for a purpose for which a right of entry could be exercised under Part 3-4 of the *Fair Work Act 2009* or a relevant work health and safety law and only where the applicable legislative requirements in those laws have been strictly complied with.

SMA Infrastructure will maintain copies of entry notices issued in relation to the Project and require subcontractors to provide a copy of any entry notices they received to site management.

SMA Infrastructure will maintain a record of any attendance of an officer of a building association to the Project. All visitors and officers of building associations who attend the Project will be required to comply with the site safety requirements that apply, including completing and signing the visitor register.

SMA Infrastructure will ensure, as far as is reasonably practicable, that the site is secure from trespassers. We will monitor the site for unauthorised entry and take appropriate action in response to unauthorised access. For example, by, as far as is reasonably practicable, requiring unauthorised entrants to leave immediately.

12. PART K – GRIEVANCE MANAGEMENT

For the purpose of this clause, a dispute means any grievance or disagreement between an employee and an employer in relation to a matter arising under the employment agreement(s).

In the event of a dispute arising in the workplace, the parties involved must genuinely attempt to resolve the dispute. The existing state of affairs will continue whilst the activities outlined below are implemented and all parties to the dispute are encouraged to act in a fair and reasonable manner, with a view to the prompt settlement of the dispute.

Any person who has a dispute reported or discussed with them, will complete the SMA Infrastructure Employee Dispute Resolution Form. This form ensures SMA Infrastructure proactively monitors, addresses and records all grievances that arise with both employees and sub-contractors. It also gives supervisors and project managers the opportunity to get assistance from the HR team at any time and ensures the HR team receive details of any issues. By having details recorded and collated by HR the company can identify re-occurring issues and prevent grievances arising in the future.

The procedure to be adhered to is as follows:

- In the first instance the employee shall attempt to resolve the matter with their immediate supervisor, who shall respond to the issue on hand as soon as reasonably practicable under the circumstances.
- If the dispute is not resolved in the first instance, the employee may refer the matter to the next level of management for discussion. Such discussion should take place as soon as reasonably practicable under the circumstances.
- Where the dispute concerns alleged actions of the direct supervisor, the employee/s should take the matter to their supervisor's manager for response.
- If the dispute remains unresolved at this point, the employee may report the matter to senior management or a nominated representative. This should occur as soon as it is evident that discussions under clause (c) will not result in resolution of the dispute.
- If, after a genuine attempt to resolve the dispute is made between the parties, or their nominees, the dispute remains unresolved then either party may refer the matter to the Fair Work Commission (FWC) for conciliation.
- That if either party refers the matter to FWC, both parties will participate in the conciliation process in good faith.
- Where the dispute remains unresolved, it will be submitted to FWC for arbitration. FWC may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective. The decision of FWC will bind the parties to the dispute, subject to either party exercising a right of appeal against the decision to a Full Bench.

- SMA Infrastructure and employee(s) acknowledge the right of either party to appoint another person, at any stage of this procedure, to act on behalf of that party.
- During the activities outlined above, all parties to the dispute are to continue to work in accordance with their contract of employment, unless the employee has an immediate concern about a genuine safety issue. In this case suitable and safe alternative arrangements will be made for work to continue.

Responsibility for the management and reporting of workplace disputes will be that of the Project Manager. The Project Manager will work in accordance with advice from the SMA Infrastructure Project Manager and the Human Resources Manager to ensure all disputes are managed impartially, objectively and in alignment with the above-mentioned process.

A detailed dispute register will be completed and managed in the site records by the Project Manager that outlines:

- Subject matter/ issue under dispute
- The complainant
- The identified parties of whom the complaint is made about
- Date dispute reported and closed out
- Details
- Results
- Action taken
- Responsible Manager/ SMA Infrastructure Representative

For the purposes of this WRMP, the above procedure will extend to disputes with Subcontractors on this project.

All data pertaining to any grievances will be recorded and used to proactively address issues, and, where applicable, prevent grievances arising in the future.

13. PART L – INDUSTRIAL IMPACTS

SMA Infrastructure will work closely with its workforce and subcontractors' workforces to manage the potential for occurrence of industrial action, whether lawful or unlawful.

Any threatened or action industrial action/industrial action, will be reported to the ABCC (for nominee) and the Client within 24 hours of the threatened or actual industrial action. SMA Infrastructure will continue to provide regular updates to the ABCC and the Client about actions being taken to prevent or resolve any likely or actual industrial dispute.

In the event of unprotected industrial action, SMA Infrastructure will take all reasonable measures to prevent or end such action occurring on or affecting the project, including the engagement of legal counsel on its behalf. We maintain professional relationships with industry IR specialists and the Civil Contractors Federation and will call on these groups for assistance where necessary.

13.1 Action Plan for Managing Site Stoppages

Site stoppages have shown in the past to be related to either:

- A WH&S issue or incident
- A site related grievance or dispute
- An illegal industrial stoppage in support of terms and conditions of employment over and above any employment agreements in place with the principal contractor or subcontractors
- An illegal industrial stoppage related to a dispute or grievance related to another site; or
- A combination of the above.

Where a dispute relates to WH&S issues, the procedures contained in the relevant QLD WH&S legislation will be strictly followed. SMA Infrastructure will take all steps to resolve grievances or disputes at the enterprise level at the earliest opportunity. Any time lost through industrial action, either lawful or unlawful, will be reported to the ABCC and the client within 24 hours of the commencement of the lost time.

SMA Infrastructure will advise the Client and the ABCC at the earliest opportunity (target 24 hours) of any industrial relations or WH&S matter which may have an impact on the construction program, the head contract, other related contracts or project costs.

No payment will be made to employees for time spent engaged in industrial action, unless payment is legally required or properly authorised by an industrial tribunal (where this is permitted by relevant industrial legislation).

No payments, commissions, gratuities or similar payments will be made directly or indirectly by SMA Infrastructure or its subcontractors or their representatives to a union delegate, union official, union representative or agent or to any union-controlled account or fund however described, for any reason.

SMA Infrastructure will take all reasonable steps to resolve any industrial action which adversely affects, or has the potential to adversely affect, the delivery of the project. SMA Infrastructure will provide regular updates to the ABCC and to the Client about the steps being taken to resolve the industrial action.

SMA Infrastructure will take all steps reasonably available to prevent or bring to an end unprotected industrial action occurring on, or affecting the project, including by pursuing legal action where possible. SMA Infrastructure will use their best endeavours to pursue legal remedies to protect their rights and obligations under the Code and Guidelines.

SMA Infrastructure will report any request by any industrial organisation or their representative for payment of any kind in relation to a threatened, impending possible, probable or actual industrial dispute.

13.2 Management of Unions

SMA Infrastructure utilises a Right of Entry Process Flow Chart and Record (Appendix I) as a reference guide and tool to ensure all legal requirements are observed.

13.3 Payment for Lost Time due to Industrial Action

SMA Infrastructure and their Sub-Contractors will not, at any time, contemplate the payment for lost time due to industrial action and will make payment for work performance in accordance with the Fair Work Act 2009 (Cth).

In accordance with the aforementioned Code, SMA Infrastructure and our Sub-Contractors will:

- Comply with industrial relations legislation and will at all times ensure that health and safety obligations are discharged appropriately.
- Prohibit any attempts to unduly influence Subcontractors to have particular workplace arrangements or to provide any over Award payments to employees.
- Support Freedom of Association and comply with Right of Entry processes discussed above, and referred to in the Fair Work Act 2009, and will ensure strict compliance with any court and tribunal orders should they be applicable.
- Restrict any Sub-contractors from negotiating any arrangements which restrict the efficient performance of work on the project and will prohibit the application of any non-registered industrial agreements, memoranda of understanding or industrial protocols which may otherwise be applied on the project.
- Remain cognisant of reporting obligations arising from the Code.

13.4 Management of Competing Claims to Cover Work (Demarcation Disputes)

Where two or more unions claim the right to represent employees, the issue shall be dealt with between the unions concerned and SMA Infrastructure.

Employees affected by the claim shall continue to perform all work and follow all instructions that their employer reasonably requires them to do, provided that they are within the limits of the employee's skills, competence, training and statutory requirements.

Any issues arising out of the application of this policy shall be resolved in accordance with the disputes procedure of the relevant instrument.

13.5 Unlawful Industrial Action

13.5.1 What is an Unlawful Industrial Action?

Industrial action is unlawful if it is engaged in when there is an enterprise agreement in place that covers the employee, employer or employee organisation that has not passed its nominal expiry date.

The Fair Work Commission must suspend or stop any unlawful action. Court orders can also be used to enforce this.

If workers take part in unlawful industrial action, some individuals or organisations can take court action against them. These individuals and organisations include:

- Anyone covered by the enterprise agreement who is affected by the action
- Anyone else who is affected by the action (e.g. a business that lost money because it could not get hold of goods it needed); and
- The Fair Work Commission.

The court can order to pay either or both of:

- Compensation for losses; and/ or
- Fines.

13.5.2 Site Management Structure for Project

The site workers will be managed by the following key personnel:

- Project Manager
- Site Supervisor

These resources will be allocated full time on the project. This team will be trained in all aspects of the Building Code (2016) including the procedures and remedies for unlawful industrial action.

13.5.3 Recording Of Unlawful Actions

SMA Infrastructure will undertake to create detailed records of each unlawful industrial action including:

- details of those involved
- issues underlying the action
- the unions involved
- the proposed nature and duration of the action; and
- and any costs incurred both direct and indirect.

The Project Manager will be responsible for ensuring all recordings and details noted above occurs and will delegate duties as necessary and required. The Project Team will be supported by SMA Infrastructure Senior Management team.

SMA Infrastructure will ensure that all site personnel are fully aware of the requirements to record the details on circumstances surrounding the action in a format that is satisfactory to include in an affidavit and witness statements.

13.5.4 Requests for Workers to Attend a Rally

SMA Infrastructure will take all responsible steps to ensure that site workers do not attend a rally. Where incidences of rallies or industrial action do occur, we will take the necessary steps to recover losses associated with the action and will ensure that all SMA Infrastructure or subcontractor workers who attend a rally are not paid.

Further, we will ensure that any employees or subcontractor employees that are involved in unlawful industrial action during this project will not be paid for any time associated with such activity.

13.5.5 Legal Options Responding to Unlawful Actions

SMA Infrastructure is aware of the legal options under legislation and common law that can be used against individuals and unions to order a suspension of their action. We will undertake any such legal actions in a prompt manner.

14. PART M – COMPLIANCE WITH THE BUILDING CODE 2016

SMA Infrastructure:

- acknowledges that it and its Related Entities must comply with the Building Code 2016 in relation to all Building Work described in Schedule 1 of the Building Code 2016 for which an expression of interest or request for tender is called on or after the date that the Building Code 2016 commenced, being 2 December 2016, and, should it be the successful tenderer, in relation to the Commonwealth Funded Building Work that is the subject of the project;
- undertakes to ensure that it and its [sub-subcontractors/subconsultants] that it [sub-subcontracts/subcontracts] any of the Commonwealth Funded Building Work that is the subject of the project to, should it be the successful tenderer, comply with the Building Code 2016;
- acknowledges the powers and functions of the ABC Commissioner and the ABCC under the Building and Construction Industry (Improving Productivity) Act 2016 (Cth) and the Building Code 2016 and undertakes to ensure that it and its [sub-subcontractors/subconsultants] will comply with any requests made by the ABCC and the ABC Commissioner within those powers and functions, including requests for entry under section 72 of the Building and Construction Industry (Improving Productivity) Act 2016 (Cth), requests to interview any person under section 74 of the Building and Construction Industry (Improving Productivity) Act 2016 (Cth), requests to produce records or documents under sections 74 and 77 of the Building and Construction Industry (Improving Productivity) Act 2016 (Cth) and responding to requests for information concerning matters relating to the Building Code 2016 under subsection 7(c) of the Building Code 2016;
- declares that where it proposes to [sub-subcontract/subcontract] any of the Commonwealth Funded Building Work that is the subject of the project, should it be the successful tenderer, it will:
  - not enter into a [sub-subcontract/subcontract] with a [sub-subcontractor/ subconsultant] who:
    - is covered by, or has Related Entities covered by, an Enterprise Agreement that does not meet the requirements of section 11 of the Building Code 2016
    - is subject to an Exclusion Sanction; or
    - unless approved otherwise by the ABC Commissioner, is excluded from performing Building Work funded by a State or Territory Government; and
  - only enter into a [sub-subcontract/subcontract] where:
    - the [sub-subcontractor/subconsultant] undertakes to only use products in relation to the project that comply with the relevant Australian standards published by, or on behalf of, Standards Australia
    - the [sub-subcontractor/subconsultant] undertakes to comply with the Workplace Relations Management Plan approved by the ABCC in accordance with Part 6 of the Building Code 2016 that applies to the Commonwealth Funded Building Work that is the subject of the project;
    - the [sub-subcontractor/subconsultant] has submitted a declaration of compliance, including the further information outlined in the attachment to the declaration of compliance, in the form set out in the [Proforma Building Code 2016 Subcontract Provisions]; and
    - the [sub-subcontract/subcontract] with the [sub-subcontractor/subconsultant] contains clauses in the form set out in the [Proforma Building Code 2016 Subcontract Provisions]
- declares that it has provided all of the further information required by Attachment A to this Declaration of Compliance; and
- declares that:
  - it and its Related Entities are not covered by an Enterprise Agreement that does not meet the requirements of section 11 of the Building Code 2016 (and it must complete Question 1 of Attachment A to this Declaration of Compliance)
  - it is not subject to an Exclusion Sanction
  - it will only use products in relation to the project that comply with the relevant Australian standards published by, or on behalf of, Standards Australia, should it be the successful tenderer and
  - it will comply with the Workplace Relations Management Plan, approved by the ABCC in accordance with Part 6 of the Building Code 2016 that applies to the Commonwealth Funded Building Work that is the subject of the project should it be the successful tenderer.

15. PART N – FITNESS FOR WORK POLICY

The Directors and Management of SMA Infrastructure are committed to providing a safe and healthy workplace and encouraging health promotion within our workforce. We are dedicated to the implementation of a Fitness for Work Policy throughout the organisation and across all sites in which SMA Infrastructure personnel operate to ensure the health and wellbeing of our people and the safety of our sites.

As an organisation we intend to increase the health and wellbeing of staff and ensure everyone onsite is fit, both physically and mentally, to perform their duties safely.

SMA Infrastructure's fitness for work policy will apply onsite. Our clients and subcontractors' policies can work together with this policy, but they must comply with the code. Compliance will be regulated via compliance forming part of employee's contract of employment (for employees) and contract of service (for subcontractors).

In this case, the project is part of a joint venture and therefore all those onsite who are part of the joint venture will be required to comply with the fitness for work policy contained in this WRMP. The attached fitness for work policy will apply to all joint venture partners employees, subcontractors, and visitors to the site.

In order to ensure an objective medical testing method/s, SMA Infrastructure will utilise the Australian Standards methodology in respect to conducting Drug and Alcohol Testing.

The testing deployed as a minimum reveals the following substances:

- Alcohol
- Opiates
- THC
- Cocaine
- Benzodiazepines
- Amphetamine; and
- Methamphetamine.

A positive test is one which meets the standards for a positive test to Australian Standard AS 4308:2008, or a test where the individual required to be tested has refused to provide a sample.

Any employee or subcontractor who returns a positive AOD result will be removed from site and stood down with full pay and entitlements until confirmatory of the instant AOD and/or GC/MS test results have been received from NATA approved laboratory.

No employee shall be returned to site until confirmatory testing has been received. Employees who are currently taking any medication must declare this prior to testing or the test will be deemed a positive result and the employee will be removed from site until the results of the confirmatory tests are received. Regardless of whether or not a person has declared medication or if the detected amount is consistent with the prescribed or recommended dosage, any person who tests positive will be deemed not fit for work and will be prevented from performing work until they can prove they are fit to return to work.

Before permitting any employee to resume duty, a Site/Project Manager or Supervisor must ensure:

- A confirmed clear AOD test result has been received
- Appropriate disciplinary processes have been completed
- A rehabilitation plan to manage and ultimately resolve the fitness for work issues is in place, if applicable
- The employee is made aware that they will be required to undergo further random tests during the following 6 months at times determined by SMA Infrastructure
- The period of unpaid leave has been communicated to the Human Resources Manager
- Payments to the employee will recommence from the beginning of their next rostered shift following a confirmed negative result
- The employee will subsequently be counselled by their Supervisor or Manager in accordance with the SMA Infrastructure Disciplinary Procedure.

Along with a discipline review, SMA Infrastructure recognises that individuals may have personal difficulties arising from their use of alcohol and/or other drugs and can provide information for professional assistance to help individuals address these problems, including counselling.

As a minimum, the following testing frequency and periodic testing (at least one per month) of the workforce (both construction workers and site office workers) will take place:

- Where there are less than 30 workers on site – at least 10% of the workforce
- Where there are 30 to 100 workers on site – a minimum of 5 workers per month; and
- Where there are greater than 100 workers on site – a minimum of 10 workers per month.

Voluntary, random, for cause and targeted testing for high risk activities onsite will take place. Testing for alcohol and each substance will be performed at least once per month. This will comprise random testing of construction and site office workers. Higher-risk, for cause or voluntary testing or testing of visitors will be in addition to this.

The process for random selection of workers for drug and alcohol testing will be done via electronic selection.

All workers and subcontractors can ask for voluntary AOD testing. This shall occur prior to normal daily prestart times. This is a private test screening to which if the person provides a positive result, they can communicate this to their Supervisor/Manager that they have self-tested and will not be fit for work for that shift. The outcome/decision to the positive result will be that of the worker's manager to decide.

NB: Voluntary testing needs to be requested at least 15 minutes before the pre-start meeting or before the start of the shift.

For cause screening will be carried out after any accident or serious injury or under one or more of the following circumstances:

- Where an employee's erratic, unusual or dangerous behaviour raises concerns that they may be under the influence of alcohol or any other substance
- Upon the request of any other person in the workplace who has reasonable grounds to believe that an individual may be affected by alcohol or drugs
- If the person is involved in a work-related accident or near miss, which is potentially serious, whether or not it results in any injury or damage
- Evidence is found of possible alcohol or other drug use at work (e.g. illicit drugs, paraphernalia, alcohol containers on worksites or in vehicles) and SMA Infrastructure can identify with reasonable certainty any individuals or individuals who may be involved.

For cause screening will be undertaken by suitably trained personnel using an on-site screening test. Any employee or subcontractor who returns a non-negative AOD on-site screening result shall be required to provide a sample for confirmatory test for laboratory analysis. The worker will be removed from site and stood down with full pay and entitlements until results of the confirmatory test has been received. All positive AOD test results must be managed as per section 9 of the drug and alcohol procedure.

High-risk testing will occur if either the Project Manager or Safety Advisor onsite deems the activity to be a significant risk and wants testing to be undertaken before performing the activity. The purpose of this activity is to ensure the safety of everyone during more high risk activities or more dangerous situations.

Please refer to APPENDIX G – Fitness for Work.

16. PART O – SECURITY OF PAYMENTS

The purpose of this clause is to set out how subcontractors and their employees will be safeguarded in relation to payments owed for carrying out building work on projects.

SMA Infrastructure will ensure that all applicable laws and other requirements relating to the security of payments that are due to persons in respect of building work will be adhered to throughout the life of the project.

SMA Infrastructure will train all relevant staff who process payments to subcontractors on the requirements of the security of payment laws in Queensland to ensure we comply with the security of payment law.

SMA Infrastructure will ensure subcontracts provide for payment terms in accordance with the relevant security of payment law.

SMA Infrastructure will comply with all applicable laws and other requirements relating to the security of payments that are due to persons.

SMA Infrastructure will ensure that payments which are due and payable are made in a timely manner and are not unreasonably withheld.

SMA Infrastructure will follow the dispute settlement process that details how disputes about payments to subcontractors will be resolved.

Specifically, SMA Infrastructure will issue details of any disputed invoice/payment to the subcontractor in writing within the prescribed time limit. SMA Infrastructure has assigned responsibility to the sites to raise

any disputes in relation to invoices & payments with the subcontractor. The site contract administrator performs this role and forwards a copy to both the supplier and the accounts payable team at SMA Infrastructure.

SMA Infrastructure will work with subcontractors to resolve any disputed invoices/payments that are identified in a reasonable, timely and cooperative way. This responsibility will reside with the project team to discuss any issues raised as above and work to resolve them as soon as possible. Issues that are resolved will be relied to the Accounts team to process payment. Issues that can't be resolved in a reasonable, timely and cooperative manner will be referred to an independent adjudicator for determination. The ultimate decision to elevate a dispute because resolution cannot be achieved will be done by the Project Manager. Before this is done, it is the Project Manager's responsibility to inform the executive management team of the issues, any proposals and why the issues haven't been able to be resolved by the parties. Any dispute or delayed progress payments which are overdue for payment will be reported to the ABC Commissioner and the relevant funding entity as soon as practicable. The Reports of delayed or disputed progress payments to the ABCC will be made using the Delayed or Disputed Progress Payment Reporting Form and submitted to enquiry@abcc.gov.au. This document will be completed onsite with copies forwarded to the Executive Management Team.

SMA Infrastructure will report disputed or delayed progress payments to the ABC Commissioner and the relevant funding entity (if any) as soon as practicable. The obligation to report a disputed or delayed payment may arise when:

- An amount is certified by a Principal (or Superintendent) under a contract and not paid within the contractual timeframe
- An amount is specified in a payment schedule/notice of dispute issued under the security of payment laws and not paid by the date prescribed by those laws
- Other than in Western Australia and the Northern Territory, no payment schedule/notice of dispute is issued in response to a valid payment claim and the full amount of the payment claim is not paid by the date prescribed by the security of payment laws
- An adjudicator makes a determination under the relevant state and territory security of payment legislation and the adjudicated amount is not paid by the date prescribed by the security of payment laws
- A third party such as a court, arbitrator, or expert issues a binding determination and the amount determined is not paid in accordance with the determination.

SMA Infrastructure will comply with any requirements relating to the operation of any project bank account or trust arrangement that apply to the Code covered entity in relation to Commonwealth funded building work.

SMA Infrastructure will not unduly influence, unduly pressure, or coerce subcontractors in relation to the exercise of their rights under security of payments laws.

17. INTERNAL MONITORING

SMA Infrastructure will monitor and track the progress of the WRMP as a component of the overall project outcome. The process undertaken to conduct an internal audit on the project is explained in our Internal Audit and Review Procedure attached in Appendix H and a representative from the HR team will support the project team during audits against the requirements of this WRMP. This procedure will receive such information as notes from:

- Toolbox meetings
- Subcontractor coordination meetings
- OHS&E committee meetings (Where required)
- Monthly project report

The project management team will review workplace place relations issues on the Project at its monthly meetings. The Project Manager will provide a report outlining any issues over the past month and potential issues. This will ensure that senior management are aware of the prevailing industrial climate and can provide policy direction to the construction team. This forum also provides the opportunity for ongoing review of the WRMP.

17.1 Management Review

The project management team and the HR Representatives will undertake reviews to check the continuing suitability and effectiveness of the WRMP, ensuring that it continues to meet contractual and legislative requirements.

SMA Infrastructure will establish the number and timing of project WRMP reviews throughout the lifetime of the Project. All such reviews will be taken as an opportunity to ensure open communication between all parties and used as a means to improve workplace relations management on the Project.

17.2 Corrective Action

SMA Infrastructure will participate in audits of this WRMP at regular, agreed intervals from commencement of the Project, until practical completion. The ABCC will audit SMA Infrastructure for compliance on the project with the WRMP approved during the tender process.

17.3 Continuous Improvement

The project management team regular monthly review, Superintendent feedback and communication with stakeholders such as subcontractors, employees, unions and other contractors provide the channel whereby workplace management performance can be monitored, reviewed, action taken, and improvements made as required.

APPENDIX A EXAMPLE WORK PRODUCTIVITIES

Item No	Description	DJC				ACTUAL				Comments
		Rate	Unit	Productivity	Unit	Rate	Unit	Productivity	Unit	
3201.01S	Road excavation, all materials (MRS04 Oct 14)			400	m3/d			395	m3/d	
3301.01s	Road embankment (MRS04 Oct 14)			400	m3/d			405	m3/d	
4151.01	Type 2.1 Unbound Pavement [Base] (MRS05 Jul 15)			390	m3/d			397	m3/d	inlcudes final trim
4153.01	Type 2.3 Unbound Pavement [Upper Subbase] (MRS05 Jul 15)			390	m3/d			391	m3/d	
4155.01	Type 2.5 Unbound Pavement [Lower Subbase] (MRS05 Jul 15)			430	m3/d			421	m3/d	
4161.01	Heavy duty dense graded asphalt in corrector course, AC14 H mix (MRS30 Jan 16)			300	t/d			294	t/d	subby rates and verbal productivities
4164.01	Heavy duty dense graded asphalt in surfacing course, AC14 H mix (MRS30 Jan 16)			300	t/d			318	t/d	subby rates and verbal productivities
							0		0	
							0		0	
							0		0

APPENDIX B PCA-F-10 PROJECT COMMENCEMENT CHECKLIST

PCA-F-10 Project Commencement Checklist

Details

Form id	5648
Created at	18/09/2020 by Leon Krelle
Completed at	
Last modified	18/09/2020 16:35:38 by Leon Krelle
Status	In Progress
Respondent	Leon Krelle
Division	Systems
Business unit	Health Safety & Environment (HSE)
Location	
Project	Burleigh to Palm Beach

HOW TO ENTER ACTIONS INTO THIS FORM

To add an action for yourself or another employee to complete.

Computer: Enter the Action in at the bottom of the form in the "Additional" section.

Mobile: Select Actions at the bottom of your screen.

NOTE: Actions identified are required to be completed within 3 months of project award.

Elements

- [x] 1.0 Project Start-Up Briefing
- [x] 2.0 Tender Handover
- [x] 3.0 Administration
- [x] 4.0 Project Budget and Forecast
- [x] 6.0 Staffing and Labour
- [x] 7.0 Control and Supervision of Works
- [x] 8.0 Procurement
- [x] 9.0 Plant, Equipment and Materials
- [x] 10.0 Design Activities
- [x] 11.0 Project Management Plans
- [x] 13.0 Communication and Logistics
- [x] 14.0 Planning Site Establishment

1.0 PROJECT START-UP BRIEFING

1.1 Has a EST-F-03 Tender / Project Handover Form been issued to interested parties?

2.0 TENDER HANDOVER

2.1 Have you obtained a copy of the tender and post tender documents?

3.0 ADMINISTRATION

3.1 Arrange bank guarantees and securities

3.2 Arrange insurances

3.3 Arrange Security of Payment

4.0 PROJECT BUDGET AND FORECAST

4.1 Set up job number

4.2 Set up cost codes

4.3 Set up purchase order system (hard-copy or electronic)

4.4 Allocate estimate to budget allowance

4.5 Setup progress claim proforma

6.0 STAFFING AND LABOUR

6.1 Update project organisation chart

6.2 Establish project level limits of authority

6.3 Secure key personnel

6.4 Nominate staff start dates

6.5 Arrange staff accommodation requirements

6.6 Setup wages payroll (if required)

6.7 Re-issue position descriptions to each staff member that clearly identifies responsibilities and levels of authority

6.8 Copy relevant state awards, EBA, National Code Compliance or project specific agreement (if required)

6.9 Identify and organise staff training by completing the Training Gap Analysis

6.10 Arrange site inductions

6.11 Organise business cards

7.0 CONTROL AND SUPERVISION OF WORKS

7.1 Establish KPI requirements

7.2 Update Construction Program

7.3 Document a list of environmental approvals/ permits required for the project

7.4 Document a list of HSE approvals/ permits required for the project

7.5 Document a list of local council approvals/ permits required for the project

7.6 Breakdown construction process and evaluate risks

7.7 Organise preliminary planning meeting

7.8 Complete preliminary planning report

7.9 Develop risk and opportunity strategy using the risk register

7.10 Complete project risk assessment

7.11 Complete environmental aspects and impacts register

7.12 Complete work method statement register

7.13 Complete inspection and test plan register

7.14 Complete Risk Assessment/ SWMS register

7.15 Identify specialist contractors for testing

8.0 PROCUREMENT

8.1 Complete project procurement schedule/ plan

8.2 Identify client-nominated products or suppliers

8.3 Review the requirement of local industry participation

8.4 Review the requirement of Aboriginal participation

8.5 The Queensland Charter for Local Content: 1) Check GCoC Cl. 14.8 for requirements; 2) Send statement of intent within 28 days of the Letter of Acceptance; 3) Set up project outcome report

www.statedevelopment.qld.gov.au/resources/charter-for-local-content.html

8.6 Establish proforma for quotation requests to be issued to subcontractors

8.7 Start subcontractor approval process

8.8 Allocate procurement responsibilities

8.9 Setup project-specific contract conditions

8.10 Identify and place early/ critical orders

9.0 PLANT, EQUIPMENT AND MATERIALS

9.1 Check local plant availability and terms

9.2 Allocated vehicles - staff and site

9.3 Scaffolding - buy or hire

9.4 Safety barriers - buy or hire

9.5 Organise site fuel cards

9.6 Plant Risk Assessments and packs

9.7 Organise Plant Stickers

10.0 DESIGN ACTIVITIES

10.1 Ensure that design briefs are established with the design consultants, or that design responsibility is appropriately established with the subcontractors

10.2 Ensure that design plans have been submitted by the various design consultants

10.3 Review, accept and forward copies of the consultant's design plans to authorised person

10.4 Coordinate design activities

10.5 Carry out design management review and coordination activities

10.6 Review, amend and/or accept preliminary design documentation issued by the designers

10.7 Issue copies of the preliminary design documentation to authorised person and other concerned parties

10.8 Receive and review comments received from authorised person and other concerned parties, and amend documentation as applicable

10.9 Review and accept 'For Construction' drawings, specifications, schedules etc. prior to distribution

10.10 Ensure process in place to reassess risk profiles after design changes made

11.0 PROJECT MANAGEMENT PLANS

11.1 Prepare Project Management Plan (if required)

11.2 Prepare Safety Management Plan

11.3 Prepare Environmental Management Plan

11.4 Prepare Quality Management Plan

11.5 Prepare Chain of Responsibilities Plan

13.0 COMMUNICATION AND LOGISTICS

13.1 Organise postal address

13.2 Organise carrier and courier services

13.3 Arrange McIlwain's 24-hour contact line

13.4 Notify emergency service providers

13.5 Coordinate the provision of security services

13.6 Arrange community notifications

13.7 Arrange letterbox drops (if required)

14.0 PLANNING SITE ESTABLISHMENT

14.1 Prepare work method statement for site establishment

14.2 Prepare site layout plan

14.3 Prepare erosion and sedimentation control plans

14.4 Prepare SWMS for site establishment

14.5 Organise temporary traffic management to determine pedestrian and vehicular public traffic control planning measures. Also, determine entry to site and parking requirements (REVERSE IN ONLY)

14.6 Apply for road occupancy licence (NSW)

14.7 Arrange other environmental permit/ licence requirements

14.8 Organise for initial survey

14.9 Organise water services connection

14.10 Organise sewer/ septic tank connection

14.11 Organise electrical services connection

14.12 Organise telephone services connection

14.13 Arrange for potholing services

14.14 Organise background noise and vibration baseline checks

14.15 Organise background water baseline checks

14.16 Organise site sheds/ buildings

14.17 Coordinate the provision of site fencing

14.18 Organise safety barrier systems

14.19 Organise office furniture

14.20 Organise kitchen amenities

14.21 Arrange for temporary site toilets

14.22 Arrange first aid cabinets

14.23 Arrange fire extinguishers

14.24 Arrange temporary generators

14.25 Organise spill containers/ kits

14.26 Arrange for noise meters

14.27 Organise McIlwain logo on sheds

14.28 Organise McIlwain gate posters

14.29 Organise McIlwain safety board

14.30 Organise ELCB and equipment testing and tagging

14.31 Organise 6 monthly inspection/ tagging of fire extinguishers

14.32 Arrange safety devices, PPE

14.33 Engage cleaners

14.34 Establish communications with suitably equipped doctor/ clinic providing relevant availability (24 hour if necessary) - Sonic Health Plus

Any other requirements

Description

Additional

Photos

Attachments

- *No file attachments*

Actions Summary

ID	First name	Last name	Due date	Date closed	Action description	Status	Last Comment

Actions

APPENDIX C ENTERPRISE AGREEMENTS

DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Mcllwain Civil Engineering Pty Ltd
(AG2016/4231)

MCLLWAIN CIVIL ENGINEERING PTY LTD ENTERPRISE AGREEMENT 2016

Building, metal and civil construction industries

COMMISSIONER GREGORY MELBOURNE, 15 SEPTEMBER 2016

Application for approval of the Mcllwain Civil Engineering Pty Ltd Enterprise Agreement 2016.

[1] An application has been made for approval of an enterprise agreement known as the *Mcllwain Civil Engineering Pty Ltd Enterprise Agreement 2016* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Mcllwain Civil Engineering Pty Ltd. The Agreement is a single enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 as are relevant to this application for approval have been met.

[3] The application was not lodged within 14 days after the agreement was made. Pursuant to s.185(3)(b), in all the circumstances I consider it fair to extend the time for making the application to the date it was actually made.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 22 September 2016. The nominal expiry date of the Agreement is 14 September 2020.

COMMISSIONER

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<Price code C, AE421137 PR585443>

01/08/2016

McIlwain Civil Engineering Pty Ltd
Enterprise Agreement 2016

01/08/2016

1. Parties to the agreement

The parties to the agreement will be as follows;

- McIlwain Civil Engineering Pty Ltd as the employer, and
- The employees of McIlwain Civil Engineering Pty Ltd engaged in the classifications contained herein.

2. Application of Agreement

This Agreement will apply to the employer and to their employees in the performance of all work in or in connection with employer's business in civil construction works and related works within Australia.

Civil construction and maintenance work shall include but not be restricted to the construction, alteration, installation, and maintenance of:

- Water supply and sewerage
- Roads, bridges and wharves
- Dams
- Subdivisions and site development work.
- Earthworks and land clearing
- Civil Engineering Infrastructure projects
- Haul Roads and Car parks
- Landscape works

3. Duration of Agreement

The Agreement shall apply from the date of approval with the Fair Work Commission for a period of 4 years.

4. Purpose of Agreement

The purpose of the Agreement is to provide comprehensively the wages and conditions of employment for the work performed described herein. The Agreement is a stand alone document and applies to the exclusion of any applicable Modern Award.

5. Contract of Employment

5.1 Engagement

The employment shall be full time or casual employment. The employee will be notified at the time of engagement of the employment status.

All employees will be subject to a six (6) month qualifying period.

Employees shall be multi-skilled and work in a completely flexible workplace not only to increase productivity but also to provide employees with more satisfying and challenging jobs and enhance their career growth opportunities.

There shall be no demarcation or restrictions between functions or organisational status including between traditional crafts, occupations, or vocations or callings.

An employee may be required to, and shall perform, any function providing the employee has the required expertise to safely discharge the requisite and provided that, such functions shall be subject to safe, legal and practical work practices.

The level of flexibility and skill is comprehended in the wage rates for each classification.

5.2 Termination

A full time employee's termination shall be in accordance with the provisions of the *Fair Work Act 2009* (Cth). The period of notice to be given by the employer shall be as follows:

Where the employee's period of continuous service with that employer is:	The period of notice is:
Up to 1 year	1 week
1 year or more but less than 3 years	2 weeks
3 years or more but less than 5 years	3 weeks
5 years or more	4 weeks

This period of notice shall be increased by one (1) week where the employee is over 45 years of age and has completed two years of continuous service with the employer.

Payment in lieu of notice shall be made if the appropriate notice period is not given. The employment may be terminated by part of the period of notice and part payment in lieu. Payment in lieu of notice shall be at the employee's ordinary weekly wage for the ordinary hours not worked by the employee during the period of notice.

Nothing in this clause shall affect the right of the employer to summarily dismiss an employee for conduct that justifies this action.

The employee is required to provide a period of notice equal to the notice given by the employer. Where less than the required notice is given by the employee, the employer is entitled to deduct required notice pay from the employee's termination payment.

Notice will not apply to an employee employed for a specified period of time, for a specified task, or for the duration of a specified season.

5.3 Redundancy

5.3.1 Definition of Redundancy

Redundancy occurs where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision leads to the termination of employment of the employee, except where an employee is engaged for a specific task or project, or the termination is due to the ordinary and customary turnover of labour.

5.3.2 Redundancy Pay

In accordance with the *Fair Work Act 2009* (Cth), a redundant employee shall receive redundancy/severance payments, calculated as follows, in respect of all Continuous Service with the employer.

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 yeas	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

"Weeks' pay" means the ordinary time rate of pay at the time of termination for the employee concerned.

The provisions of Sections 121 and 123 (1), (2), (4)(a) and (4)(d) of the *Fair Work Act 2009* (Cth) will apply in relation to the obligation to pay redundancy pay.

5.3.3 Casual's Continuous Service

Any period of service as a casual shall not entitle an employee to accrue service in accordance with this clause for that period.

5.3.4 Transfer of business

The provisions of Section 122 of the *Fair Work Act 2009* (Cth) will apply in relation to the obligation to pay redundancy pay in the circumstances of a transfer of business.

5.4 Safety

Employees will comply with the relevant Acts, Regulations, Codes of practice and the Company's Occupational Safety Policies and Procedures (as amended from time to time). It is a requirement to wear and maintain personnel protective equipment and safety equipment whilst in areas requiring such equipment. In particular this means the wearing of high visibility shirts/vests and approved safety boots and the completion of pre-start check documentation for toolbox meetings which may include hours/kilometers recorded by plant operators for plant and vehicles.

5.5 Consultation

The Parties to the Agreement will be bound by the Consultation Term in Schedule 1.

5.6 Flexibility

The parties to the agreement will be bound by the flexibility term in Schedule 2.

6. CLASSIFICATION AND WAGE RATES.

6.1 Classification Structure

Employees shall be classified and paid in accordance with the following structure.

CLASSIFICATION	RELATIVITY	MINIMUM REQUIREMENTS	$ PER HOUR	INDICATIVE SKILLS, DUTIES AND TASKS
Level 0 (MCW0)	85%	An entry-level employee who has not previously worked within the industry	$22.95	
Level 1 (MCW1)	90%	A civil construction worker with more than twelve months industry experience **and** who has either (a) attained their Certificate I level qualification or (b) has completed one Group B plant competency.	$24.30	Part of a self-directed work team • Works from instructions and procedures • Works individually under general supervision • Has a basic knowledge of the construction process • Works in a safe manner • Communicates essential information • Interacts harmoniously with others
Level 2 (MCW2)	92.5%	A civil construction worker who has completed a formal apprenticeship or traineeship **or** has completed two Group B plant competencies (ENTRY LEVEL FOR COMPLETED APPRENTICES / TRAINEES).	$24.98	Level 1 skills plus: • Plans and co-ordinates work in a team environment • Understands the sequencing of construction functions • Is responsible for assuring quality of their own work • Implements basic fault finding and problem solving skills

Level 3 (MCW3)	95%	A civil construction worker with more than three years industry experience **and** who has either (a) attained their Certificate II level qualification or (b) has completed two Group B plant competencies, or completed apprentice or trainee with an additional one year service.	$25.65	Level 2 skills plus: • Supervises employees up to Level 2 • Interprets plans and drawings • Assists with on-the-job training • Orders and purchases materials • Understands and applies quality control techniques • Anticipates and plans for constant changes to the work environment • Inspects products for conformity
Level 4 (MCW4)	100%	A civil construction worker with more than five years industry experience **and** has been assessed to AQF3 by an accredited assessment process **or** a completed apprentice or trainee with an additional two years experience.	$27.00	Level 3 skills plus: • Supervises employees up to Level 3 • Performs work of a trade nature and facilitates task completion • Undertakes advanced production sequencing and materials handling. • Exercises good interpersonal and communication skills • Allocates functions within a work team. • Undertakes detailed risk assessments and risk control techniques
Level 5 (MCW5)	105%	A civil construction worker who has the necessary skills and experience to competently and capably operate earthmoving plant **and/or** be part of a self directed work team working under limited supervision.	$28.35	Level 4 skills plus: • Exercises precision trades and non-trade skills using various materials and specialized techniques • Plans construction sequencing • Provides guidance and assistance to work teams
Level 6 (MCW6)	110%	A civil construction worker who has the necessary skills and experience to operate earthmoving plant at an advanced level **and/or** is able to perform the duties of a team leader responsible for a self directed work team for a short time horizon.	$29.70	Advanced Level 5 skills across a range of duties including: • Providing guidance and assistance • Assisting the provision of training • Working under limited supervision • Conducting toolbox and daily pre-start activities.
Level 7 (MCW7)	115%	A civil construction worker who is able to perform the duties of a team leader responsible for a self directed work team over an extended time horizon.	$31.05	Advanced Level 6 skills across a wide range of duties including: • The provision of training • Planning complex construction sequencing • Implementing quality control techniques • Exercising high precision trades skills using various materials and specialized techniques • Contributing to the design of work and the application of resources • Planning and allocating daily tasks and activities
Level 8 (MCW8)	120%	A civil construction worker who has the necessary skills to operate earthmoving plant at a consistently high level of performance **and/or** who has performed the duties of a leading hand for a minimum of three years.	$32.40	Advanced Level 7 skills
Level 9 (MCW9)	125%	A civil construction worker who has been assessed to AQF4 by an accredited assessment process **and** who has performed the duties of a leading hand for a minimum of five years	$33.75	Advanced Level 8 skills

*Refer Schedule 3 for Resources and Infrastructure Industry Qualifications

01/08/2016

6.2 Wage Rates

The wage rates for each classification are as prescribed below. The rates compensate for all special skills and/or disabilities and/or special rates, including annual leave loading associated with the industry of the employer. (Rates are given per hour for ordinary hours of work).

Classification	Full-Time $ per hour	Casual $ per hour
Level 0	$22.95	$28.36
Level 1	$24.30	$29.81
Level 2	$24.98	$30.39
Level 3	$25.65	$31.23
Level 4	$27.00	$32.16
Level 5	$28.35	$33.08
Level 6	$29.70	$33.79
Level 7	$31.05	$34.65
Level 8	$32.40	$35.06
Level 9	$33.75	$35.74

These wage rates will increase in the years 2017, 2018 and 2019 by the percentage increase awarded by the National Wage Review and operative from the date of such increase by the National Wage Review.

6.3 Apprentice and Trainee Rates

The following wage rates will apply to employees engaged as apprentices or trainees based on a percentage of the Level 4 (MCW4) classification.

CLASSIFICATION	MINIMUM REQUIREMENTS
Apprentice Level 1 (MCA1)	Prior to the attainment of the minimum training requirements specified for Level 2.
Apprentice Level 2 (MCA2)	On attainment of one third of the competencies required for the Certificate Level III, or twelve (12) months after commencing Level 1 whichever is the earlier.
Apprentice Level 3 (MCA3)	On attainment of two thirds of the competencies required for the Certificate Level III, or twelve (12) months after commencing Level 2 whichever is the earlier.
On Exit	On attainment of the total competencies required for the Certificate Level III. An assessment is to be undertaken within twelve months of commencing Level 3.

CLASSIFICATION	Not Completed Year 12	Completed Year 12
Apprentice Level 1 (MCA1)	55%	60%
Apprentice Level 2 (MCA2)	75%	75%
Apprentice Level 3 (MCA3)	90%	90%
On Exit	100%	100%

*Refer Schedule 3 for Resources and Infrastructure Industry Qualifications

6.4 Casual Employment

Casual employees meaning employees engaged as such will receive the rates prescribed in Clause 6.2 as their ordinary rate. The rates prescribed in Clause 6.2 will compensate for annual leave, personal/carers leave, notice, redundancy and any other full time entitlements that do not apply to casuals. A casual employee shall be entitled to payment for a minimum of four (4) hours' work per engagement.

6.5 Travel Allowance

A full time employee required to commence work on site shall receive a travel/mobility allowance of $30.00 per day for each day worked up to a maximum of 5 days per week and includes compensation for reasonable transfers from work site to work site as directed and for the carriage of hand tools and small items of equipment. This will not be paid where the employee is provided with a vehicle or transport to and from the site.

There will be no travel allowance paid in circumstances where the employee commences at the employer's depot or if you are provided with a company vehicle.

6.6 First Aid Allowance

An employee who is qualified to provide first aid and is appointed by the employer to be a First Aid Officer at a workplace will receive an allowance of $22.00 per week actually worked.

6.7 Living Away from Home Allowance

An employee who is required to work at a distance from his usual place of residence that is unreasonable to return home to each day will be entitle to reasonable board and accommodation.

Employees must provide the Employer with receipts of all food, rent and/or accommodation costs associated with living away from home.

A non-local employee will be entitled to reasonable board and accommodation as provided by the Employer; be paid reimbursement for board and accommodation privately acquired; or be paid a living away from home allowance of $80.00 per day. This amount shall be comprised of the following:

- $34.40 per day for reasonable food and drink costs
- $45.60 for rent and /or accommodation costs

Where accommodation only is provided by the Employer, the Employer shall pay the employee reasonable food and drink costs as outlined above.

A non-local employee will mean an employee who resides at a distance from their usual place of residence that it will be unreasonable to return home on a daily basis.

Applicants for employment will be required to make a declaration accompanied by appropriate proof of their usual place of residence upon application. Applicants will be advised that their declaration will determine their eligibility, or otherwise, for living away from home allowance or board and accommodation. Such determination will not alter during the employee's employment.

In circumstances where the Employer relocates the employee on a permanent basis and provides the reasonable and agreed relocation costs, then this allowance will not apply.

6.8 Protective Clothing / Safety Boot Allowance

The employer shall supply the employee with sufficient work shirts to carry out their duties. The shirts are to be replaced on a fair wear and tear basis.

The employer will pay an allowance of $200.00 on an annual basis for employees to purchase approved safety boots.

6.9 Superannuation

The Employer shall pay superannuation in accordance with the prescriptions of the *Superannuation Guarantee (Administration) Act 1992* (Cth) as amended from time to time into the employee's superannuation fund. This will satisfy the statutory requirements for occupational superannuation.

In the absence of an employee nominating a complying fund, the default fund for contributions will be Sunsuper.

6.10 Payment of Wages

The employees will be paid weekly by electronic funds transfer.

7. Hours of Work and Overtime

7.1 Ordinary Hours

The ordinary hours of work shall be an average of 38 hours per week to be worked over a nominated work cycle. The ordinary hours (other than night work as prescribed in clause 7.5) may be worked from 6.00 am to 6.00 pm Monday to Sunday. In circumstances where the ordinary hours are worked in a week on less than 5 days / shifts all hours of work can count towards the average 38 hours per week, provided any hours worked in excess of 8 hours per day or shift will attract penalty / overtime rates.

The work cycle may be altered by agreement or notice to suit project requirements. It will be available to work alternate hours of work that provide an average of 38 hours a week over a nominated work cycle. These cycles may include weekends to suit project requirements and/or implement compacted work cycles such as:

- 14 days on, 7 days off
- 10 days on, 4 days off.
- Even time rosters

The work cycle will be determined after consultation with the workforce and consideration of the needs of the business. After a work cycle is determined, any variation will be by mutual agreement with the affected employees, or in the absence of agreement, one week's notice. The weekend overtime rates will be payable on ordinary hours worked on the weekend (other than night work as prescribed by clause 7.5).

7.2 Additional Hours/ Overtime

All time worked by employees except casual, in excess of the work cycle's ordinary weekly or daily hours outside of the span of ordinary hours of work shall be paid as overtime at the following rates;

- Monday to Friday at the rate of time and a half for the first two hours and double time thereafter.
- All time worked on Saturday shall be paid at the rate of time and a half for the first two hours and double time thereafter.
- All time worked on day works on Sunday shall be paid at double time.

A casual employee will be entitled to overtime rates in accordance with this clause after 10 hours per day or in excess of 50 hours per week Monday to Friday; and for all hours worked on the weekend.

7.3 Rostered Days Off

The daily ordinary hours of work shall be 8 hours, with 0.4 hours accruing towards a scheduled/designated rostered day off (RDO) in each 4 week cycle.

The taking of RDOs will be subject to agreement between the individual employee and the employer, subject to the prescription for wet weather in clause 7.6. Employees may elect to receive a payment in lieu of accrued RDOs during the annual shutdown of each year provided that a minimum balance of 3 days is maintained. The payment in lieu will be for that period of time at the ordinary time rate prescribed in clause 6.2.

Any banked RDOs not taken at the employee's termination or completion of assignment on the project will be paid out at ordinary time.

7.4 Meal Breaks and Rest Pauses

There will be a meal break and a rest pause for each shift or day where a minimum of five (5) hours are worked Monday to Friday. The meal break shall be 30 minutes duration and will be unpaid. The rest pause will be 20 minutes duration and paid. The meal breaks and rest pauses will be taken at such time so to not interfere with the continuity of the operations.

An employee may be required to change the meal break to suit the requirements of the employer or client. In these circumstances, the meal break will be taken at another time during the day to suit the continuity of work. An employee cannot change their meal break without prior approval from their Supervisor.

7.5 Night Work

Night work will mean a shift where the majority of ordinary hours are worked between 6.00pm and 6.00am.The following loadings will apply on night work:

- Short term (less than one week) between 6pm Sunday and 6am Saturday - A loading of 50% shall apply to all hours worked on night work
- Long term between 6pm Sunday and 6am Saturday - A loading of 25% shall apply to all hours worked on a night work
- Weekend work between 6am Saturday and 6pm Sunday - Overtime rates shall apply.

The spread of hours may be altered by agreement to suit project requirements. It will be available to work alternate hours of work that provide an average of 38 hours a week over a nominated work cycle.

7.6 Wet Weather

During periods of inclement weather that prevents work from being performed on site, the employer, where practical, will transfer employees to an alternative site not so affected, or to the employer's depot / yard to perform maintenance, service-type duties or training.

Where this is not practical, all full- time employees shall be entitled to payment for ordinary time lost through wet weather and the effects of wet weather for up to 32 hours each calendar month (non-cumulative) subject to an employee being ready willing and able to work.

The number of hours credited to any employee under this clause shall be reduced by the number of hours for which payment is made in respect of lost time through wet weather.

Employees may utilise accrued RDOs as prescribed in clause 7.3 during periods of inclement weather.

8. Conditions of Employment

8.1 Annual Leave

8.1.1 Entitlement

A full-time employee shall be entitled to be paid annual leave at the rate of four (4) weeks of ordinary time for each year of continuous service consistent with the *Fair Work Act 2009* (Cth). The period of annual leave shall be exclusive of any public holiday that occurs during the period.

Notwithstanding the above, an employee defined as a continuous shift worker for the purposes of the National Employment Standards (NES) will be entitled to an additional week of annual leave as provided for in the NES.

At the written agreement between the Employer and employee, annual leave may be taken as a payment in lieu of leave subject to the following;

- A balance of four (4) weeks leave must be maintained
- The payment in lieu will be equal to the pay for that period of time as prescribed in Clause 8.1.3.

8.1.2 Rate of Pay for Annual Leave

Annual leave shall be paid at the ordinary weekly wage rate for ordinary hours.

8.1.3 Calculation of Annual Leave Pay

Annual leave shall be paid at the employee's ordinary weekly wage rate for ordinary hours for the period of annual leave (excluding shift allowances and weekend payments).

8.1.4 Taking of Annual Leave

The taking of annual leave will be subject to mutual agreement and at times convenient to requirements of projects.

The Employer by giving two (2) months' notice may require employees to take annual leave for an annual shutdown.

8.1.5 Payment on Termination

An employee on termination will be paid the accrued untaken annual leave based on the period of continual service.

8.2 Personal/Carers Leave

8.2.1 Entitlement

A weekly employee shall accrue paid personal/carers leave at the rate of 10 days for each year of continuous service consistent with the *Fair Work Act 2009* (Cth). Personal/carers leave will be paid at the employee's ordinary rate of pay for ordinary hours for the period of leave.

Personal/carers leave shall not apply for illnesses or injury covered by worker's compensation. An employee shall not be entitled to be paid personal/carers leave for more ordinary hours than the employee would have worked on that day.

8.2.2 Payment

Personal/carers leave shall be paid at the employee's ordinary weekly wage rate for ordinary hours and the employee must meet the following requirements:

- Have a credit entitlement to a period of leave,
- Notify the employer of the absence as soon as possible,
- Advise the employer how long the absence on personal/carers leave is likely to be,
- Provide evidence satisfactory to the employer of the illness or injury. An employee absent on personal/carers leave for more than two consecutive days or on more than two single days in any year may be required by the employer to produce a medical certificate from a qualified medical practitioner stating the nature of the illness and the period the employee will be unable to work.

8.2.3 Deduction from Personal/carers Leave Credits

Personal/carers leave debits will be equivalent to the ordinary hours an employee would have worked had they not been on personal/carers leave.

8.2.4 Personal/carers Leave Cumulative

Personal/carers leave shall accumulate from year to year.

8.2.5 Carers Leave

An employee may use accrued personal/carers days as carers leave to tend to the care for members of the employee's immediate household. The leave will be subject to the employee providing reasonable proof of the need for the use of carer's leave. In circumstances where the employee has exhausted all of the paid leave, a further 2 days unpaid leave may be taken.

8.3 Parental Leave

Employees will be entitled to Parental Leave in accordance with the *Fair Work Act 2009* (Cth).

8.4 Compassionate Leave

A full time employee may take compassionate leave when a member of the employee's immediate family or household member: contracts or develops a personal injury or illness that poses a serious threat to their life; or dies. Compassionate leave shall be a maximum of 2 paid days per occasion.

The following are members of an employee's immediate family:

a. a spouse or de-facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
b. a child, parent, grandparent, grandchild or sibling of a spouse or de-facto partner of the employee.

8.5 Long Service Leave

All Employees shall be entitled to long service leave in accordance with the relevant State Legislation. The Employer will ensure that any registration necessary for the purpose of Portable Long Service Leave Schemes will be undertaken.

8.6 Public Holidays

All full time employees shall be entitled to the following public Holidays without loss of pay;

- Christmas Day,
- Boxing Day,
- New Years Day,
- Australia Day,
- Good Friday,
- Easter Saturday,
- Easter Monday,
- Anzac Day
- Labour Day,
- Queen's Birthday,
- A public holiday prescribed by legislation for the district and/or state that the employee is working in (e.g. Show Day).

Any employee required to work on a public holiday nominated herein shall be paid at the rate of double time and a half for all time so worked where "double time and a-half" means one and a-half day's wages in addition to the employee's ordinary time rate of pay or *pro rata* if there is more or less than a day.

It will be available for the employer and a majority of the affected employees to substitute the nominated public holiday for another day and the prescriptions of this clause will apply to the substituted day.

9. Dispute Resolution Procedure

The Parties to this Agreement shall observe the following Industrial Dispute Resolution procedure in respect of disputes relating to the operation of this Agreement and the application of the National Employment Standards;

The Employer or employee may appoint a representative at any of the steps of the dispute process.

1. The employee concerned will first meet and confer with their immediate supervisor.

2. If the matter is not resolved at such a meeting the parties will arrange further discussions involving more senior management as appropriate.

3. If the matter remains unresolved, the Employer or employee may refer it to a more senior level of management for consideration.

4. In the event of the matter remaining unresolved, either party may refer the matter to the Fair Work Commission for conciliation.

5. Where conciliation of the matter is unsuccessful, either party may refer the matter to the Fair Work Commission for arbitration.

Except in situations where there is a perceived immediate and significant threat to employee health and safety, work will continue and consideration of the needs of the business will remain a priority.

01/08/2016

SIGNATURE PROVISIONS

Signed for and on behalf of
McIlwain Civil Engineering Pty Ltd

Signed _____

Name Keith McIlwain

Capacity to Sign Director

Address Unit 14, Goodwin Apartments, 1 Goodwin Street, Kangaroo Point, Q, 4169

Witness _____

Name of Witness (print) Debbie Hutcher

Address c/ 1283 Lytton Road, Hemmant

Date 2nd August 2016

01/08/2016
Signed For and on behalf of
McIlwain Civil Engineering Pty Ltd Employees

Signed _____

Name Simon Kable

Capacity to Sign Employee

Address 1207/8 Church Street

Witness _____

Name of Witness (print) Debbie Fulcher

Address c/ First Floor, 1283 Lytton Road, Hemmant

Date 5/8/2016

01/08/2016

Schedule 1

Consultation Term

(1) This term applies if the employer:

a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

(2) For a major change referred to in paragraph (1)(a):

a) the employer must notify the relevant employees of the decision to introduce the major change; and
b) subclauses (3) to (9) apply.

(3) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(4) If:

a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(5) As soon as practicable after making its decision, the employer must:

a) discuss with the relevant employees:

(i) the introduction of the change; and
(ii) the effect the change is likely to have on the employees; and
(iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

b) for the purposes of the discussion--provide, in writing, to the relevant employees:

(i) all relevant information about the change including the nature of the change proposed; and
(ii) information about the expected effects of the change on the employees; and
(iii) any other matters likely to affect the employees.

(6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

(7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

(8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.

(9) In this term, a major change is likely to have a significant effect on employees if it results in:

a) the termination of the employment of employees; or
b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
d) the alteration of hours of work; or
e) the need to retrain employees; or
f) the need to relocate employees to another workplace; or
g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

(10) For a change referred to in paragraph (1)(b):

a) the employer must notify the relevant employees of the proposed change; and
b) subclauses (11) to (15) apply.

(11) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(12) If:

a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(13) As soon as practicable after proposing to introduce the change, the employer must:

a) discuss with the relevant employees the introduction of the change; and
b) for the purposes of the discussion--provide to the relevant employees:

(i) all relevant information about the change, including the nature of the change; and

(ii) information about what the employer reasonably believes will be the effects of the change on the employees; and

(iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and

c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

(14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

(15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

(16) In this term relevant employees means the employees who may be affected by a change referred to in subclause (1).

Schedule 2

Flexibility Term

(1) An Employer and employee covered by this Enterprise Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

(a) the Agreement deals with 1 or more of the following matters:

(i) arrangements about when work is performed;
(ii) overtime rates;
(iii) penalty rates;
(iv) allowances;
(v) leave loading; and

(b) the arrangement meets the genuine needs of the Employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
(c) the arrangement is genuinely agreed to by the Employer and employee.

(2) The Employer must ensure that the terms of the individual flexibility arrangement:

(a) are about permitted matters under section 172 of the *Fair Work Act 2009* ; and
(b) are not unlawful terms under section 194 of the *Fair Work Act 2009* ; and
(c) result in the employee being better off overall than the employee would be if no arrangement was made.

(3) The Employer must ensure that the individual flexibility arrangement:

(a) is in writing; and
(b) includes the name of the Employer and employee; and
(c) is signed by the Employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
(d) includes details of:

(i) the terms of the Enterprise Agreement that will be varied by the arrangement; and
(ii) how the arrangement will vary the effect of the terms; and
(iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and

(e) states the day on which the arrangement commences.

(4) The Employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

(5) The Employer or employee may terminate the individual flexibility arrangement:

(a) by giving no more than 28 days written notice to the other party to the arrangement; or

(b) if the Employer and employee agree in writing at any time.

01/08/2016

Schedule 3

Resources and Infrastructure Industry Qualifications

- RII10109 Certificate I in Resources and Infrastructure Operations
- RII20709 Certificate II in Civil Construction
- RII20109 Certificate II in Resources and Infrastructure Work Preparation
- RII30909 Certificate III in Civil Construction
- RII30809 Certificate III in Civil Construction Plant Operations
- RII31309 Certificate III in Pipe Laying
- RII31409 Certificate III in Road Construction and Maintenance
- RII40609 Certificate IV in Civil Construction Operations
- RII40709 Certificate IV in Civil Construction Supervision

For further clarification please log on to:

www.skillsdmc.com.au

or direct link to:

http://www.skillsdmc.com.au/products/companion_volumes

[2016] FWCA 8315

DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Albem Operations Pty Ltd
(AG2016/6776)

ALBEM OPERATIONS PTY LTD GENERAL ENTERPRISE AGREEMENT 2016

Building, metal and civil construction industries

COMMISSIONER ROE MELBOURNE, 21 NOVEMBER 2016

Application for approval of the Albem Operations Pty Ltd General Enterprise Agreement 2016.

[1] An application has been made for approval of an enterprise agreement known as the *Albem Operations Pty Ltd General Enterprise Agreement 2016* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Albem Operations Pty Ltd. The Agreement is a single enterprise agreement.

[2] The Applicant has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement.

[3] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met. The Agreement does not cover all of the employees of the employer, however, taking into account the factors in Section 186(3) and (3A) I am satisfied that the group of employees was fairly chosen.

[4] The Agreement was approved on 21 November 2016 and, in accordance with s.54, will operate from 28 November 2016. The nominal expiry date of the Agreement is 30 September 2020.

COMMISSIONER

Printed by authority of the Commonwealth Government Printer

<Price code G, AE422270 PR587706>

Australian Government
Australian Building and Construction Commission

27 June 2017

Mr Tony Cocciolone
Consultant
Albem Operations Pty Ltd
GPO Box 3104
BRISBANE QLD 4001

DETERMINATION OF COMPLIANCE WITH SECTION 11
ABCC AGR ID: AGR3371
FWC Matter Number: AG2016/6776

Dear Mr Cocciolone,

On 14 March 2017 you requested advice from the Australian Building and Construction Commission (ABCC) on whether the registered enterprise agreement listed in your request meets the requirements of the *Code for the Tendering and Performance of Building Work 2016* (the Building Code 2016).

This Determination of Compliance is issued for the following registered enterprise agreement because it meets the requirements of section 11 of the Building Code 2016:

ALBEM OPERATIONS PTY LTD GENERAL ENTERPRISE AGREEMENT 2016

Accordingly, by virtue of section 22(3) of the Building Code, this determination is taken to be conclusive of the fact that this registered enterprise agreement meets the requirements of section 11 of the Building Code 2016.

Note: This Determination of Compliance is based on the enterprise agreement registered with the Fair Work Commission at the date of this determination. If the registered enterprise agreement is varied after this date, the Determination of Compliance ceases to be effective. In these circumstances, you will need to consider submitting the varied agreement for further advice.

Parties must also comply with all relevant provisions of the Building Code 2016 in relation to their practical on-site application. The ABCC monitors behaviour on sites to which the Building Code applies and investigates any alleged breaches. The ABCC can be contacted through its hotline on 1800 003 338 or at www.abcc.gov.au.

The Building Code 2016 is available at https://www.legislation.gov.au/Details/F2016L01859.

Yours sincerely

Tom Cagorski
Legal Manager – Agreement Compliance
Australian Building and Construction Commission

Albem Operations Pty Ltd

General Enterprise Agreement 2016

1. Parties to the agreement

The parties to the agreement will be as follows;

- Albem Operations Pty Ltd as the employer, and
- The employees of Albem Operations Pty Ltd engaged in the classifications contained herein.

2. Application of Agreement

This agreement will apply to the employer and to their employees in the performance of all construction and maintenance works in all states and territories of Australia.

These works include;

- Subdivision works for residential and commercial development
- Construction works for private sector developments and projects
- Public infrastructure works.

This agreement will also apply to employees engaged in duties related to construction and maintenance in the employer's depot/yard

3. Duration of Agreement

The agreement shall apply from seven (7) days after the approval by the Fair Work Commission until 30 September 2020.

4. Purpose of Agreement

The purpose of the agreement is to provide comprehensively the wages and conditions of employment for the work performed described herein. The agreement is a stand-alone document and applies to the exclusion of any applicable award. Except as provided herein this agreement operates to exclude allowances that may have applied from the operation of any Modern Award.

The union and the employees will not take industrial action for any claims for wages and conditions during the life of this agreement.

5. Contract of Employment

5.1 Engagement

The employment shall be either full time or casual employment. The employee will be notified at the time of engagement of the employment status.

All new employees will be subject to a 6 month probation period.

Employees shall be multi-skilled and work in a completely flexible workplace not only to increase productivity but also to provide employees with more satisfying and challenging jobs and enhance their career growth opportunities. All employees will be required to perform a diverse range of functions including but not restricted to construction, fabrication, manufacturing, technical, services and general support

There shall be no demarcation or restrictions between functions or organisational status including between traditional crafts, occupations, or vocations or callings.

An employee may be required to, and shall perform, any function providing the employee has the required expertise to safely discharge the requisite and provided that, such functions shall be subject to safe, legal and practical work practices.

The level of flexibility and skill is comprehended in the wage rates for each classification.

5.2 Termination

A full time employee's termination shall be in accordance with the provisions of the *Fair Work Act 2009* (Cth). The period of notice to be given by the employer shall be as follows:

Where the employee's period of continuous service with that employer is:	The period of notice is:
Up to 1 year	1 week
1 year or more but less than 3 years	2 weeks
3 years or more but less than 5 years	3 weeks
5 years or more	4 weeks

This period of notice shall be increased by one week where the employee is over 45 years of age and has completed two years of continuous service with the employer.

The period of notice to be given by the employee shall be one week. Where less than one weeks' notice is given by the employee the employer is entitled to deduct one week's pay from the employees termination payment.

Payment in lieu of notice shall be made if the appropriate notice period is not given. The employment may be terminated by part of the period of notice and part payment in lieu. Nothing in this clause shall affect the right of the employer to summarily dismiss an employee for conduct that justifies this action.

The notice period will not be payable for employees employed for a specified period of time, or for a specified task.

5.3 Redundancy

5.3.1 Definition of Redundancy

Redundancy means a situation where an employee ceases to be employed by an employer, respondent to this Agreement, other than for reasons of misconduct or refusal of duty. "Redundant" has a corresponding meaning.

5.3.2 Redundancy Pay

A redundant employee shall receive redundancy/severance payments, calculated as follows, in respect of all Continuous Service (as defined) with the employer.

Period of continuous service with an employer	Severance Payment
1 year or more but less than 2 years	2.4 weeks' pay for all service in excess of 1 year, 1.75 hours per pay completed week of service up to a maximum of 4.8 weeks' pay.
2 years or more but less than 3 years	4.8 weeks' pay plus, for all service in excess of 2 years, 1.6 hours per pay completed week of service up to a maximum of 7 weeks' pay.
3 years or more but less than 4 years	7 weeks' pay plus, for all service in excess of 3 years, 0.73 hours pay per completed week of service up to a maximum of 8 weeks' pay.
4 years or more	8 weeks' pay.

Provided that an employee employed for less than 12 months shall be entitled to a redundancy/ severance payment of 1.75 hours per completed week of service if, and only if redundancy is occasioned otherwise than by the employee.

"Weeks' pay" means the ordinary time rate of pay at the time of termination for the employee concerned

5.3.3 Continuous Service

For the purpose of this clause service shall be deemed to be continuous notwithstanding an employee's absence from work in any year of their employment as a consequence of:-

(a) Paid Personal/Carers leave;

(b) Illness or accident up to maximum of 4 weeks after the expiration of paid sick leave;

(c) Workers Compensation up to a maximum of 52 weeks;

(d) Annual Leave;

(e) Long Service Leave;

(f) All other absences taken with the employer's approval;

(g) The period during which the employment of the employee with the employer shall have been interrupted in accordance with clauses (b) and (f) shall not be taken into account in calculating the period of employment of the employee with the employer;

(h) In the event of disagreement with the above matter shall be referred to Fair Work Australia for determination.

5.3.4 If an employee dies with a period of eligible service which would have entitled that employee to redundancy pay, such redundancy pay entitlement shall be paid to the estate of the employee.

5.3.5 Any period of service as a casual shall not entitle an employee to accrue service in accordance with this clause for that period.

5.3.6 Transfer of Business

The provisions of Section 122 of the *Fair Work Act 2009* (Cth)will not apply in relation to the obligation to pay redundancy pay in the circumstances of a transfer of business.

5.3.7 Payments to a Redundancy Fund

The liability for payments arising in terms of this clause on the Employer can be offset or partially offset by any payments made on behalf of an employee to a recognised redundancy fund.

5.4 Safety

Employees will comply with the relevant Acts, Regulations, Codes of practice and the Company's Occupational Safety Policies and Procedures (as amended from time to time). It is a requirement to wear and maintain personnel protective equipment and safety equipment whilst in areas requiring such equipment.

Any disputes or grievances relating to safety issues shall be resolved in accordance with the Dispute Resolution Procedure. Work shall continue as normal or as directed by the employer during any safety dispute.

5.5 Drug and Alcohol Testing

The employer reserves the right to introduce drug and alcohol testing during the life of this agreement. Prior to introduction of testing there will be reasonable consultation with the employees.

5.6 Consultation

The parties to the agreement will be bound by the Consultation Term in Schedule 2.

5.7 Flexibility

The parties to the agreement will be bound by the Flexibility Term in Schedule 3.

6. CLASSIFICATION AND WAGE RATES.

6.1 Classification Structure

Employees shall be classified and paid in accordance with the following structure.

Classification	Description
Level 1	An Employee who has not previously worked within the Industry Classifications defined herein.
Level 2	An entry-level employee with greater than three month's experience.
Level 3	An employee having the skills, qualifications and competency and substantially assigned to exercise the following duties: • Basic servicing maintenance surface plant and equipment. • Care, maintenance and storage of all tools and equipment. • Utilising of tools & equipment in support of Construction

	Workers Level 3 & above. • Application of general manual support skills. • Powered Vibrating Road Roller up to 4 Tonne » Powered Road Roller up to 8 Tonne
Level 4	• Rigging • Scaffolding • Dogging • Concrete Finisher • Pipe and Conduit Laying • Steel Fixer • Soil Tester • Chainman • Bobcat • Forklift • Formsetter/Carpenters (unqualified less than 12 months experience) • Cranes up to 20 Tonne • Pile Driver • Trucks up to 20 Tonne • Compactors up to 20 Tonne
Level 5	• Cranes 20 to 110 Tonne • Formsetter/Carpenters (unqualified and more than 12 months experience) • Grader up to 3 7kw (less than CAT 120) • Excavators up to .5 cubic metre capacity (up to 20 tonne weight) • Crawler Tractors up to 180kw (CAT D7 and below) • Scraper Loader up to 10 cubic metre capacity (less than CAT 621) • Loaders up to 130kw (up to CAT 950) • Backhoe • Trucks over 20 Tonne capacity • Compactors over 20 Tonne
Level 6	• All persons with trade qualifications (Trade Certificate or AQF3) • Cranes in excess of 110 Tonne • Grader over 37kw (CAT 120 and above) • Excavator over .5 cubic metre capacity (above 20 tonne weight)

	• Crawler Tractor over 180kw (CAT D8 and above) • Scraper Loader over 10 cubic metre capacity (CAT 621 and above) • Loader over 130kw (CAT 960 and above) • Survey Instrument Hand

6.2 Wage Rates

The wage rates for each classification are as prescribed below. The rates compensate for all special skills and/or disabilities and/or special rates associated with the industry of the employer. (Rates are given per hour for ordinary hours of work).

Classification	$ Per Hour
Level 1	$25.93
Level 2	$27.55
Level 3	$28.21
Level 4	$29.31
Level 5	$30.53
Level 6	$32.05

These wage rates will increase in accordance with Schedule 1.

6.3 Casual Employment

Casual employees meaning employees engaged as such will receive a loading of 25% on the rates prescribed herein as their ordinary rate. The loading will compensate for annual leave, personal/carers leave, public holidays, notice, redundancy and any other full time entitlements that do not apply to casuals. A casual employee shall be entitled to payment for a minimum of four (4) hours' work per engagement. There shall be no restriction on the engagement or tenure of casual employees.

6.4 Apprentice and Trainee Rates

The wage progression arrangements for apprentices and trainees undertaking a Certificate Level III qualification shall be as per the following table. An employee engaged as a trainee or apprentice in accordance with this clause will remain being paid in accordance with this clause for a period of twenty four months on attaining the certificate level III as prescribed, unless otherwise agreed by the Employer. The rates provided in this clause will increase in accordance with the wage increases prescribed in clause 6.1.

Wage Level	Minimum Requirements	% of Level 4
1	Prior to the attainment of the minimum training requirements specified for Wage Level 2	55
2	On attainment of one third of the competencies required for the Certificate Level III, *or* twelve months after commencing Wage Level 1 whichever is the earlier	75

3	On attainment of two thirds of the competencies required for the Certificate Level III, *or* twelve months after commencing Wage Level 2 whichever is the earlier	90
On Exit	On attainment of the total competencies required for the Certificate Level III. An assessment is to be undertaken within twelve months of commencing Wage Level 3.	100
Experienced Tradesperson	Twenty-four months after attaining the Certificate Level III Wage Level 6	100

6.4 Travel Allowance

An employee required to commence work on site shall receive a travel/mobility allowance of $33.00 per day for each day that the employee is required to commence on a project construction site. This will not be paid where the employee is provided with a vehicle or transport to and from the site. This allowance shall increase in accordance with Schedule 1.

Travel Allowance does not apply to employees employed at the Depot/Yard at 342 Thynne Road, Morningside.

6.5 First Aid Allowance

A qualified employee appointed by the employer to perform first aid duty shall be paid $13.85 per week in addition to ordinary rates.

6.6 Leading Hand Allowance

Where employees are appointed by the employer to be in charge of other employees the following allowances shall be paid:

	$ Per Day
Where in charge of 2 – 9 other employees	$10.00
Where in charge of 10 or more other employees	$15.00

6.7 Living Away from Home Allowance

An employee who is required to work at a distance from his usual place of residence that is unreasonable to return home to each day will be entitled to reasonable board and accommodation or be paid a living away from home allowance of $69.00 per day or $483.00 per week.

Applicants for employment will be required to make a declaration accompanied by appropriate proof of their usual place of residence upon application.

Applicants will be advised that their declaration will determine their eligibility, or otherwise, for living away from home allowance or board and accommodation. Such determinations will not alter during the employee's employment on a project.

6.8 Superannuation

The Employer shall pay superannuation in accordance with the prescriptions of the *Superannuation Guarantee (Administration) Act 1992* (Cth) as amended from time to time into a complying superannuation fund nominated by the employee. Ordinary time earnings will mean the weekly amount prescribed in Clause 6.2. If the employee does not nominate a fund, the employer will nominate a default fund. The employer shall ensure that superannuation contributions pursuant to this clause are made into an eligible choice fund and that such fund is a fund that offers a MySuper product or is an exempt public sector scheme.

6.9 Payment of Wages

The employees will be paid weekly by electronic funds transfer.

7. Hours of Work and Overtime

7.1.1 Ordinary Hours

The nominal ordinary hours of work shall be 36 hours per week to be worked from 6.00 am to 6.00 pm Monday to Friday.

It will be available to the employer and affected employees to agree to work alternate hours of work that provide an average of 36 hours a week over a nominated cycle. These cycles may include weekends to suit project requirements and/or implement compacted work cycles such as 10 days on, 4 days off. The weekend penalties for ordinary hours will be time and a half for Saturday and double time for Sunday.

7.1.2 Start and Finish Times

The start and finish times will be determined by the employer within the span of hours prescribed in clause 7.1.1 and may vary between work groups to suit the project.

The starting time will be at the employer's pre start meeting. The finishing time will be at the work place.

7.2.1 Additional Hours/ Overtime

All time worked in excess of the work cycle's ordinary weekly or daily hours or outside of the span of ordinary hours of work shall be paid as overtime at the following rates;

- Monday to Saturday at the rate of time and a half for the first two hours and double time thereafter.
- All time worked on Sunday shall be paid at double time.

7.2.2 Recall

An employee recalled to work overtime after leaving the site on any day Monday to Friday (whether notified before or after leaving the site) shall be paid for a minimum of four hours' work at the appropriate rate for each time the employee is recalled.

Except in the case of unforeseen circumstances arising, the employees shall not be required to work the full four hours if the job the employee was recalled to perform is completed within a shorter period.

This overtime shall not be regarded as overtime for the purpose of clause 4.2.3 when the actual time

worked is less than four hours on the recall or on each of the recalls.

7.2.3 Rest Period

An employee who works overtime shall have at least a ten hour rest period between the end of ordinary hours on any one day and start of ordinary hours on the next day.

If on the instructions of the employer, the employee resumes or continues work without having had 10 consecutive hours off duty, the employee shall be paid double time until he or she is released from duty for ten hour rest period. The employee shall then be entitled to be absent without loss of pay for ordinary working hours occurring during the ten hour rest period.

In the case of shift workers, eight hours shall be substituted for ten hours when overtime is worked:

(a) for the purpose of changing shift rosters; or
(b) to provide coverage for a shift worker who has not reported for work; or
(c) where employees have mutually agreed to swap shifts

7.2.4 Meal Allowance and Crib Allowance.

In the circumstances where an employee is required to work more than 10 hours inclusive of ordinary time and overtime, Monday to Friday, a meal will be provided or a payment of $25.00 for meals will be made. This payment will apply in lieu of the crib payment.

Provided that employees who are in receipt of board and accommodation, or the full living away from home allowance prescribed in clause 6.7 shall not be entitled to the meal allowance.

7.3 Meal Breaks and Rest Pauses

There will be a meal break and a rest pause for each shift or day where a minimum of five hours are worked Monday to Friday. The meal break shall be thirty minutes duration and will be unpaid. The rest pause will be twenty minutes duration and paid.

An employee required to work overtime on a Saturday, Sunday or rostered day off shall be allowed a 20 minute paid crib break after each five hours worked if the work is scheduled to continue after the break. Payment for the crib break shall be at the prevailing overtime rate. A second meal break of 20 minutes shall be due if working 8 hours or more, and paid at the prevailing overtime rate. Subsequent paid meal breaks are due every 4 hours

The times of taking the breaks will be as agreed between the employer and majority of employees affected.

7.4 Shift Work

Shift work meaning ordinary hours worked outside or partly outside of the ordinary span of hours of at least 5 consecutive shifts may be worked to suit the requirements of a project. The requirement to work shift work will only occur after consultation with the appropriate employees.

A loading of 25% shall apply to ordinary hours Monday to Friday. The applicable weekend rates for ordinary time worked on a weekend prescribed in clause 7.1 will apply to weekend work.

7.5 Short-Term Night Work

In circumstances where ordinary hours of work are worked outside of the ordinary hours to meet the requirements of a Project, for periods of less than 5 nights (or a rostered 36 hours per week) the rate of time and half shall apply.

Provided that the following conditions apply:

- Employees are given 48 hours' notice of work requirements;
- There is a ten-hour break after the completion of rostered work until the commencement of ordinary time, otherwise double time shall apply until a ten hour break is taken.
- All overtime is paid at double time.

7.6 Wet Weather

During periods of inclement weather that prevents work from being performed on site, the employer, where practical, will transfer employees to an alternative site not so affected, or to the employer's depot/yard to perform maintenance, service-type duties or training.

Where this is not practical, all full-time employees shall be entitled to payment by the employer for ordinary time lost through wet weather and the effects of wet weather for up to 40 hours in each calendar month (non-cumulative) subject to an employee being ready, willing and able to work. The number of hours credited to any employee under this clause shall be reduced by the number of hours for which payment is made in respect of lost time through wet weather.

If an employee is required to work in the rain without cover the employee shall be paid single time in addition to the prevailing rate for all work performed. The additional payment shall not apply to employees working in dry situations, or working undercover.

8. Conditions of Employment

8.1 Annual Leave

8.1.1 Entitlement

A fulltime employee shall be entitled to be paid annual leave at the rate of 4 weeks of ordinary time for each year of continuous service consistent with the *Fair Work Act 2009* (Cth). The period of annual leave shall be exclusive of any public holiday that occurs during the period.

Notwithstanding the above, an employee defined as a shift worker for the purposes of the National Employment Standards (NES) will be entitled to an additional week of annual leave as provided for in the NES. A shift worker shall mean an employee engaged to work in a system of consecutive shifts throughout the 24 hours of each of at least six consecutive days without interruption (except during breakdown or meal breaks or due to unavoidable causes beyond the control of the employer) and who is regularly rostered to work those shifts.

At the written initiation of an employee, and the agreement of the employer, up to 2 weeks of annual leave per year may be taken as a payment in lieu of the leave. The payment in lieu will be equal to the pay for that period of time as prescribed in clause 8.1.3.

8.1.2 Rate of Pay for Annual Leave

Annual leave shall be paid at the ordinary weekly wage rate for ordinary hours.

8.1.3 Calculation of Annual Leave Pay

Annual leave shall be paid at the employee's ordinary weekly wage rate for ordinary hours for the period of annual leave (excluding shift allowances and weekend payments but including leading hand allowance); plus an amount equal to 17.5% of the amount.

8.1.4 Taking of Annual Leave

The taking of annual leave will be subject to mutual agreement and at times convenient to requirements of projects.

The employer by giving reasonable notice may require employees to take annual leave for an annual shutdown.

8.1.5 Payment on Termination

An employee on termination will be paid the accrued untaken annual leave based on the period of service.

8.2 Personal/Carers Leave

8.2.1 Entitlement

A weekly employee shall accrue paid personal/carers leave at the rate of 10 days for each year of continuous service consistent with the *Fair Work Act 2009* (Cth). Personal/carers leave will be paid at the employee's ordinary rate of pay for ordinary hours for the period of leave.

Personal/carers leave shall not apply for illnesses or injury covered by worker's compensation. An employee shall not be entitled to be paid personal/carers leave for more ordinary hours than the employee would have worked on that day.

8.2.2 Payment

Personal/carers leave shall be paid at the employee's ordinary weekly wage rate for ordinary hours and the employee must meet the following requirements:

- Have a credit entitlement to a period of leave,
- Notify the employer of the absence as soon as possible,
- Advise the employer how long the absence on personal/carers leave is likely to be,
- Provide evidence satisfactory to the employer of the illness or injury. An employee absent on sick leave for more than two consecutive days or on more than two single days in any year may be required by the employer to produce a medical certificate from a qualified medical practitioner stating the nature of the illness and the period the employee will be unable to work.

8.2.3 Deduction from Personal/Carers Leave Credits

Personal/carers leave debits will be equivalent to the ordinary hours an employee would have worked had they not been on personal/carers leave.

8.2.4 Personal/Carers Leave Cumulative

Personal/carers leave shall accumulate from year to year.

8.2.5 Carers Leave

An employee may use up to 10 days accrued personal/carers days as carers leave to tend to the care for members of the employee's immediate family, or a member of the employee's household. The leave will be subject to the employee providing reasonable proof of the need for the use of carer's leave. In circumstances where the employee has exhausted all of the paid leave, a further 2 days unpaid leave may be taken.

8.3 Parental Leave

Employees will be entitled to Parental Leave in accordance with the *Fair Work Act 2009* (Cth).

8.4 Compassionate Leave

A full time employee may take compassionate leave when a member of the employee's immediate family or household member: contracts or develops a personal injury or illness that poses a serious threat to their life; or dies. Compassionate leave shall be a maximum of 2 paid days per occasion. Compassionate leave for casual employees shall be a maximum of two (2) unpaid days per occasion.

The following are members of an employee's immediate family:

a. a spouse or de-facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
b. a child, parent, grandparent, grandchild or sibling of a spouse or de-facto partner of the employee.

8.5 Portable Long Service Leave and WorkCover Provision

The Company shall ensure that the requirements of relevant Portable Long Service Leave and Workcover legislation are met and WorkCover provisions shall be paid for employees.

8.6 Public Holidays

All full time employees shall be entitled to the following public Holidays without loss of pay;

- Christmas Day,
- Boxing Day,
- New Year's Day,
- Australia Day,
- Good Friday,
- Easter Monday,
- Anzac Day
- Labour Day,
- Queen's Birthday,
- A public holiday prescribed by legislation for the district and/or state that the employee is working in (e.g. Show Day).

Any employee required to work on a public holiday nominated herein shall be paid at the rate of double time and a half for all time so worked where "double time and a-half" means one and a-half day's wages in addition to the employee's ordinary time rate of pay or *pro rata* if there is more or less than a day.

It will be available for the employer and a majority of the affected employees to substitute the nominated public holiday for another day and the prescriptions of this clause will apply to the substituted day.

Provided a weekly employee who has been employed continuously for two weeks and who: is terminated by the employer or stood down during December; and is re-employed by the employer at any time before the end of January in the following year; shall be paid for the public holidays of Christmas Day, Boxing Day and New Year's Day when those days occur during the period of the termination or standing down.

9. Dispute Resolution Procedure

The Parties to this Agreement shall observe the following Industrial Dispute Resolution procedure in respect of disputes relating to the operation of this Agreement and the application of the National Employment Standards;

The Employer or employee may appoint a representative at any of the steps of the dispute process.

1. Parties to the dispute will first meet and confer by holding discussions between the employee/s concerned and an immediate supervisor/s.

2. If the matter is not resolved at such a meeting the parties will arrange further discussions involving more senior management as appropriate.

3. If the matter remains unresolved, the Employer or employee may refer it to a more senior level of management for consideration.

4. In the event of the matter remaining unresolved, either party may refer the matter to the Fair Work Commission for conciliation.

5. Where conciliation of the matter is unsuccessful, either party may refer the matter to the Fair Work Commission for arbitration. Any decision, determination or outcome of the Fair Work Commission shall be consistent with the Fair and Lawful Building Sites Code 2014.

Except in situations where there is a perceived immediate and significant threat to employee health and safety, work will continue and consideration of the needs of the business will remain a priority.

Schedule 1

Wage Rates

Classification	From Commencement	1-Apr-17	1-Oct-17	1-Apr-18	1-Oct-18	1-Apr-19	1-Oct-19	1-Apr-20
Level 1	$25.93	$26.32	$26.71	$27.12	$27.53	$27.94	$28.36	$28.78
Level 2	$27.55	$27.96	$28.38	$28.81	$29.24	$29.68	$30.13	$30.58
Level 3	$28.21	$28.64	$29.07	$29.51	$29.95	$30.40	$30.86	$31.32
Level 4	$29.31	$29.75	$30.20	$30.65	$31.11	$31.58	$32.05	$32.53
Level 5	$30.53	$30.99	$31.45	$31.93	$32.41	$32.90	$33.39	$33.89
Level 6	$32.05	$32.54	$33.03	$33.52	$34.02	$34.53	$35.05	$35.58

Travel Allowance

From Commencement	1-Oct-17	1-Oct-18	1-Oct-19
$33.00	$35.00	$36.00	$37.00

Schedule 2

Consultation

(1) This term applies if the employer:

a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

(2) For a major change referred to in paragraph (1)(a):

a) the employer must notify the relevant employees of the decision to introduce the major change; and
b) subclauses (3) to (9) apply.

(3) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(4) If:

a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(5) As soon as practicable after making its decision, the employer must:

a) discuss with the relevant employees:

(i) the introduction of the change; and
(ii) the effect the change is likely to have on the employees; and
(iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

b) for the purposes of the discussion--provide, in writing, to the relevant employees:

(i) all relevant information about the change including the nature of the change proposed; and
(ii) information about the expected effects of the change on the employees; and
(iii) any other matters likely to affect the employees.

(6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

(7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

(8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.

(9) In this term, a major change is likely to have a significant effect on employees if it results in:

a) the termination of the employment of employees; or
b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
d) the alteration of hours of work; or
e) the need to retrain employees; or
f) the need to relocate employees to another workplace; or
g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

(10) For a change referred to in paragraph (1)(b):

a) the employer must notify the relevant employees of the proposed change; and
b) subclauses (11) to (15) apply.

(11) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(12) If:

a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(13) As soon as practicable after proposing to introduce the change, the employer must:

a) discuss with the relevant employees the introduction of the change; and
b) for the purposes of the discussion--provide to the relevant employees:

(i) all relevant information about the change, including the nature of the change; and
(ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
(iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and

c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

(14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

(15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

(16) In this term relevant employees means the employees who may be affected by a change referred to in subclause (1).

Schedule 3

Flexibility Term

(1) An Employer and employee covered by this Enterprise Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

- (a) the Agreement deals with 1 or more of the following matters:
  - (i) arrangements about when work is performed;
  - (ii) overtime rates;
  - (iii) penalty rates;
  - (iv) allowances;
  - (v) leave loading; and
- (b) the arrangement meets the genuine needs of the Employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
- (c) the arrangement is genuinely agreed to by the Employer and employee.

(2) The Employer must ensure that the terms of the individual flexibility arrangement:

- (a) are about permitted matters under section 172 of the *Fair Work Act 2009* ; and
- (b) are not unlawful terms under section 194 of the *Fair Work Act 2009* ; and
- (c) result in the employee being better off overall than the employee would be if no arrangement was made.

(3) The Employer must ensure that the individual flexibility arrangement:

- (a) is in writing; and
- (b) includes the name of the Employer and employee; and
- (c) is signed by the Employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
- (d) includes details of:
  - (i) the terms of the Enterprise Agreement that will be varied by the arrangement; and
  - (ii) how the arrangement will vary the effect of the terms; and
  - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- (e) states the day on which the arrangement commences.

(4) The Employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

(5) The Employer or employee may terminate the individual flexibility arrangement:

- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
- (b) if the Employer and employee agree in writing at any time.

SIGNATURE PROVISIONS

Signed for and on behalf of **Albem Operations Pty Ltd**

Signed _____

Name Elisha McLoughlin

Capacity to Sign Office Manager

Address GPO Box 3104, Brisbane Q 4001

Witness _____

Name of Witness (print) Antonio Cocciolone

Address 46 Algona Street Rochedale South 4123

Date 2/11/16

Signed For and on behalf of
The employees of Albem Operations Pty Ltd

Signed _____

Name SHANE ONEILL

Capacity to Sign BOILER MAKER

Address 142 LOGANLEA RD LOGANLEA 4131

Witness _____

Name of Witness (print) NEIL BRADEN

Address 3015 MALENY-KENILWORTH RD CAMBROON

Date 02/11/2016.

Australian Government
Australian Building and Construction Commission

ABCC

7 December 2018

Mr Mark Goodwin
Managing Director
SGQ Pty Ltd
3/12 Technology Drive
WARANA QLD 4575

DETERMINATION OF COMPLIANCE WITH SECTION 11
ABCC EA ID: EA8310
FWC Matter Number: AG2018/2374

Dear Mr Goodwin,

On 23 November 2018 you requested advice from the Australian Building and Construction Commission (ABCC) on whether the registered enterprise agreement listed in your request meets the requirements of the *Code for the Tendering and Performance of Building Work 2016* (the Building Code 2016).

This Determination of Compliance is issued for the following registered enterprise agreement because it meets the requirements of section 11 of the Building Code 2016:

SGQ GROUP ENTERPRISE AGREEMENT 2018

Accordingly, by virtue of section 22(3) of the Building Code, this determination is taken to be conclusive of the fact that this registered enterprise agreement meets the requirements of section 11 of the Building Code 2016.

Note: This Determination of Compliance is based on the enterprise agreement registered with the Fair Work Commission at the date of this determination. If the registered enterprise agreement is varied after this date, the Determination of Compliance ceases to be effective. In these circumstances, you will need to consider submitting the varied agreement for further advice.

Parties must also comply with all relevant provisions of the Building Code 2016 in relation to their practical on-site application. The ABCC monitors behaviour on sites to which the Building Code applies and investigates any alleged breaches. The ABCC can be contacted through its hotline on 1800 003 338 or at www.abcc.gov.au.

The Building Code 2016 is available at https://www.legislation.gov.au/Details/F2016L01859.

Yours sincerely

Janine Drennan National Manager, Building Code
Australian Building and Construction Commission

GPO Box 9927 in your capital city **Hotline**: 1800 003 338 **abcc.gov.au** ABN 68 003 725 098

SGQ Group
Enterprise Agreement 2018

1. Parties to the Agreement

The Parties to the Agreement will be as follows;

- The SGQ Group comprising of the following companies:
  - SGQ Pty Ltd T/A SGQ; and
  - SGQ Civil Pty Ltd T/A SGQ Civil.
- The Employees of the SGQ Group of companies engaged in the classifications contained herein.

2. Application of Agreement

This Agreement will apply to the Employer and to their employees engaged in civil construction and traffic control and related works throughout Australia.

Provided that this agreement will not apply yard and depot work.

3. Duration of Agreement

The Agreement shall apply from seven (7) days after the approval with the Fair Work Commission until 30 June 2022.

4. Purpose of Agreement

The purpose of the agreement is to provide comprehensively the wages and conditions of employment for the work performed described herein. The agreement is a standalone document and applies to the exclusion of any applicable Modern Award.

Provided that this agreement will not apply yard and depot work. Any employees engaged principally on yard and depot work, shall be paid in accordance with the *Manufacturing and Associated Industries and Occupations Award 2010*

5. Contract of Employment

5.1. Engagement

The employee will be notified at the time of engagement of the employment status. The employment types will be as defined and prescribed in the Modern Award.

5.1.1. A full time employee shall mean an employee engaged for 38 hours per week.

5.1.2. Part-time employees shall be entitled to the same entitlements of a full-time employee on a pro-rata basis. Part-time employees shall be engaged on a regular basis of less than 38 hours per week.

5.1.3. Casual employees meaning employees engaged as such will receive a loading of 25% in addition to the rates prescribed in Clause 6.1 as their ordinary rate. This rate will compensate for annual leave, personal/carers leave, notice, redundancy and any other full time entitlements that do not apply to casuals. A casual employee shall be entitled to payment a minimum of four (4) hours' work per engagement.

5.1.4. Medical Examinations

The Employer may require an employee to attend a medical examination where the

Employer requires proof of fitness for work; or has reason to believe that an employee is unfit for duty due to injury, illness, intoxication or any other reason; including having regard to any work related health/safety issue. 14.2 If the Employer requires an employee to attend a specified medical practitioner, the appointment will be in work time and paid by the Employer. No penalties or overtime is payable.

5.1.5. Drug and Alcohol Testing

The employer will undertake random testing during the life of the agreement in accordance with the company policies and procedures.

All new employees will be subject to a six (6) month probation period.

Employees shall be multi-skilled and work in a completely flexible workplace not only to increase productivity but also to provide employees with more satisfying and challenging jobs and enhance their career growth opportunities.

There shall be no demarcation or restrictions between functions or organisational status including between traditional crafts, occupations, or vocations or callings.

The level of flexibility and skill is comprehended in the wage rates for each classification.

5.2. Termination

A permanent employee's termination shall be in accordance with the provisions of the *Fair Work Act 2009* (Cth). The period of notice to be given by the Employer shall be as follows:

Where the employee's period of continuous service with that Employer is:	**The period of notice is:**
Up to 1 year	1 week
1 year or more but less than 3 years	2 weeks
3 years or more but less than 5 years	3 weeks
5 years or more	4 weeks

This period of notice shall be increased by one (1) week where the employee is over 45 years of age and has completed two years of continuous service with the Employer.

The period of notice to be given by the employee shall be the same as provided by the Employer.

Payment in lieu of notice shall be made if the appropriate notice period is not given. The employment may be terminated by part of the period of notice and part payment in lieu. Payment in lieu of notice shall be at the employee's ordinary weekly wage for the ordinary hours not worked by the employee during the period of notice. Nothing in this clause shall affect the right of the Employer to summarily dismiss an employee for conduct that justifies this action.

5.3. Redundancy

Redundancy shall be in accordance with the National Employment Standards.

5.3.1. Transfer of business

The provisions of Section 122 of the *Fair Work Act 2009* (Cth) will apply in relation to the obligation to pay redundancy pay in the circumstances of a transfer of business.

5.3.2. Payments to a Redundancy Fund

The liability for payments arising in terms of this clause on the Employer can be offset or partially offset by any payments made on behalf of an employee to a recognised redundancy fund.

5.3.3. Casual employees

Any period of service as a casual shall not entitle an employee to accrue service in accordance with this Clause for that period.

5.4. Safety

It is a requirement to wear and maintain personnel protective equipment and safety equipment while in areas requiring such equipment. In particular this means the wearing of high visibility shirts/vests and approved safety boots and the completion of pre-start check documentation with hours/kilometers recorded.

5.5. Consultation

The Parties to the Agreement will be bound by the Consultation Term in Schedule 1.

5.6. Flexibility

The Parties to the Agreement will be bound by the Flexibility Term in Schedule 2.

6. Wages and Classification

6.1. Classification Structure

Employees (other than apprentices) shall be classified in accordance with the following structure.

Classification	Description
Level 1 – upon commencement into the industry.	Entry Level Labourer/Construction Worker or Trainee Plant Operator.
Level 2 – after 6 months in the industry	Labourer/ Construction Worker or trainee plant operator.
Level 3	Traffic Controller/ experienced labourer/construction worker.
Level 4	Minor plant operator – engaged to operate backhoes, bobcats and rollers.
Level 5	Major earthmoving Plant Operator is an employee with the competencies to operate all earthmoving plant and plant operators. Tradesperson – includes employees engaged on the basis of trade qualification. Pipelayer/ concrete finisher/ steel fixer.
Level 6	Advanced Plant Operator – appointed to this level by the employer, and can demonstrate advanced skills in earthmoving plant operation.

6.2. Wage Rates

Employees shall be classified and paid in accordance with the following classification

structure. These are the minimum rates and in particular cases a higher amount maybe negotiated.

The wage rates for each classification are as prescribed below. The rates compensate for all special skills and/or disabilities and/or special rates associated with the industry of the Employer.

Classification	Wage Rate - Per Hour Full-time
Level 1	$28.95
Level 2	$30.30
Level 3	$30.80
Level 4	$33.45
Level 5	$34.61
Level 6	$35.76

These wage rates will increase in the years 2019, 2020, and 2021 by the percentage increase awarded by the national CPI for the June Quarter.

6.3. Apprentices

Employees engaged as apprentices and trainees will be subject to the following percentages of the Level 5 wage rate:

Apprentice Tradesperson	Has not completed Year 12	Has completed Year 12
Year 1	50%	55%
Year 2	60%	65%
Year 3	75%	75%
Year 4	90%	90%

These rates will be increased in accordance with the National Wage Review decision in the years 2019, 2020, and 2021.

6.4. Living Away from Home Allowance

An employee who is required to work at a distance from his usual place of residence that is unreasonable to return home to each day will be entitled to reasonable board and accommodation or be paid a living away from home allowance of $111 per day.

Applicants for employment will be required to make a declaration accompanied by appropriate proof of their usual place of residence upon application.

Applicants will be advised that their declaration will determine their eligibility, or otherwise, for living away from home allowance or board and accommodation. Such determination will not alter during the employee's employment on the project.

Employees who are required to share accommodation with another employee shall be entitled to an additional allowance of $23 per night.

6.5. Superannuation

The Employer shall pay superannuation in accordance with the prescriptions of the *Superannuation Guarantee (Administration) Act 1992* (Cth) as amended from time to time into the employee's superannuation fund. This will satisfy the statutory requirements for occupational superannuation. The employer shall ensure that superannuation contributions pursuant to this clause are made into an eligible choice fund and that such fund is a fund that offers a MySuper product or is an exempt public sector scheme.

6.6. Salary Sacrifice/Package

It will be available by agreement that parts of the wage or payments arising from this Agreement to be sacrificed and paid as additional superannuation to the gross value of the wages/payments sacrificed.

6.7. Payment of Wages

The employees will be paid fortnightly by electronic funds transfer.

7. Hours of Work and Overtime

7.1. Ordinary Hours

The ordinary hours of work shall be an average of 38 hours per week. The ordinary hours may be worked from 4.00 am to 6.00 pm Monday to Sunday.

The work cycle may be altered by agreement to suit project requirements. It will be available to work alternate hours of work that provide an average of up to 55 hours a week over a nominated work cycle. These cycles may include weekends to suit project requirements and/or implement compacted work cycles such as:

- 14 days on, 7 days off;
- 10 days on, 4 days off; and
- Even time rosters.

7.2. Additional Hours/Overtime

It is a requirement that employees will work reasonable additional hours in excess of their ordinary hours. These hours shall be paid at the rates prescribed in Clause 6.2 for all hours worked, Monday to Sunday up to a maximum of 55 hours per week/110 hours per fortnight. Any hours worked in excess of 55 hours per week/110 hours per fortnight Monday to Sunday, shall be paid at the rate of double time.

7.3. Meal Breaks and Rest Pauses

There will be a meal break and a rest pause for each shift or day where a minimum of five (5) hours are worked Monday to Friday. The meal break shall be 30 minutes duration and will be unpaid. The rest pause will be 20 minutes duration and paid. The meal breaks and rest pauses will be taken at such time so to not interfere with the continuity of the operations.

An employee may be required to change the meal break to suit the requirements of the employer or client. In these circumstances, the meal break will be taken at another time during the day to suit the continuity of work. An employee cannot change their meal break without prior approval from their supervisor.

7.4. Shift Work

Shift work is a necessary feature of the employer's operation and employees may be required to work shift work in accordance with project needs.

A Night Shift is defined as a roster whereby the ordinary hours of work commence after 4.00pm and before 4.00am.

Day work (i.e. work commencing between 4.00am and 4.00pm) is not shift work.

A loading of 25% shall apply to all hours worked during shift work, except overtime as prescribed in this clause.

All overtime worked by shift workers Monday to Sunday will be paid at the rate of double time after 55 hours for the week/110 hours for the fortnight.

7.5. Wet Weather/Downtime

During periods of inclement weather that prevents work from being performed on site, the Employer, where practical, will transfer employees to an alternative site not so affected, or to the Employer's depot/yard to perform maintenance, service-type duties or training.

Where this is not practical, all full-time employees shall be entitled to payment for ordinary time lost through wet weather and the effects of wet weather for up to 16 hours each fortnight pay run (non-cumulative) subject to an employee being ready willing and able to work.

The number of hours credited to any employee under this clause shall be reduced by the number of hours for which payment is made in respect of lost time through wet weather.

8. Conditions of Employment

8.1. Annual Leave

8.1.1. Entitlement

A permanent employee shall be entitled to be paid annual leave at the rate of four (4) weeks (152 hours) of ordinary time for each year of continuous service consistent with the *Fair Work Act 2009* (Cth). The period of annual leave shall be exclusive of any public holiday that occurs during the period.

Notwithstanding the above, an employee defined as a shift worker for the purposes of the National Employment Standards (NES) will be entitled to an additional week of annual leave as provided for in the NES. A shift worker shall mean an employee engaged to work in a system of consecutive shifts throughout the 24 hours of each of at least six consecutive days without interruption (except during breakdown or meal breaks or due to unavoidable causes beyond the control of the employer) and who is regularly rostered to work those shifts.

At the written agreement between the Employer and employee, annual leave may be taken as a payment in lieu of leave subject to the following;

- A balance of four (4) weeks leave must be maintained
- The payment in lieu will be equal to the pay for that period of time as prescribed in Clause 8.1.3.

8.1.2. Rate of Pay for Annual Leave

Annual leave shall be paid at the ordinary weekly wage rate for ordinary hours.

8.1.3. Taking of Annual Leave

The taking of annual leave will be subject to mutual agreement and at times convenient to requirements of projects.

The Employer by giving two (2) months' notice may require employees to take annual leave for an annual shutdown.

8.1.4. Excess Leave Accrual

Where an employee has an excess accrual of annual leave (more than 8 weeks paid annual leave accrued or 10 weeks for shift workers), the employer may direct the employee to take excess leave subject to the following:

1. The employer must first genuinely try to reach an agreement with an employee to take excess annual leave.
2. Where no agreement can be reached, the employer may direct the employee in writing to take one or more periods of paid annual leave subject to the following circumstances:

   i. The employee's remaining accrued entitlement to paid annual leave after the requirement to take excessive leave must be more than 6 weeks;
   ii. The taking of leave must not provide that the employee take a period of paid annual leave of less than one week;
   iii. The taking of leave must not provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction/notice is given; and
   iv. Must not be inconsistent with any leave arrangement agreed by the employer and employee.

Notwithstanding the above, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave. Where agreement is not reached between the employer and the employee, an employee who has an excessive leave accrual may require an employer to grant paid annual leave on the basis that they have accrued such excess leave for more than a period of 6 months and have satisfied the above conditions outlined in sub-clauses 1 and 2 above.

8.1.5. Cashing out Annual Leave

Upon written agreement between the employer and employer, excess annual leave can be cashed out as long as the minimum balance of four (4) weeks must be maintained.

8.1.6. Calculation of Annual Leave Pay

Annual leave shall be paid at the employee's ordinary weekly wage rate for ordinary hours for the period of annual leave (excluding shift allowances and weekend payments).

8.1.7. Payment on Termination

An employee on termination will be paid the accrued untaken annual leave based on the period of service.

8.2. Personal/Carers Leave

8.2.1. Entitlement

A permanent employee shall accrue paid personal/carers leave at the rate of 10 days for each year of continuous service consistent with the *Fair Work Act 2009* (Cth). Personal/carers leave will be paid at the employee's ordinary rate of pay for ordinary hours for the period of leave.

Personal/carers leave shall not apply for illnesses or injury covered by worker's compensation. An employee shall not be entitled to be paid personal/carers leave for more ordinary hours than the employee would have worked on that day.

8.2.2. Payment

Personal/carers leave shall be paid at the employee's ordinary weekly wage rate for ordinary hours and the employee must meet the following requirements:

- Have a credit entitlement to a period of leave,
- Notify the Employer of the absence as soon as possible,
- Advise the Employer how long the absence on personal/carers leave is likely to be,
- Provide evidence satisfactory to the Employer of the illness or injury. An employee absent on personal/carers leave for more than two (2) consecutive days or on more than two (2) single days in any year may be required by the Employer to produce a medical certificate from a qualified medical practitioner stating the nature of the illness and the period the employee will be unable to work.

8.2.3. Deduction from Personal/carers Leave Credits

Personal/carers leave debits will be equivalent to the ordinary hours an employee would have worked had they not been on personal/carers leave.

8.2.4. Personal/carers Leave Cumulative

Personal/carers leave shall accumulate from year to year.

8.2.5. Carers Leave

An employee may use accrued personal/carers days as carers leave to tend to the care or support to a member of the employee's immediate family, or a member of the employee's household. The leave will be subject to the employee providing reasonable proof of the need for the use of carer's leave. In circumstances where the employee has exhausted all of the paid leave, a further two (2) days unpaid leave may be taken per occasion. Casual employees shall be entitled to a maximum of two (2) unpaid days per occasion.

8.3. Parental Leave

Employees will be entitled to Parental Leave in accordance with the *Fair Work Act* 2009 (Cth).

8.4. Compassionate Leave

A permanent employee may take compassionate leave when a member of the employee's immediate family or household member: contracts or develops a personal injury or illness that poses a serious threat to their life; or dies. Compassionate leave shall be a maximum of two (2) paid days per occasion. Compassionate leave for casual

employees shall be a maximum of two (2) unpaid days per occasion.

The following are members of an employee's immediate family:

a. a spouse or de-facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
b. a child, parent, grandparent, grandchild or sibling of a spouse or de-facto partner of the employee.

8.5. Community Service Leave

Employees will be entitled to Community Service Leave in accordance with the *Fair Work Act 2009* (Cth).

8.6. Long Service Leave

All Employees shall be entitled to long service leave in accordance with the relevant State Legislation. The Employer will ensure that any registration necessary for the purpose of Portable Long Service Leave Schemes will be undertaken.

8.7. Public Holidays

All full-time employees shall be entitled to the following public holidays without loss of pay:

- Christmas Day,
- Boxing Day,
- New Years Day,
- Australia Day,
- Good Friday,
- Easter Saturday,
- Easter Monday,
- Anzac Day
- Labour Day,
- Queens Birthday,
- A public holiday prescribed by legislation for the district and/or state that the employee is working in (e.g. Show Day).

Any employee required to work on a public holiday nominated herein shall be paid at the rate of double time and a half for all time so worked where "double time and a-half" means one and a-half day's wages in addition to the employee's ordinary time rate of pay or *pro-rata* if there is more or less than a day.

It will be available for the Employer and a majority of the affected employees to substitute the nominated public holiday for another day and the prescriptions of this clause will apply to the substituted day.

9. Dispute Resolution Procedure

The Parties to this Agreement shall observe the following Industrial Dispute Resolution procedure in respect of disputes relating to the operation of this Agreement and the application of the National Employment Standards:

The Employer or employee may appoint a representative at any of the steps of the dispute process.

1. Parties to the dispute will first meet and confer by holding discussions between the employee/s concerned and an immediate supervisor/s.

2. If the matter is not resolved at such a meeting the parties will arrange further discussions involving more senior management as appropriate.

3. If the matter remains unresolved, the Employer or employee may refer it to a more senior level of management for consideration.

4. In the event of the matter remaining unresolved, either party may refer the matter to the Fair Work Commission for conciliation.

5. Where conciliation of the matter is unsuccessful, either party may refer the matter to the Fair Work Commission for arbitration. Any decision, determination or outcome of the Fair Work Commission shall be consistent with the *Code for the Tendering and Performance of Building Work 2016*.

Except in situations where there is a perceived immediate and significant threat to employee health and safety, work will continue and consideration of the needs of the business will remain a priority.

SIGNATURE PROVISIONS

Signed for and on behalf of

SGQ Group

Signed _____

Name Mark Goodwin

Capacity to Sign Managing Director

Address 33 ORUNGAL CRT MARGOOLA QLD 4564

Witness _____

Name of Witness (print) Dee Vande Graaf

Address 410/180 Alexandra Pde, Alexandra Headland, QLD 4572.

Date 1/6/2018

Signed For and on behalf of the

Employees of the SGQ Group

Signed _____

Name James Moorhead

Capacity to Sign Pipelayer

Address 18 Keel court Noosaville

Witness ~~Dee Vande~~

Name of Witness (print) Dee VandeGraaf

Address 410/180 Alexandra Pde, Alexandra Headland, QLD 4572

Date 1/6/2018

Schedule 1

Consultation Term

(1) This term applies if the employer:

a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

(2) For a major change referred to in paragraph (1)(a):

a) the employer must notify the relevant employees of the decision to introduce the major change; and
b) subclauses (3) to (9) apply.

(3) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(4) If:

a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(5) As soon as practicable after making its decision, the employer must:

a) discuss with the relevant employees:

(i) the introduction of the change; and
(ii) the effect the change is likely to have on the employees; and
(iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

b) for the purposes of the discussion--provide, in writing, to the relevant employees:

(i) all relevant information about the change including the nature of the change proposed; and
(ii) information about the expected effects of the change on the employees; and
(iii) any other matters likely to affect the employees.

(6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

(7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

(8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.

(9) In this term, a major change is likely to have a significant effect on employees if it results in:

a) the termination of the employment of employees; or
b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
d) the alteration of hours of work; or
e) the need to retrain employees; or
f) the need to relocate employees to another workplace; or
g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

(10) For a change referred to in paragraph (1)(b):

a) the employer must notify the relevant employees of the proposed change; and
b) subclauses (11) to (15) apply.

(11) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(12) If:

a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(13) As soon as practicable after proposing to introduce the change, the employer must:

a) discuss with the relevant employees the introduction of the change; and
b) for the purposes of the discussion--provide to the relevant employees:

(i) all relevant information about the change, including the nature of the change; and
(ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
(iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and

c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

(14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

(15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

(16) In this term relevant employees means the employees who may be affected by a change referred to in subclause (1).

Schedule 2

Flexibility Term

(1) An Employer and employee covered by this Enterprise Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

(a) the Agreement deals with 1 or more of the following matters:

(i) arrangements about when work is performed;
(ii) overtime rates;
(iii) penalty rates;
(iv) allowances;
(v) leave loading; and

(b) the arrangement meets the genuine needs of the Employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
(c) the arrangement is genuinely agreed to by the Employer and employee.

(2) The Employer must ensure that the terms of the individual flexibility arrangement:

(a) are about permitted matters under section 172 of the *Fair Work Act 2009* ; and
(b) are not unlawful terms under section 194 of the *Fair Work Act 2009* ; and
(c) result in the employee being better off overall than the employee would be if no arrangement was made.

(3) The Employer must ensure that the individual flexibility arrangement:

(a) is in writing; and
(b) includes the name of the Employer and employee; and
(c) is signed by the Employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
(d) includes details of:

(i) the terms of the Enterprise Agreement that will be varied by the arrangement; and
(ii) how the arrangement will vary the effect of the terms; and
(iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and

(e) states the day on which the arrangement commences.

(4) The Employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

(5) The Employer or employee may terminate the individual flexibility arrangement:

(a) by giving no more than 28 days written notice to the other party to the arrangement; or
(b) if the Employer and employee agree in writing at any time.

APPENDIX D HR-P-02 RECRUITMENT PROCEDURE

RECRUITMENT PROCEDURE

TQCSI ISO 9001:2015 Quality Certified AU876-QC-EC-SC

TQCSI AS 4801:2001 Safety Certified AU876-QC-EC-SC

TQCSI ISO 14001:2015 Environmentally Certified AU876-QC-EC-SC

SMA INFRASTRUCTURE

VERSION HISTORY

Date of Issue	Issue No.	Approved By	Changes
30/09/2020	1	Leon Krelle – Systems Manager	Initial Issue
06/10/2020	2	Leon Krelle – Systems Manager	Inclusion of Flowchart in section 4
13/10/2020	3	Leon Krelle – Systems Manager	Update references to hyperlinks

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1. INTRODUCTION

The purpose of this procedure is to establish and outline the process for managing and carrying out the recruitment process and any changes of employment within the organisation. The procedure covers the recruitment and advertising process.

SMA has a commitment to hiring the most suitable candidates for all positions. Internal promotion and pathways are encouraged as well as sourcing suitably qualified external applicants. SMA is an equal opportunity employer and discrimination of any kind is not tolerated.

Note: "SMA" means Albem Operations Pty Ltd & SMA Civil Engineering Pty Ltd & SGQ Pty Ltd Joint Venture Pty Ltd.

2. REFERENCES

- (HR-F-21) Recruitment Request Form
- (HR-F-14) Interview Questions for Engineering Candidate
- (HR-F-19) Interview Questions for Health & Safety Candidate
- (HR-F-30) Interview Questions for Environmental Candidates
- (HR-F-15) Confidential Reference Check

3. STANDARDS OF PROCEDURE

- All information relating to recruitment must remain confidential to those involved in the process and in align with SMA's Business Code of Conduct
- All candidates will have reference checks carried out before appointment and they will also be subject to a pre-employment medical examination and a national police check
- All potential SMA employees MUST be formally interviewed
- All candidates will be treated with respect and courtesy and that all SMA's employees must act in accordance with Federal Laws and Legislation in relation to Australian discrimination laws

4. RECRUITMENT PROCEDURE

Complete Recruitment Request Form (HR-F-21) and obtain pre-approval for a proposed appointment from the Department Manager, Construction Manager (if project-based), Operations Manager & Corporate Services Manager.

↓

A Position Description is to be approved by the Corporate Services Manager & Department Manager. If there is none drafted, Corporate Services & the Department Manager are to create one.

↓

An advert must be developed by the Corporate Services Team & Department Manager and approved by the Corporate Services Manager.
Where possible, all positions should be advertised internally & on Seek. Otherwise, a preferred list of Recruitment Agencies (provided they are on the panel of recruitment agents) may be engaged. Any recruiter not on the panel will need to be approved by the Corporate Services Team before they can be utilised.

↓

Suitable candidates are to be short-listed by the HR Representative & applicable Manager.
HR to arrange suitable interview time with candidate, Department Manager & HR Representative.

↓

Interview questions must be documented as a template and saved on file (HR-F-14/HR-F-19/HR-F-30) & reference checks are to be completed using (HR-F-15). It is preferred that a HR member is present at the interview to ensure documentation of the process is kept on file.

↓

Once the most suitable candidate is selected, an offer will be prepared. All offers must be signed by CFO/CSM. Before this is done, a check will confirm that all notes and evaluations on the selected candidate are on file. If a candidate is outside the pre-approved range, then re-approval from the Operations Manager & CFO/CSM will be required.

↓

Systems Manager is to be notified to organise induction with HR.
An email to all appropriate departments is to be sent by HR (IT, Payroll, Assets).

↓

A physical & electronic folder will be created by HR & will update and track HR-related registers.

5. PROCEDURE

- Complete the *(HR-F-21) Recruitment Request Form* and obtain the pre-approval for a proposed appointment from the Department Manager, Construction Manager (if project based), Operations Manager and Corporate Services Manager
- A Position Description must be approved by the Department Managers and Corporate Services Manager
- Where possible all positions should be advertised internally & on Seek otherwise a preferred list of recruitment agencies may be engaged with approval by the CFO/Ops Manager
- An advert must be developed by HR and Department Manager and approved by the Corporate Services Manager

- Suitable applicants should be short-listed by HR and the applicable manager
- HR will arrange an interview time with the candidate, the Department Manager and HR
- Interview questions must be documented using either *(HR-F-14) Interview Questions for Engineering Candidate*, *(HR-F-19) Interview Questions for Health & Safety Candidates* or *(HR-F-30) Interview Questions for Environmental Candidates* (as applicable) as a template and notes saved on file
- Reference checks must be completed using *(HR-F-15) Confidential Reference Check*
- Once the most suitable candidate is selected an offer should be prepared. All offers must be signed by the CFO/CSM or if unable, a member of the executive team
- The offers should be presented with notes on why that candidate was selected and what makes them the best candidate for the position
- Notify Systems Manager of start date to organise induction with HR
- An email advising appropriate departments of the new starter must be sent by HR
- A physical and electronic folder will be created by HR with the H:\Forms\Payroll Authority Approval Template
- HR will then update and track HR related registers

5.1 Advertising the Position

How are you advertising the position? Seek/Recruitment Company/Labour Hire?

Contact HR to arrange.

5.2 Select Applicants to Interview

In order to identify the best candidates, please address the following:

- Minimum qualifications/ cards needed
- Minimum experience needed
- Any key needs to fulfil the position

*** Use the answers to these questions to identify only those candidates that meet the minimum requirements to progress with an interview.**

5.3 Interviewing

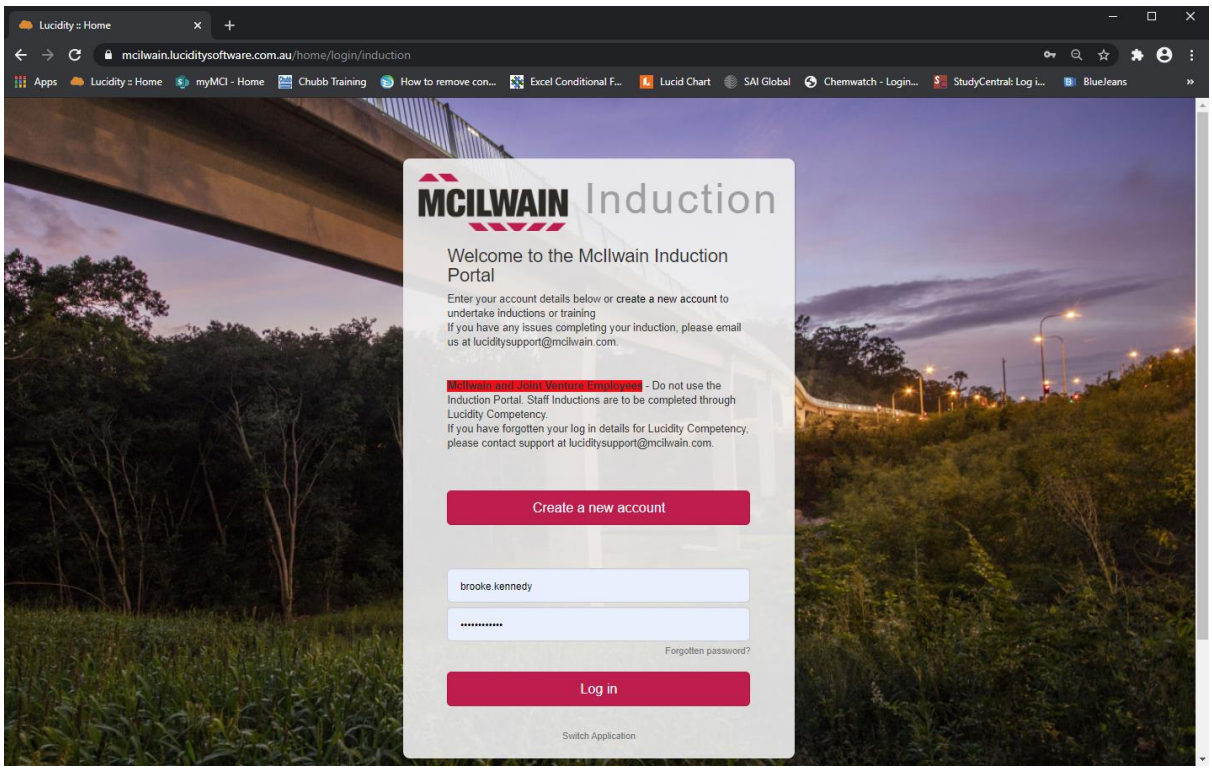
- Give list of applicants to be interviewed to HR (HR will organise suitable times for interviews)
- Prepare interview questions (see guide)
- Elevate candidates and pick the best candidate to make a job offer

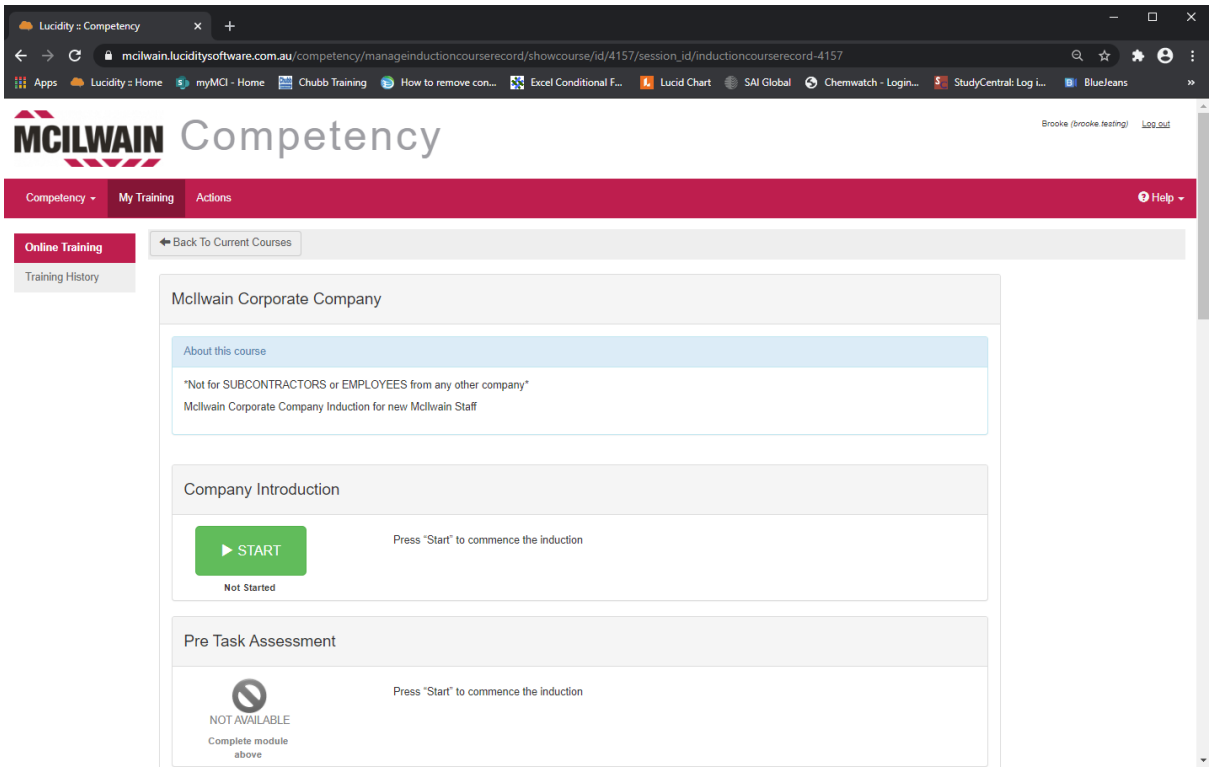
5.4 Post Interview

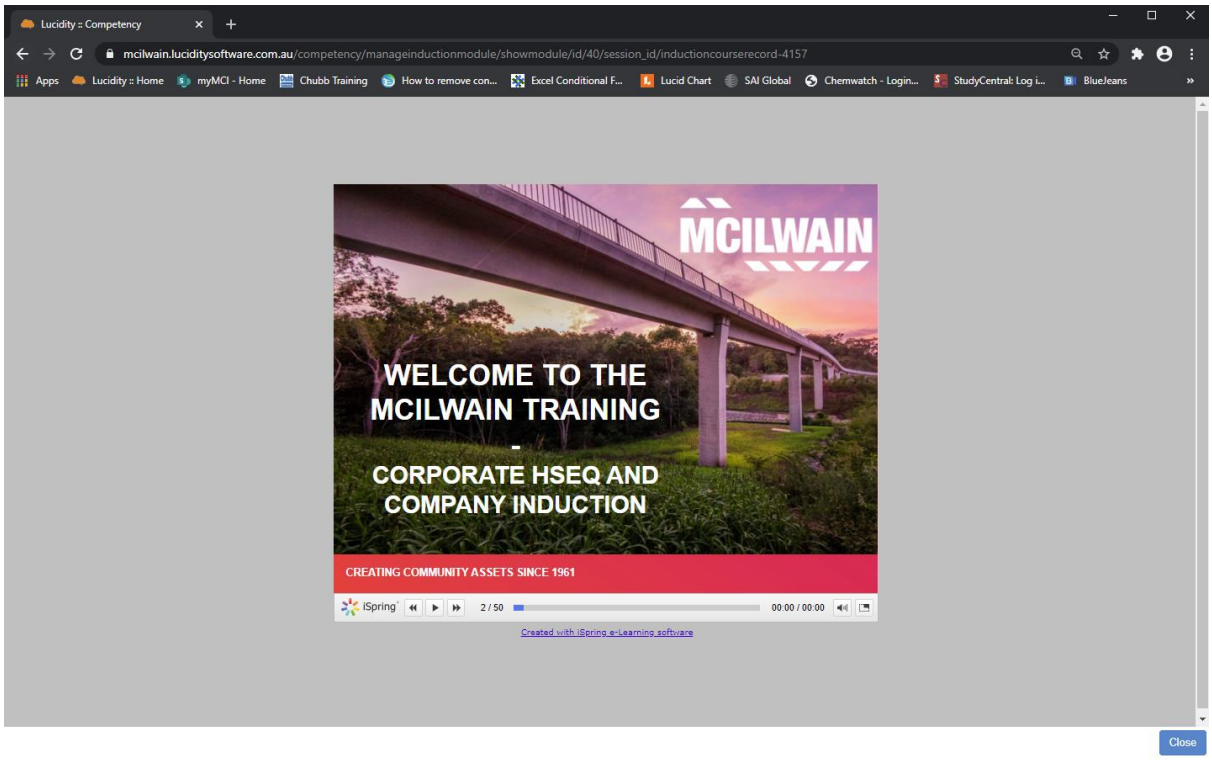
- Request a job offer (see recruitment procedure) Subject to Police Checks & Pre-employment medicals.
- Send an email to Systems Manager to organise an induction with HR

APPENDIX E ONLINE INDUCTION PORTAL

The online induction portal shows the Induction process.



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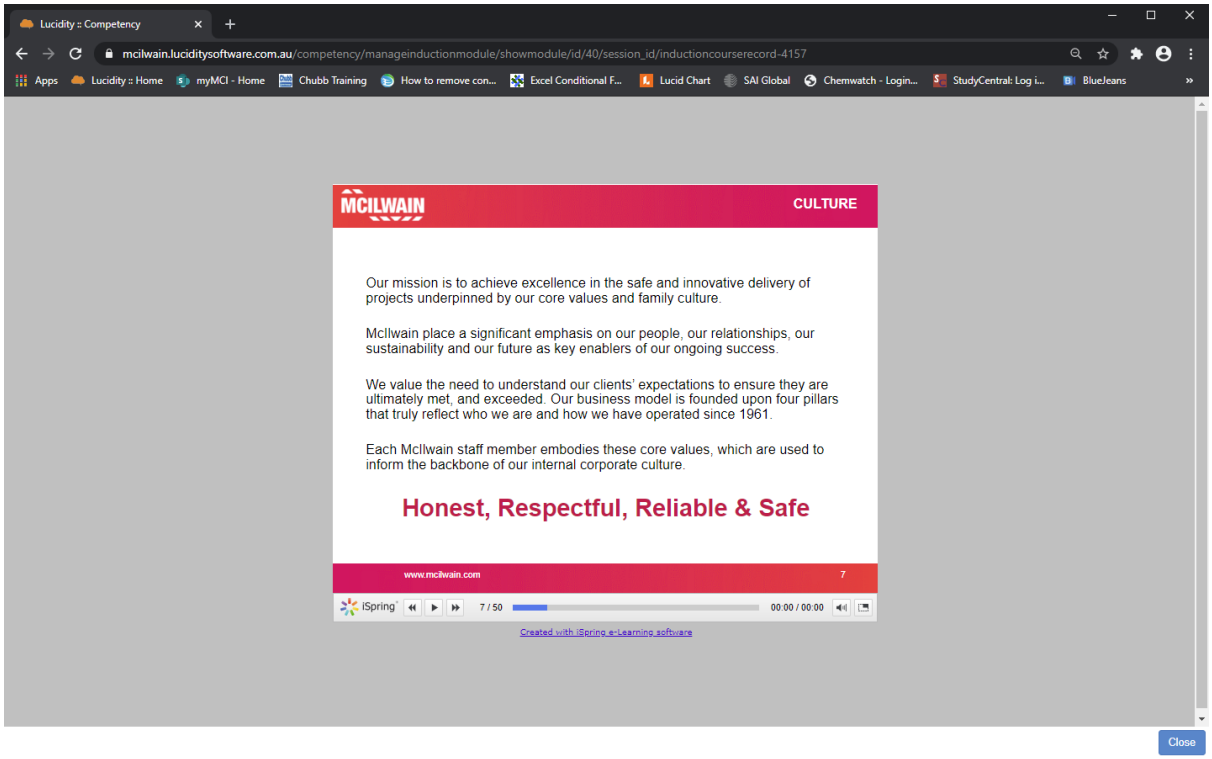
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MCILWAIN
CULTURE
Our mission is to achieve excellence in the safe and innovative delivery of projects underpinned by our core values and family culture.
McIlwain place a significant emphasis on our people, our relationships, our sustainability and our future as key enablers of our ongoing success.
We value the need to understand our clients' expectations to ensure they are ultimately met, and exceeded. Our business model is founded upon four pillars that truly reflect who we are and how we have operated since 1961.
Each McIlwain staff member embodies these core values, which are used to inform the backbone of our internal corporate culture.
Honest, Respectful, Reliable & Safe
www.mcilwain.com
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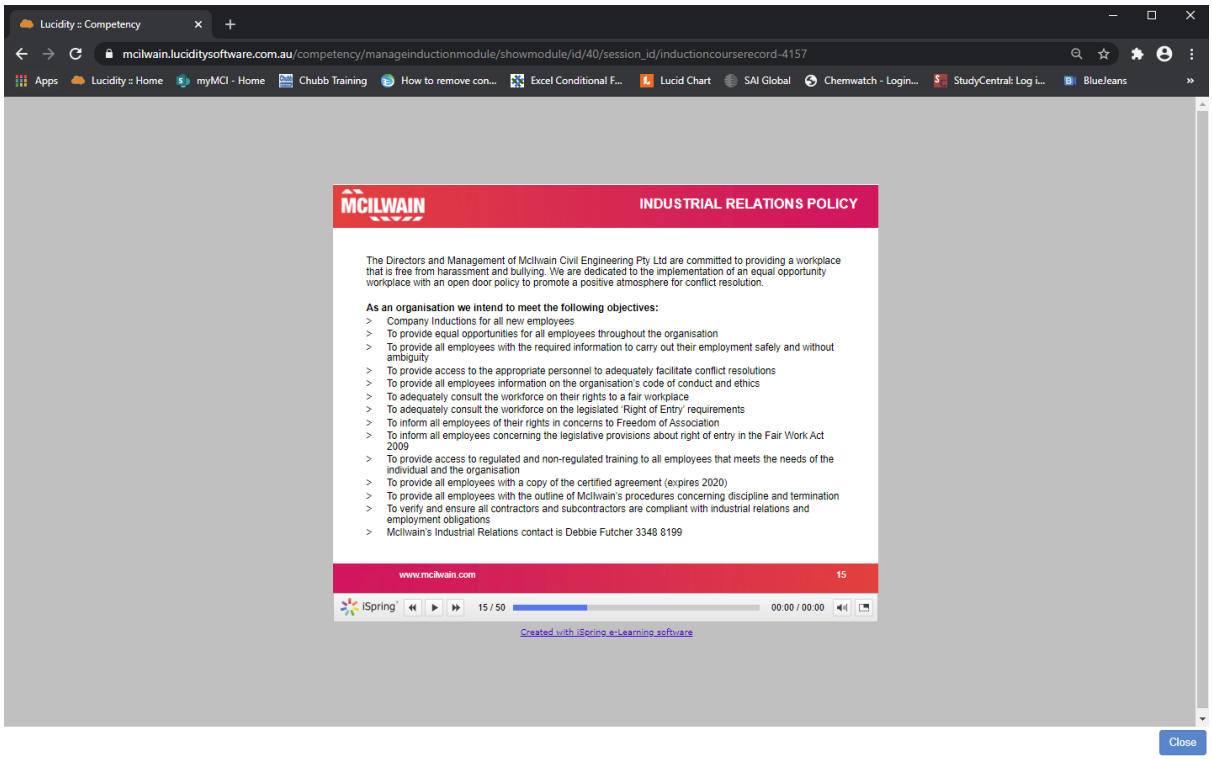

MCILWAIN

INDUSTRIAL RELATIONS POLICY

The Directors and Management of McIlwain Civil Engineering Pty Ltd are committed to providing a workplace that is free from harassment and bullying. We are dedicated to the implementation of an equal opportunity workplace with an open door policy to promote a positive atmosphere for conflict resolution.

As an organisation we intend to meet the following objectives:

- Company Inductions for all new employees
- To provide equal opportunities for all employees throughout the organisation
- To provide all employees with the required information to carry out their employment safely and without ambiguity
- To provide access to the appropriate personnel to adequately facilitate conflict resolutions
- To provide all employees information on the organisation's code of conduct and ethics
- To adequately consult the workforce on their rights to a fair workplace
- To adequately consult the workforce on the legislated 'Right of Entry' requirements
- To inform all employees of their rights in concerns to Freedom of Association
- To inform all employees concerning the legislative provisions about right of entry in the Fair Work Act 2009
- To provide access to regulated and non-regulated training to all employees that meets the needs of the individual and the organisation
- To provide all employees with a copy of the certified agreement (expires 2020)
- To provide all employees with the outline of McIlwain's procedures concerning discipline and termination
- To verify and ensure all contractors and subcontractors are compliant with industrial relations and employment obligations
- McIlwain's Industrial Relations contact is Debbie Futcher 3348 8199

www.mcilwain.com 15

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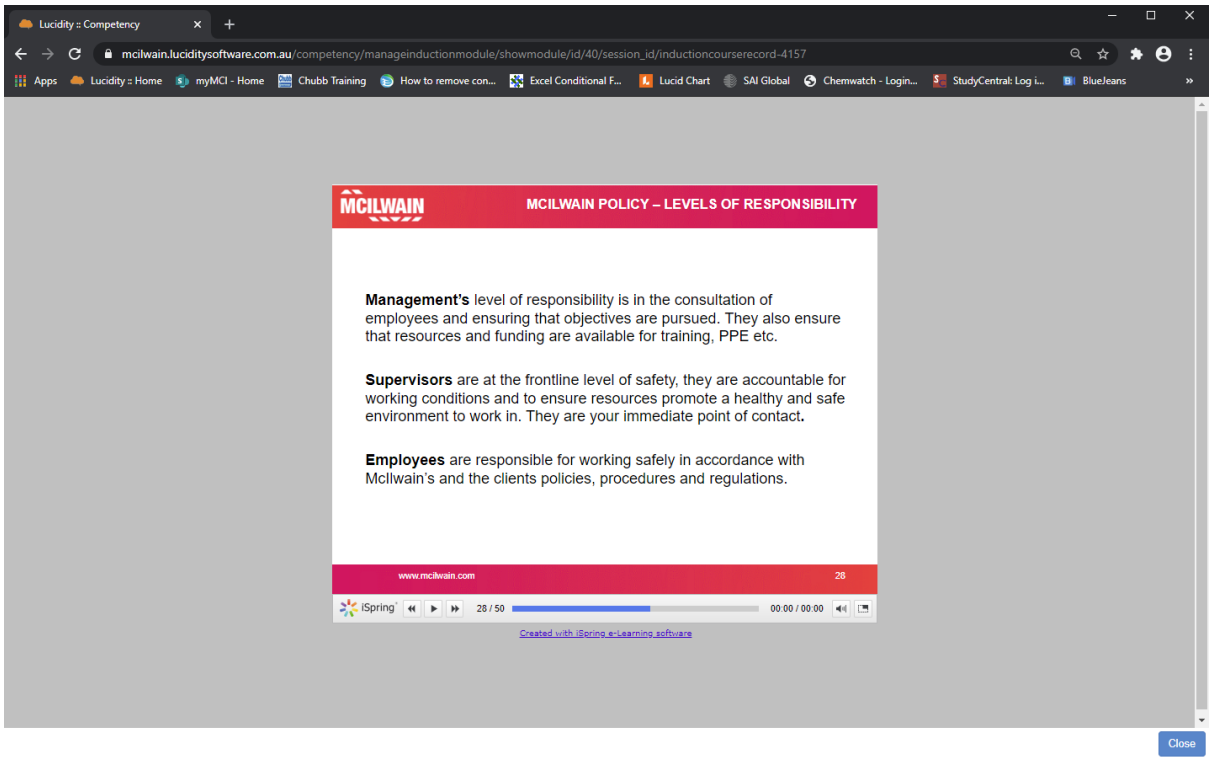

MCILWAIN

MCILWAIN POLICY – LEVELS OF RESPONSIBILITY

Management's level of responsibility is in the consultation of employees and ensuring that objectives are pursued. They also ensure that resources and funding are available for training, PPE etc.

Supervisors are at the frontline level of safety, they are accountable for working conditions and to ensure resources promote a healthy and safe environment to work in. They are your immediate point of contact.

Employees are responsible for working safely in accordance with McIlwain's and the clients policies, procedures and regulations.

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APPENDIX F HR-P-01 HUMAN RESOURCES PROCEDURE

HUMAN RESOURCES PROCEDURE

TQCSI ISO 9001:2015 Quality Certified AU876-QC-EC-SC

TQCSI AS 4801:2001 Safety Certified AU876-QC-EC-SC

TQCSI ISO 14001:2015 Environmentally Certified AU876-QC-EC-SC

SMA INFRASTRUCTURE

VERSION HISTORY

Date of Issue	Issue No.	Approved By	Changes
30/09/2020	1	Leon Krelle – Systems Manager	Initial Issue
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1. INTRODUCTION

The purpose of this procedure is to establish and confirm the process, roles and responsibilities for Human Resources requirements including recruitment, inductions, termination/redundancy, staff conversations, performance reviews and payroll processes.

Note: "SMA" means Albem Operations Pty Ltd & SMA Civil Engineering Pty Ltd & SGQ Pty Ltd Joint Venture Pty Ltd.

2. REFERENCES

- Queensland Code of Practice for Building and Operations Industry
- (HR-F-04) Employee Handbook
- (HR-P-08) Performance Management
- Fair Work Act 2009
- McIlwain's Enterprise Agreement
- Albem Operations' Enterprise Agreement
- SGQ's Enterprise Agreement
- SMA's Collective Agreement

3. RESPONSIBILITIES AND AUTHORITIES

Position	Responsibilities
Chief Financial Officer/ Corporate Services Manager (CFO/CSM)	Has overall responsibility for Human Resources Department. CFO/ Corporate Services Manager will oversee all Human Resources processes, activities & administration including performance reviews and management, performance management process, recruitment and general HR matters.
Human Resources Representative	The Human Resources representative will assist in performance reviews, performance management, recruitment and other responsibilities as delegated by the CFO/CSM.
Operations Manager	The Operations Manager is responsible for the approval of field recruitment (as required in conjunction with the Construction Manager) and human resource allocation. Along with the various Project Managers the Operations Manager remains responsible for monitoring employer performance and labour productivities and that all applicable staff are made available for performance reviews as required.
Project Manager	Is responsible for monitoring the site's labour productiveness and to report on a weekly basis to the Operations Manager on labour productivity and employee and staff performance.
Systems Manager	Is responsible for ensuring all company inductions with new employees are completed and to audit site compliance with the relevant accreditations.

4. RECRUITMENT

The Operations Manager is responsible for advising the Chief Financial Officer/Corporate Services Manager of any new personnel that are required to be recruited for any new or replacement positions within the organisation.

Applicants are shortlisted and successful candidates are interviewed. Interviews are conducted with the Operations Manager and/or nominated Manager and the Chief Financial Officer/Corporate Services Manager and/or a HR representative depending on the position to be filled. After the interview process the Operations Manager and Chief Financial Officer/Corporate Services Manager make the final decision (in conjunction with departmental manager if appropriate) on successful candidates.

5. INDUCTIONS

Prior to the commencement of employment, each new employee must undergo a general company induction facilitated by the Systems Manager or HR Department representative which will outline information on the organisation, full terms and conditions of employment and any of SMA's expectations of employment.

This induction process will also cover the company organisational structure and an introduction to company policies, objectives and operating procedures in the areas of Quality, Safety, Environment, Workplace Relations (including information on Freedom of Association and Right of Entry) and Training (as laid out in the *(HR-F-04) Employee Handbook*).

6. QUALIFYING PERIOD

All employees that commence employment are subject to a 6-month qualifying period; this is to facilitate the appropriateness of the appointment.

As per the Fair Work Act 2009 an employer may terminate an employee within the qualifying period if they do not fulfil the requirements of the position. To ensure prospective employees suit the requirements of SMA and meeting expectations for quality productive service, the Operations Manager, Chief Financial Officer/Corporate Services Manager and any Nominated Persons shall have a conversation with an employee during the qualifying period.

7. TERMINATION AND REDUNDANCIES

All terminations/redundancies are to be coordinated through CFO/Corporate Services Manager & Operations Manager along with direct supervisor and shall remain compliant with SMA's Enterprise Agreement and the Fair Work Act 2009.

Termination/redundancy payments are calculated and paid as per McIlwain's Enterprise Agreement, Albem Operations Enterprise Agreement and SGQ's Enterprise Agreements.

8. COUNSELLING

SMA have access to qualified counsellors to assist in enhancing the well-being of our personnel during traumatic and difficult times.

All information shared during individual cases shall remain confidential on their secured personal file. The Chief Financial Officer/Corporate Services Manager and the Operations Manager shall be the only authorised personnel to view personal files unless prior written permission has been sought by the employee.

Counsellors may require access to nominated SMA personnel to gain accurate background information to help evaluate the level of trauma counselling that is needed.

Trauma counselling will remain in place until all nominated goals have been met and the counsellor has satisfaction that the employee has regained a suitable level of well-being.

9. PERFORMANCE MANAGEMENT AND REVIEW

Performance Reviews are to take place as required and at least annually (excluding executive management) and will be conducted by the Operations Manager and Chief Financial Officer/Corporate Services Manager (along with any nominated persons) on all operational personnel.

Performance reviews are scheduled with HR department (and direct manager supervisors as required) and are recorded for future reference. Any major issues of concerns are discussed, and corrective measures implemented with further follow up discussions as nominated in an action plan.

In the case of immediate correction required (beyond the performance review process) as a result of poor performance or unacceptable behaviour the Project Manager must as soon as practicable inform the Operations Manager / Operations Manager of any SMA employee who is not conforming to the requirements of their job description to ensure it is controlled immediately to consistently achieve the best out of all staff. Any continuation of poor performance or unacceptable behaviour must be brought to the attention of the Corporate Services Manager and Operations Manager who will then authorise the implementation of warning notifications as per SMA's Enterprise Agreement, HR-F-04 and the Fair Work Act 2009.

For more information on Performance Management see *(HR-P-08) Performance Management* .

10. PAYROLL

Payroll is processed weekly by the Accounting & HR Team or Chief Financial Officer/Corporate Services Manager. Hours worked are collated from timesheets and data entered into payroll system for processing. Timesheets shall be forwarded to timesheets@mcilwain.com, signed and approved no later than 3pm Monday for processing Tuesday.

Hourly rates for wage employees are calculated as per individual employment agreements and SMA's EBA.

Superannuation, Payroll Tax, PAYG are calculated and paid monthly as per legislative requirements by the Corporate Services Team.

APPENDIX G FITNESS FOR WORK

The Directors and Management of SMA are committed to providing a safe and healthy workplace and encouraging health promotion within our workforce. We are dedicated to the implementation of a Fitness for Work Policy throughout the organisation and across all sites in which SMA personnel operate to ensure the health and wellbeing of our people and the safety of our sites.

As an organisation we intend to meet the following objectives:

- Increase the health and wellbeing of all staff through the implementation of health promotion programs, assistance with industry recognised 'Quit' programs and support of individual and collective fitness programs
- The use of any prescribed drugs and/or alcohol will be managed in accordance with the applicable management procedure
- Establish and clearly articulate a drug and alcohol testing regime to which all sites will be exposed with an ultimate goal of eliminating the risks associated with potentially impaired workers
- Implement and maintain smoking laws as introduced by the State and Federal Governments and ensure smoke free workplaces are provided by the Principal Contractor and/or SMA
- Support employees in a 'Quit" smoking program
- Educate employees in the effects of fatigue and promote the removal of fatigue as a serious contributing factor to workplace incidents

FITNESS FOR WORK

TQCSI ISO 9001:2015 Quality Certified AU876-QC-EC-SC

TQCSI AS 4801:2001 Safety Certified AU876-QC-EC-SC

TQCSI ISO 14001:2015 Environmentally Certified AU876-QC-EC-SC

SMA INFRASTRUCTURE

VERSION HISTORY

Date of Issue	Issue No.	Approved By	Changes
30/09/2020	1	Leon Krelle – Systems Manager	Initial Issue
13/10/2020	2	Leon Krelle – Systems Manager	Updated references to hyperlinks

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1. INTRODUCTION

The purpose of this procedure is to ensure the health and safety of all SMA employees, contractors, subcontractors, visitors and the public by detailing the process required to achieve the objectives identified in the *(HSE-POL-04) Fit for Work Policy*. A safe workplace will be achieved through the implementation of a stringent drug and alcohol testing program, appropriate resource allocation, health monitoring (as required), rehabilitation programs and fatigue management.

Note: "SMA" means Albem Operations Pty Ltd & McIlwain Civil Engineering Pty Ltd & SGQ Pty Ltd Joint Venture Pty Ltd.

2. REFERENCES

- (HSE-POL-04) Fit for Work Policy
- (HR-F-01) Leave Application Form
- (HSE-P-31) Drug and Alcohol Procedure

3. RESPONSIBILITIES AND AUTHORITIES

The following personnel have a particular role in ensuring that all workers present fit for work every day. All employees, subcontractors, suppliers, and site visitors are responsible for ensuring they are within the guidelines stipulated under the *(HSE-POL-04) Fit for Work Policy*.

Position	Responsibilities
General Manager	Is responsible for the implementation of the company Fitness for Work Policy, Drug and Alcohol procedure and for ensuring adequate resource allocation for education, training, counselling, and other requirements.
Systems Manager	Will ensure that the "fit for work" procedures and protocols are implemented across all of the business. The Systems Manager will oversee and monitor drug and alcohol testing as and when scheduled or required.
Project Manager	Is ultimately responsible for ensuring that the sites are drug and alcohol free, that all personnel are informed of safe procedures of work, rehabilitation requirements and that the corporate Fatigue Management Plan is understood.
Site Supervisor	Must ensure that all workers (internal and external) are fit for work and are working to all site safety rules and procedures, are not under the influence of illicit drugs and alcohol or that there are any injuries evident to ensure they are working at peak performance at all times. Site Supervisors' must also report any suspicious behaviour to the Project Manager to address the issue which may include carrying out tests and if required disciplinary action.
All Site Personnel	Are responsible for ensuring adherence to this policy and related procedures.

4. FITNESS FOR WORK

All employees are required to present ready and 'fit for work' on a daily basis. The fitness for work incorporates the effect of fatigue, maintaining adequate hydration, injury management, illicit drugs, prescription medication, alcohol and other inhibiting substances. The effect of some personal illnesses or conditions (pre-existing injuries, or injuries sustained out of work) may also contribute to an employee's fitness for work.

Where there are concerns of a pre-existing injury or an injury that has been sustained outside of work hours it is recommended that the identified employee is reviewed by the company authorised practitioner. This process is to aid the site management team on what the worker can be exposed to ensure his injuries are

not further aggravated and they return back to full fitness as soon as possible. See section 8 of this procedure.

The Project Manager, Site Supervisor and H & S Representative reserves the right on behalf of SMA management to question an employee's fitness for work. As detailed (concerning drugs and alcohol and any obvious ailments or injuries) in the *(HSE-P-31) Drug and Alcohol Procedure* there are a number of options available to a Project Manager, Site Supervisor and H & S Representative when concerned about the ability of an employee to carry out their duties.

5. TESTING

Refer to *(HSE-P-31) Drug and Alcohol Procedure* for all AOD testing procedures.

6. ILLICIT AND PRESCRIBED DRUGS

Refer to *(HSE-P-31) Drug and Alcohol Procedure* for all AOD testing procedures.

7. VOLUNTARY TESTING

Refer to *(HSE-P-31) Drug and Alcohol Procedure* for all AOD testing procedures.

8. FOR-CAUSE SCREENING

Refer to *(HSE-P-31) Drug and Alcohol Procedure* for all AOD testing procedures.

9. PRESCRIPTION MEDICATIONS (NOTIFICATION AND TESTING)

Refer to *(HSE-P-31) Drug and Alcohol Procedure* for all AOD testing procedures.

10. ALCOHOL

Refer to *(HSE-P-31) Drug and Alcohol Procedure* for all AOD testing procedures.

11. FATIGUE

Ever increasing fatigue has been identified by multiple industry bodies as a significant contributor to workplace incidents and productivity.

SMA is committed to assisting employees who are suffering the effects of fatigue. The Site Supervisor is responsible for the management of the workforce on a daily basis. Any employee who is 'fatigued' will be removed from any high-risk activities or managed in another manner as determined by the Site Supervisor or Project Manager. A note will be recorded on the day sheet, detailing any situation in which duties were modified to accommodate a fatigued employee.

If a worker presents for work fatigued more than once in any one week the Project Manager will contact the Systems Manager and the Operations Manager who will together decide on the necessary control measures.

On projects where extended periods of nightshift are expected, the project shall implement a site-specific fatigue management plan which manages the risk of fatigue.

12. PRE-EXISTING INJURIES OR INJURIES SUSTAINED OUT OF WORK HOURS

It is understood that SMA personnel can sustain injuries outside of work hours. If a person has presented themselves for work with an injury sustained out of work hours, they must not commence work for the day and the Project Manager is to be notified immediately.

The Systems Manager is then to be notified as soon as practicable of the injured person and the extent of their injury and if required the Systems Manager will nominate if the injured person is to be sent for a 'fitness for work' assessment at a nominated medical practitioner for advice on light duties and the accurate extent of the injury. No persons may resume full duties until a full clearance has been given by the treating practitioner and approval has been given to do so by the Systems Manager.

All SMA personnel will be subject to annual fitness assessments and medical evaluation when requested to do so.

Staff health records will be maintained in a confidential basis in accordance with the privacy act.

13. RETURN TO WORK PROCESS

Before permitting any employee to resume duty a Site/Project Manager or supervisor must ensure:

- A confirmed clear AOD test result has been received.
- Appropriate disciplinary processes have been completed.
- A rehabilitation plan to manage and ultimately resolve the fitness for work issues is in place if applicable.
- The employee is made aware that they will be required to undergo further random tests during the following six months at times determined by SMA.
- The period of unpaid leave has been communicated to the Human Resources Manager.
- Payments to the employee will recommence from the beginning of their next rostered shift following a confirmed negative result.
- The employee will subsequently be counselled by their supervisor or manager in accordance with the SMA Performance Management Procedure.

14. SUPPORT & REHABILITATION

SMA acknowledges that individuals may have personal difficulties arising from their use of alcohol and/or other drugs and can provide information for professional assistance to help individuals address these problems.

SMA will provide information on confidential alcohol and other drugs counselling and rehabilitation services for employees and their immediate families. Employees may also seek assistance from site safety officers, or the Human Resources Manager.

Professional counselling is available through the community agencies listed below:

- Alcohol & Drug Information Counselling Services
- Alcoholics Anonymous (24 hours)
- Al-Anon (for family and friends of alcoholics - 24 hours)
- Narcotics Anonymous (24 hours).

15. REHABILITATION PLANS

Where a rehabilitation plan is required it will be developed in consultation with Management and must cover all of the following items:

- Aim of the rehabilitation plan.
- Responsibilities/actions to be taken by the individual.
- Treatment plans (if relevant).
- Liaison with management and progress reporting.
- Time frames for return to work and key rehabilitation milestones (this may include details of more frequent testing, if applicable).
- Management of relapses.

16. ENFORCEMENT

This policy has mandatory compliance obligations on all persons attending a SMA workplace or site. This includes but isn't limited to wage and salary employees of SMA, SMA subcontractors and their employees, any supplier provided site personnel including labour hire. The obligation is enforceable through, employee contracts of employment, sub-contractor contracts and supplier contracts.

DRUG AND ALCOHOL PROCEDURE

TQCSI ISO 9001:2015 Quality Certified AU876-QC-EC-SC

TQCSI AS 4801:2001 Safety Certified AU876-QC-EC-SC

TQCSI ISO 14001:2015 Environmentally Certified AU876-QC-EC-SC

SMA INFRASTRUCTURE

VERSION HISTORY

Date of Issue	Issue No.	Approved By	Changes
30/09/2020	1	Leon Krelle – Systems Manager	Initial Issue
20/10/2020	2	Leon Krelle – Systems Manager	Update references to hyperlinks
21/10/2020	3	Leon Krelle – Systems Manager	Update to section 3 (workers who consume alcohol at functions) and 6.4.2 (targeted testing of higher risk activities)

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ABBREVIATIONS AND DEFINITIONS

AOD	Alcohol or Drug
BAC	Breath Alcohol Concentration
Confirmatory Test	An analytical laboratory procedure that uses chromatography and mass spectrometry that unequivocally determines the presence of a specific drug and/or metabolites
Confirmed Positive Result	A result at or above the cut-off concentration following laboratory confirmatory testing
Negative Result	A result below the relevant cut-off concentration or limit of reporting. Either from on-site screening or confirmatory testing
Non-Negative Result	A screening test result (oral or urine) that is at or above the relevant cut-off concentration or limit of reporting and does not exclude the presence or absence of a drug. A non-negative result will generally require further testing
On-site Screening	Testing of oral fluids or urine on-site using a portable test device to deliver a negative or non-negative result at the work site
SMA	Albem Operations Pty Ltd & McIlwain Civil Engineering Pty Ltd & SGQ Pty Ltd Joint Venture Pty Ltd.

1. INTRODUCTION

SMA has a duty of care to provide a safe workplace for all employees, contractors and visitors that are free from the hazards associated with drug and alcohol abuse. People affected by alcohol or drugs (AOD) pose a safety risk in the workplace.

It is the objective of SMA to foster an attitude amongst all employees and sub-contractors that it is not acceptable to come to work under the influence of drugs and alcohol which inhibit them from performing their duties in a safe and efficient manner.

SMA will:

- Meets its obligation with respect to providing a safe working environment
- Provide education and training in the hazards associated with alcohol and drug abuse
- Maintain robust testing programs
- Conducts AOD tests in accordance with Australian Standards AS/NZS 4308:2008, AS/NZS 4706:2019, AS 3547:2019 and will use laboratories appropriately certified and calibrated by the National Association of Testing Authorities.

The purpose of this procedure is to detail guidelines and actions required to carry out drug and alcohol testing on SMA employees and subcontractors and where applicable, provide counselling for drug and alcohol abuse.

This procedure applies to all sites and activities and includes all employees, subcontractors and visitors to sites under SMA's control.

2. REFERENCES

- Framework for alcohol and drug management in the workplace, Queensland Government
- AS/NZS 4308:2008 Procedures for specimen collection and the detection and quantification of drugs of abuse in urine
- AS/NZS 4760:2019 Procedure for specimen collection and the detection and quantification of drugs in oral fluid
- AS 3547:2019 Breath alcohol testing devices
- (HSE-P-03) Fitness for Work
- (HSE-P-11) Incident Reporting and Investigation
- (HR-P-08) Performance Management
- (WHS-F-35) Drug and Alcohol Test Record

3. GENERAL

The drugs covered by this procedure include alcohol; all illegal drugs; and over the counter or prescription drugs which have the potential to impair a person's ability to work safely and effectively.

Employees have a duty of care in accordance with applicable legislation not to put their own and others' safety at risk while at work.

Employees who seek help from SMA will be provided with preventative and rehabilitative measures to overcome alcohol and other drug problems.

Employees who do not comply with this procedure will face disciplinary action, up to and including dismissal. In some circumstances, they may also be liable to criminal prosecution under Australian laws.

Company functions held at regional offices or third-party locations are not subject to this procedure, however, employees attending such functions are expected to conduct themselves properly and with due regard to their own and others' safety. All employees are always expected to obey the applicable state and territory laws whilst driving to and from company functions. Workers who consume alcohol at functions will not be fit to return to work.

This procedure is designed to prevent impairment at work and to control the risk of impairment at work. This procedure will be applied irrespectively of whether impairment can be proven.

4. ABUSE OF ALCOHOL AND/OR OTHER DRUGS

Definitions of what constitutes abuse of alcohol and/or other drugs are:

- The use of alcohol which results in potential impairment of an employee's performance or their ability to work efficiently and safely
- The use of illegal drugs such as cannabis, amphetamines, cocaine, opiates and other narcotics which result in the potential impairment of any employee's performance or their ability to work efficiently and safely
- The use of prescription drugs (e.g. benzodiazepines, barbiturates or methadone) and the use of any other prescription or non-prescription drugs or substances which may result in potential impairment of an employee's performance or their ability to work efficiently and safely
- The unauthorised consumption or possession of alcohol or the consumption or possession of any illicit drugs on the work site or during the working period
- The sale or supply of either illegal or prescription drugs
- An employee whose drug or alcohol screening exceeds the limits set out in Appendix B of this procedure

5. ACCOUNTABILITIES

Position	Accountabilities
General Manager	The Managing Director is responsible for the implementation of the company Fitness for Work procedure, Drug and Alcohol procedure and for ensuring adequate resources has been allocated for education, training, counselling and other requirements.
Site/Project Managers	Project Managers are responsible for the effective implementation of the company Fitness for Work procedure and Drug and Alcohol procedure on all the sites under their control and for ensuring that it is applied equitably and consistently to all individuals. Specifically, they are responsible for: • Ensuring all individuals in their areas of responsibility understand and comply with the requirements of this procedure and the company policy • Approving post incident and/or observed behaviour testing • Taking prompt and appropriate action to ensure the safety of all personnel when they believe an individual is not capable of working in a safe and effective manner. This may include removing the individual from the workplace • Maintaining appropriate confidentiality in relation to the alcohol and drugs program • Ensuring subcontractors understand and adhere to the company AOD and Fitness for Work Procedures
Systems Manager, Safety and HSE Advisors	The Systems Manager, Safety and HSE Advisors are responsible for the effective implementation of the company Fitness for Work Policy and Drug and Alcohol procedure on all sites and for ensuring that it is applied equitably and consistently to all individuals. Specifically, they are responsible for: • Maintaining appropriate confidentiality in relation to the alcohol and other drugs program • Selecting employees for random and other testing in accordance with approved procedures • Liaising with clients, medical authorities and testing authorities as required; and • Monitoring and implementing changes to the Fitness for Work and Drug and Alcohol procedure as required
Testing Personnel	Drug and Alcohol testing will be conducted by suitably trained personnel. Trained personnel are responsible for: • Maintaining appropriate confidentiality in relation to the alcohol and drug testing

Position	Accountabilities
	• Conducting post-incident, for observed behaviour, random and blanket tests for follow up or other testing as required in accordance with the nominated Australian Standards • Ensuring all equipment used to conduct BAC testing is calibrated • Ensuring all equipment used for on-site drug testing is within its use-by-date • Maintaining correct records of all testing conducted
Employee/ Subcontractor	It is the responsibility of all individuals to ensure their own safety and health at work and to avoid adversely affecting the health and safety of any other person. In order to fulfil this responsibility, each individual is required to: • Present themselves at work in a condition in which they are able to carry out their duties without risk to themselves or others. This includes ensuring they meet the requirements of the Fitness for Work and the Drug and Alcohol Procedure and are not in an unfit state for any reason, including the adverse effects of fatigue, stress, alcohol or drugs, including prescription medicine • Notify their Supervisor of any concerns about, or potential threat to, their work performance or safety • Ensure that any prescription or non-prescription medication is taken safely. This involves: – Discussing with the prescribing medical practitioner the nature of their duties and ascertaining any possible side effects of the prescribed medication which may impact on their safety or performance at work – Notifying their supervisor and/or site HSE/Safety Advisor of any medication they are prescribed which could affect their safety or performance at work – Taking any medication strictly in accordance with the medical practitioner or manufacturer's recommendations – Reporting immediately any side effects to their supervisor and/or site HSE/ Safety Advisor

6. ALCOHOL AND DRUG TESTING

It is SMA's policy to employ personnel who have successfully undertaken pre-employment substance abuse screening and who have agreed, as part of the employment conditions, to undertake ongoing testing for drug and alcohol levels.

Alcohol and drug screening tests may be conducted on-site by suitably trained personnel. This may consist of oral or urine testing devices. On-site screening will be carried out to exclude the presence of any or all of the drugs designated by the on-site screening device.

On-site drug screening tests will be conducted by suitably trained personnel using the Pathtech DrugWipe 6S. The DrugWipe 6S conducts screening tests for the presence of the following drug classes:

- Amphetamine-type substances
- Benzodiazepines
- Cocaine and metabolites
- Opiates
- Cannabinoids

Results of the DrugWipe 6S on-site screening tests will either present a negative result for the drug class(es), or a non-negative result. Any non-negative result of the on-site screening will require a GC/MS confirmatory test to be conducted by a NATA approved laboratory or equivalent to Australian Standard AS/NZS 4308:2008.

BAC testing will be conducted by suitably trained personnel; all equipment used to conduct these tests will be calibrated by a National Association of Testing Authority (NATA) in accordance with Australian Standard AS 3547:2019. Calibration certificates will be retained as evidence.

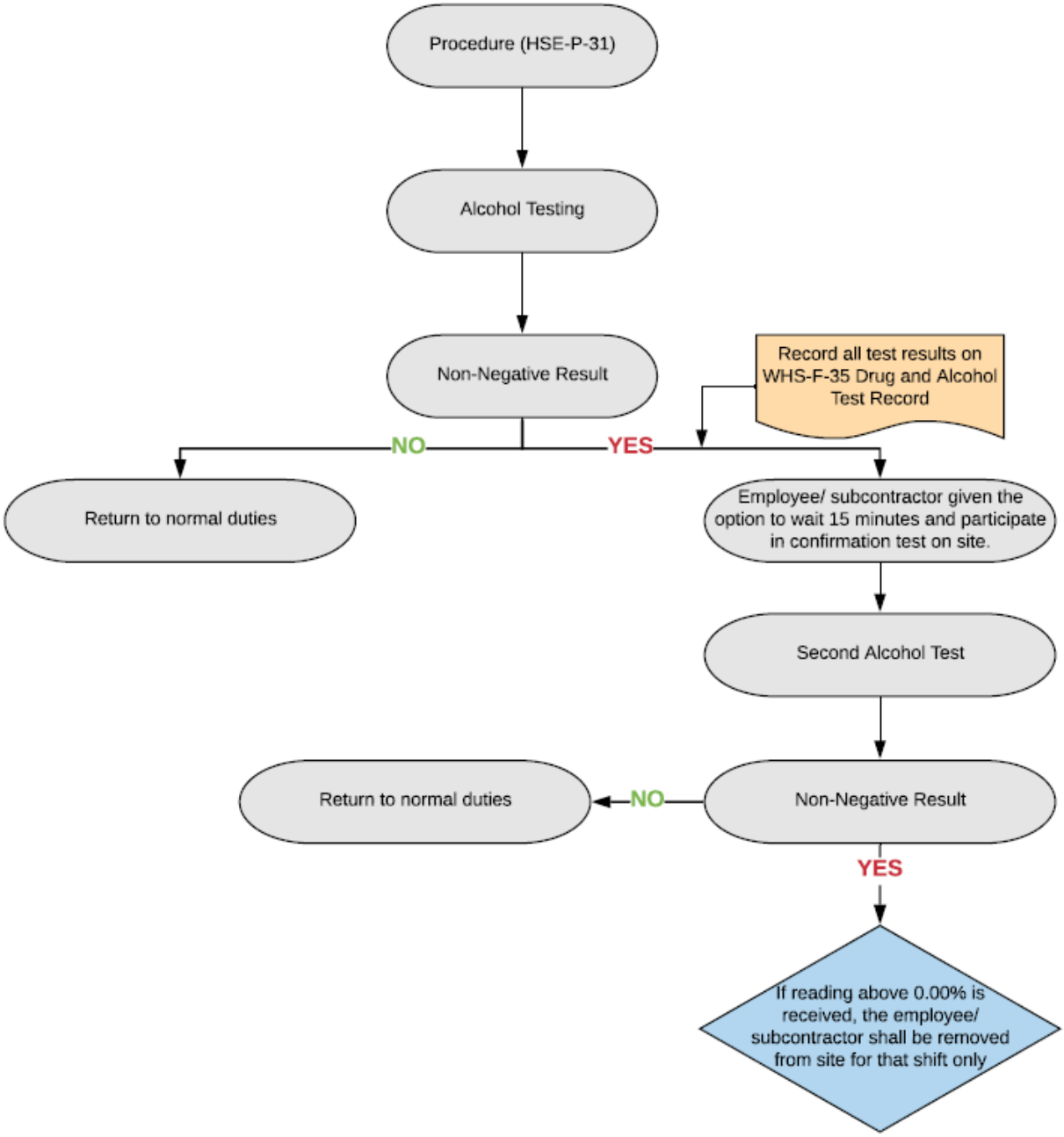
For both drug and BAC testing, *(WHS-F-35) Drug and Alcohol Test Record* shall be used as a record of the test.

6.1 Site Minimum Testing Requirements

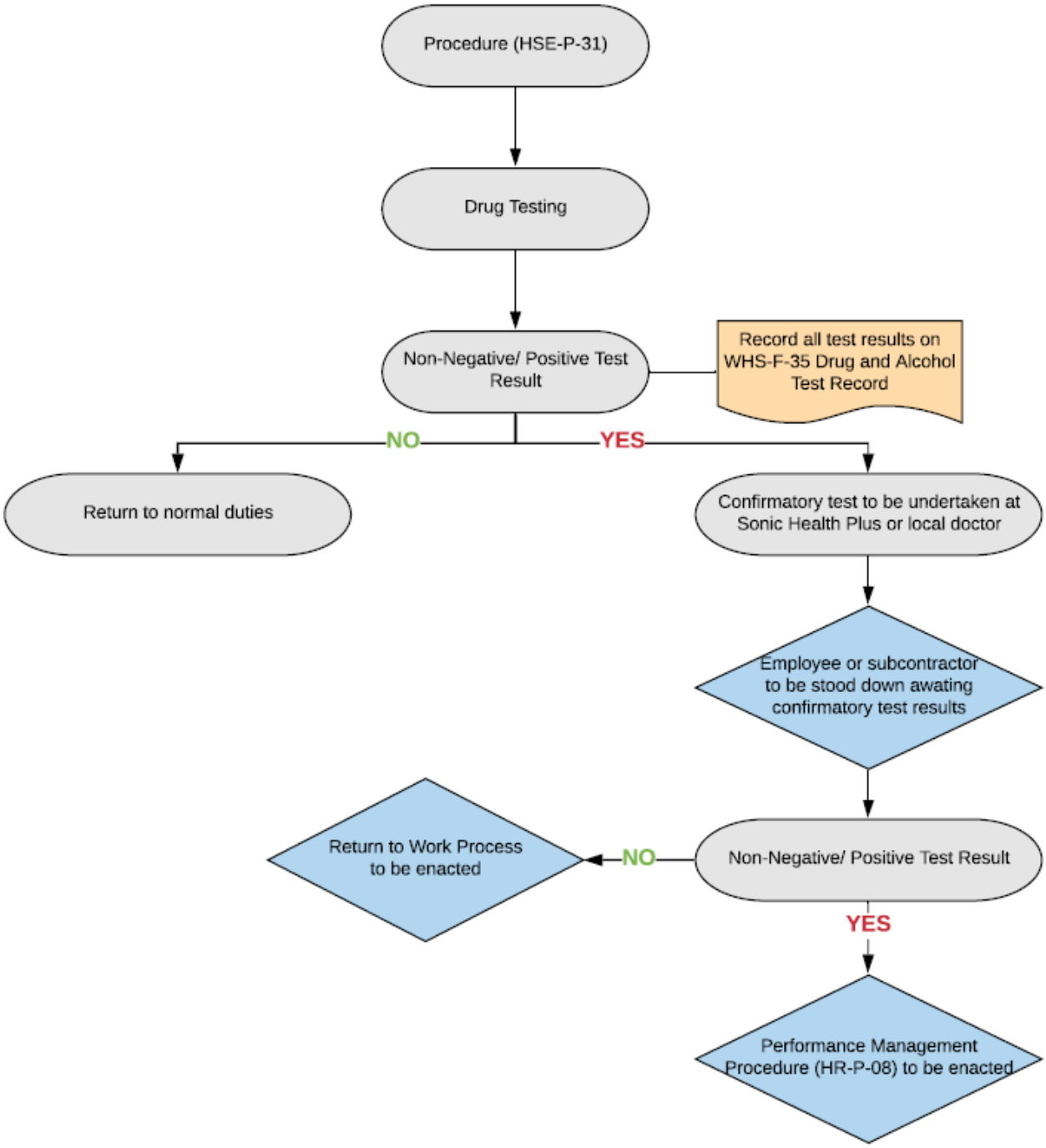
As a minimum, site tests will be carried out at least once a month as follows:

- where there are less than 30 workers on site – at least 10% of the workforce per month
- where there are 30 to 100 workers on site – on a minimum of 5 workers per month
- where there are greater than 100 workers on site – on a minimum of 10 workers per month

6.2 On-Site Alcohol Screening Flowchart



6.3 On-Site Drug Screening Flowchart



6.4 Types Of Testing

6.4.1 Pre-Employment Screening

Pre-employment substance abuse screens may be conducted as part of the pre-employment medical process for SMA employees. This will be arranged with an independent, accredited testing group.

Any applicant found to be positive (i.e. in excess of the prescribed limit) on their pre-employment screen will be considered unsuitable for employment. Pre-employment screening is to be conducted for the substances and limits as detailed in Appendix B.

6.4.2 Random AOD Screening

Employees and subcontractors will be subject to random AOD on-site screening.

The random selection of individuals will be conducted with the use of an electronic random selection program (such as randomiser app or website) against the individual's number assigned on the daily pre-start sign on sheet. Random testing will be determined by a suitable selection process administered by SMA.

Employees or subcontractors who are currently taking any medication must declare this prior to conducting an on-site test. Any employee or subcontractor who returns a non-negative AOD on-site screening result shall be required to provide a sample for confirmatory test. The worker will be removed from site and stood down with full pay and entitlements until results of the confirmatory test have been received. All positive AOD test results must be managed as per section 9 of this procedure.

A confirmatory test refers to a second analytics procedure performance to identify the presence of a specific drug. The confirmatory test is independent of the initial test. The confirmatory test sample is to be taken through an independent collection facility (such as a medical centre). A NATA accredited laboratory is to perform a confirmatory test of the sample.

Targeted random AOD testing of employees, subcontractors or work groups who are involved in high-risk construction activities will be undertaken during project works. The testing of these employees, subcontractors or work groups will be included as part of the site minimum testing requirements of Section 6.1 and targeted testing of higher risk activities is in addition to the mandatory frequency/percentage requirements for random testing, and cannot form part of the random testing. High-risk construction activities include:

- Works on a telecommunication tower
- Works carried out on or near pressurised gas, chemical lines
- Works involving demolition or asbestos removal
- Works involving diving work
- Works involving or near a confined space
- Works in or near trench >1.5m or tunnel
- Works involving the use of explosives or explosive tools
- Works carried out on or near electrical installations
- Working at heights
- Works carried out in or near water, with a risk of drowning
- Works carried out on or adjacent to road or railway
- Works with or around mobile plant
- Works involving tilt-up or pre-cast concrete
- Works carried out in an area that may have a contaminated or flammable atmosphere.

All positive testing results must be recorded on the *(WHS-F-35) Drug and Alcohol Test Record* (APPENDIX A).

6.4.3 Random & Daily Blanket BAC on-site Screening

BAC testing will be conducted by suitably trained personnel. All equipment used to conduct these tests will be calibrated by a National Association of Testing Authority (NATA) in accordance with Australian Standard AS 3547:2019. Calibration certificates will be retained as evidence.

Any employee or subcontractor who returns a non-negative BAC test will be given the option to wait 15 minutes and participate in a secondary test on site. No food or drink is to be consumed while waiting for the secondary test. Should a non-negative occur during blanket testing of a site, this result will be recorded on *(WHS-F-35) Drug and Alcohol Test Record*.

Should a negative BAC result be returned on the secondary test, the employee may resume their duties. No employee or subcontractor shall be returned to site unless a clear test has been achieved.

If the secondary test is non-negative, the employee or subcontractor shall not be allowed access to work for that shift. Following the secondary BAC test, if the person returns a non-negative result the responsible company (employer for that worker) shall provide adequate transport means to get the person home safely.

The employee or subcontractor shall be tested at the start of the next following shift to confirm a negative test result has been received. Should the same employee or subcontractor present for the following shift and a non-negative BAC test is recorded on both the initial test and the second test, the person shall be removed from the project and all other SMA projects until a Return to Work Process has been approved by SMA management.

6.4.4 For Cause Screening

For cause screening will be carried out after any accident or serious injury or under one of more of the following circumstances:

- Where an employee's erratic, unusual or dangerous behaviour raises concerns that they may be under the influence of alcohol or any other substance
- Upon the request of any other person in the workplace who has reasonable grounds to believe that an individual may be affected by alcohol or drugs

- If the person is involved in a work-related accident or near miss, which is potentially serious, whether or not it results in any injury or damage
- Evidence is found of possible alcohol or other drug use at work (e.g. illicit drugs, paraphernalia, alcohol containers on worksites or in vehicles) and SMA can identify with reasonable certainty any individual or individuals who may be involved.

For cause screening will be undertaken by suitably trained personnel using undertaking an on-site screening test. Any employee or subcontractor who returns a non-negative AOD on-site screening result shall be required to provide a sample for confirmatory test for laboratory analysis. The worker will be removed from site and stood down with full pay and entitlements until results of the confirmatory test has been received. All positive AOD test results must be managed as per section 9 of this procedure.

6.4.5 Voluntary Testing

All workers and subcontractors can ask for voluntary AOD testing. This shall occur prior to normal daily prestart times. This is a private test screening to which if the person provides a positive result they can communicate this to their Supervisor/Manager that they have self-tested and will not be fit for work for that shift. The outcome/decision to the positive result will be that of the worker's manager to decide.

NB: Voluntary testing needs to be requested at least 15 minutes before the pre-start meeting or before the start of the shift.

7. NON-NEGATIVE AND CONFIRMED POSITIVE RESULTS

Any non-negative result of the on-site screening will require a confirmatory test to be conducted and analysed by a NATA approved laboratory or equivalent to Australian Standard AS/NZS 4308. Any non-negative result from on-site screening will be raised as an incident and reported in accordance with *(HSE-P-11) Incident Reporting and Investigation*.

Any employee or subcontractor who returns a non-negative on-site AOD result will be removed from site and stood down with full pay and entitlements until confirmatory results have been received from NATA approved laboratory. No employee or subcontractor shall be returned to site until confirmatory testing has been received. The employee or subcontractor is deemed to be 'not fit for work' and will not return to work until this testing has been received and return to work process initiated.

Employees who are currently taking any medication must declare this prior to the confirmatory test. If a worker can demonstrate a medical reason for the on-site testing returning a non-negative result (i.e. medical certificate from a registered doctor, evidence of prescription medicine) the worker is required to return to work at the beginning of the next shift.

Where an individual is required to provide a sample as part of random on-site sampling, for cause sampling or to provide a confirmatory sample and has refused, it will be considered serious misconduct, and that person will be subject to the same disciplinary procedures to those who have returned a confirmed positive result.

In the event of a person returning a confirmatory drug test result exceeding the "Confirmatory Test Cut-Off Levels" as set out on Appendix B of this procedure, the person will face disciplinary action in accordance with Section 11. This confirmed positive result will be recorded on *(WHS-F-35) Drug and Alcohol Test Record*.

If a negative result is confirmed, the employee may return to work at the beginning of the next shift. This negative result will be recorded on *(WHS-F-35) Drug and Alcohol Test Record*. No further action is taken in the event of a negative test being returned.

In the event an employee tests positive to an AOD test and is on site where the Client/Principle has a ZERO tolerance to AOD, the disciplinary process will be applied and may result in termination of employment.

7.1 Return to Work Process

Before permitting any employee to resume duty a Site/Project Manager or supervisor must ensure:

- A confirmed negative AOD test result has been received
- Appropriate disciplinary processes have been implemented.
- In the case of an SMA employee, a period of leave must be approved for the worker (including unpaid leave), until a negative result has been returned
- A rehabilitation plan to manage and ultimately resolve the fitness for work issues is in place, if applicable

- The employee is made aware that they will be required to undergo further random tests during the following six months at times determined by SMA
- Payments to the employee will recommence from the beginning of their next rostered shift following a confirmed negative result
- The employee will subsequently be counselled by their supervisor or manager in accordance with the SMA Disciplinary Procedure

8. SERIOUS MISCONDUCT

Serious misconduct is behaviour which is so evidently in breach of the employee's duties as to warrant summary dismissal without warning. Serious misconduct in relation to this procedure may include:

- Refusal by an individual to submit to or cooperate fully with the administration of a pre-employment alcohol or drug screen, will result in his or her application for employment at SMA not being further considered. Any attempt to avoid or falsify any alcohol and/or drug test may result in rejection of the employment application. Falsification, which is undetected at the time of employment, but later detected, may lead to termination of employment
- Refusal by an individual to submit to or cooperate fully with the administration of a random or for-cause alcohol or drug screen at the workplace
- Presenting to or commencing work under the influence of Drugs or Alcohol.
- Tampering with test equipment or samples given for the purpose of testing, or any substitution of samples or any other action to avoid a positive test result is serious misconduct
- The consumption, supply or possession of alcohol, any illegal drug or prescription drug without prescription on a SMA site or during work without the knowledge and permission of the supervisor or without reasonable justification is serious misconduct
- Failure to comply with the requirements of a rehabilitation plan and/or a pattern of continuing positive AOD results over a prolonged period will be seen as evidence that the employee has chosen not to comply with this policy and may also constitute serious misconduct.

9. DISCIPLINE PROCEDURE

In the event of an employee producing a positive test result for Alcohol or Drugs the following disciplinary procedure will apply:

- In all circumstances following a positive on-site screening AOD test, the employee or subcontractor must be stood down and managed in accordance with sections 9 and 10
- Except in the event of the Clients "Zero Tolerance" policy, where there is no serious misconduct, a positive BAC test or confirmed positive result, shall result in an investigation and performance management process to be enacted in accordance with *(HR-P-08) Performance Management*
- Where there is a client's "Zero Tolerance" policy, or where there is serious misconduct involved, SMA reserves the right to terminate employment in accordance with serious misconduct procedure within *(HR-P-08) Performance Management*

10. CONFIDENTIALITY

Test results will be recorded in the individual's personnel file and remain strictly confidential. Access to this information is restricted to authorised personnel and the individual concerned. This information will not be used outside the company without written consent of the individual.

11. SUPPORT & REHABILITATION

SMA acknowledges that individuals may have personal difficulties arising from their use of alcohol and/or other drugs and can provide information for professional assistance to help individuals address these problems.

SMA will provide information on confidential alcohol and other drugs counselling and rehabilitation services for employees and their immediate families. Employees may also seek assistance from site safety advisors, or the Human Resources Manager.

Professional counselling is available through the community agencies listed below:

- Alcohol & Drug Information Counselling Services
- Company EAP
- Alcoholics Anonymous (24 hours)

- Al-Anon (for family and friends of alcoholics – 24 hours)
- Narcotics Anonymous (24 hours)

12. REHABILITATION PLANS

Where a rehabilitation plan is required, it will be developed in consultation with Management and must cover all the following items:

- Aim of the rehabilitation plan
- Testing regime
- Responsibilities/actions to be taken by the individual
- Treatment plans (if relevant)
- Liaison with management and progress reporting
- Time frames for return to work and key rehabilitation milestones (this may include details of more frequent testing, if applicable)
- Management of relapses

In lieu of termination for serious misconduct associated with the procedure, senior management may, in their absolute discretion, require the employee to enter into a rehabilitation plan.

APPENDIX A BAC TESTING – POSITIVE READING

SMA INFRASTRUCTURE

DRUG AND ALCOHOL TEST RECORD

Part 1					
Site:		Date:		Time:	
Name:		Position:		Sign:	
Tester:		Position:		Sign:	
Witness:		Position:		Sign:	

Alcohol							
Reason for Testing	Causal ☐ Random ☐ Suspicion ☐ First test failure ☐						
BAC Testing Unit Serial Num:			Calibration Date:				
BAC Testing Unit Time:							
Initial Result	Pass	Fail	Time	2nd Result	Pass	Fail	Time
	☐	☐			☐	☐	
If a Non-Negative Result is recorded, what was the time of your last drink of Alcohol?							

Drugs			
Reason for Testing	Causal ☐ Random ☐ Suspicion ☐ First test failure ☐		
Drug/Drug Classes Being Tested:	Amphetamines ☐	Cannabis ☐	Methamphetamines ☐
	Benzodiazepines ☐	Cocaine ☐	Opiates ☐
Are you taking any Medication which may influence the Test? If yes, what?			
Test Device:		Expiry Date:	
Batch Number:			
Test Result:	Non-Negative ☐	Negative ☐	Confirmed Positive ☐

Part 2					
NOTE: Only complete Part 2 upon failure of initial test					
Please ask the person the following question:					
Do you understand the Testing Process?					
Actions:					
Project Manager:		Sign:		Date:	

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APPENDIX B CUT-OFF LEVELS FOR CONFIRMATORY TESTS

Drug Category	Compounds for Confirmatory Level Testing	Confirmatory Cut-Off "Threshold Levels" (as per AS 4308:2008 and subject to changes in accordance with changes to AS 4308:2008)
Amphetamine-type substances	Amphetamine	150 ug/l
	Methylamphetamine	150 ug/l
	Methylenedioxymethamphetamine	150 ug/l
	Methylenedioxyamphetamine	150 ug/l
	Benzylpiperazine	500 ug/l
	Phentermine	500 ug/l
	Ephedrine	500 ug/l
	Pseudoephedrine ("Sudafed")	500 ug/l
Benzodiazepines	Diazepam	200 ug/l
	Nordazepam	200 ug/l
	Oxazepam	200 ug/l
	Temazepam	200 ug/l
	A-hydroxy-alprazolam	100 ug/l
	7-aminoclonazepam	100 ug/l
	7-aminoflunitrazepam	100 ug/l
	7-aminoitrazepam	100 ug/l
Opiates	Heroin (6-acetylmorphine)	10 ug/l
	Morphine	300 ug/l
	Codeine	300 ug/l
	Methadone (Non AS/NZ 4308)	300 ug/l
Cannabinoids	Marijuana (D^9 THC carboxylic acid)	15 ug/l
Cocaine and metabolites	Cocaine (benzoylecgonine)	150 ug/l
	Crack (ecgonine methyl ester)	150 ug/l
Alcohol	Alcohol	0%

APPENDIX H QM-P-06 INTERNAL AUDIT

INTERNAL AUDIT

TQCSI ISO 9001:2015 Quality Certified AU876-QC-EC-SC

TQCSI AS 4801:2001 Safety Certified AU876-QC-EC-SC

TQCSI ISO 14001:2015 Environmentally Certified AU876-QC-EC-SC

SMA INFRASTRUCTURE

VERSION HISTORY

Date of Issue	Issue No.	Approved By	Changes
30/09/2020	1	Leon Krelle – Systems Manager	Initial Issue
20/10/2020	2	Leon Krelle – Systems Manager	Update references to hyperlinks

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1. INTRODUCTION

SMA has established this procedure to define the responsibilities and requirements for planning and conducting audits, establishing records and reporting results in accordance with ISO 9001 requirements.

Note: "SMA" means Albem Operations Pty Ltd & McIlwain Civil Engineering Pty Ltd & SGQ Pty Ltd Joint Venture Pty Ltd.

2. REFERENCES

- ISO 9001 Quality Management Standard
- ISO 45001 Safety Management Standard
- ISO 14001 Environmental Management Standard
- SMA Integrated Management System (IMS)
- (QM-P-01) Controlling Documents, Plans & Data
- (HSE-P-06) Compliance Management
- (QM-P-04) Control of Non-Conformances
- (QM-P-02) Record and File Management

3. SCOPE

This procedure is designed to provide an integrated framework for the SMA internal auditing, inspection and review process (under the guidelines of ISO 9001, ISO 14001 & ISO 45001) encompassing the SMA Integrated Management Systems (IMS).

4. OBJECTIVE

The objective of this procedure is to ensure that internal audits, inspections and reviews are conducted at planned intervals to:

- Assess the effectiveness of the Integrated Management System (IMS) and SMA's overall performance
- Determine that the IMS demonstrates compliance with SMA's "planned arrangements" (e.g. IMS manual, procedures etc.) and that the planned arrangements are effectively implemented and maintained.
- Identify opportunities for improvement

5. RESPONSIBILITIES

Position	Responsibilities
General Manager	• Approves the Audit Schedule
Systems Manager	• Implements and periodically reviews the internal audit procedure • Determines the frequency, scope and criteria of internal audits • Monitors the status of improvement actions arising from internal audits at the management review meeting • Coordinated the audit schedule and reports audit findings to the General Manager and The Executive Management Team • Reports the results of audits at management meetings • Develops and coordinates improvement actions from the results of internal audits and reports on their status at management meetings • Drives the improvement/ corrective and preventative action process • Maintains the Divisional audit schedule and audit records
Internal Auditor	An internal auditor is responsible for the conduct of internal audits of systems or processes against set criteria in order to determine conformance to planned arrangements, international standards, and IMS requirements and to identify opportunities for improvement. The internal auditor should try to determine whether the activity being audited is being performed in such a way that is beneficial to the organisation, and as a by-product, that it meets the relevant procedure rather than to solely verify that the procedure is being followed.

6. PROCEDURE

The audit criteria, scope, frequency and methods are defined below. The selection of auditors and conduct of audits are managed to ensure objectivity and impartiality of the audit process.

6.1 Frequency of Internal Audits

The frequency of internal audits is to be determined by the Systems Manager (or their delegates) taking into consideration the status and importance of the processed and areas to be audited, as well as results of previous audits.

Generally, areas within the Quality, Health & Safety, Human Resource and Environmental Management Systems are each to be subject to a minimum of one internal audit per year.

Audits may be scheduled more frequently as the need arises, for example when non-conformances have been identified.

In addition, an internal evaluation of SMA's compliance to legislation is to be conducted annually – as per *(HSE-P-06) Compliance Management* refers.

6.2 Audit Schedule

The internal audit schedule is to be developed and maintained by the Systems Manager. The internal audit schedule should identify the date, scope, criteria of planned internal audits, and where possible the name of the lead auditor. The internal audit schedule should, where possible cover a period of at least 6 months.

The internal audit schedule is to be planned by Systems Manager in consultation with the General Manager, taking into consideration the status and importance of the processes and areas to be audited, as well as the results of previous audits.

6.3 Audit Scope and Criteria

The Systems Manager (in consultation with the General Manager) determine those areas/ sections that are of the greatest importance to the business; in other words, which processes, that should there be problems, will affect customers the most. These are the processes that SMA must make certain remain stable and consistent.

The scope and criteria of internal audits are set taking into consideration the status and importance of the procedures, processes and areas to be audited, as well as results of previous audits (generally an area considered to have the greatest risk exposure or considered to be underperforming – possibly identified by previous audit or management review).

The internal audit process will often include a requirement for evaluation of compliance to the applicable SMA procedure to confirm it is being complied with by staff involved in the process being audited. The following table is a guide (but not restricted to) to the areas, scope and criteria that may be selected for internal audit:

Areas/Processes	Processes/Scope
Operational management:	Planning Process
General management of operations	Management Plans
Site/ project specific management	Risk Assessment
Task specific management i.e.	Document Control/ Records/ Forms
earthworks, concrete works, specialised	Tendering/ Design/ Development
haulage etc.	Process Capability: Efficiency/ Implementation
Integrated Management Systems:	Project Performance
HSEQ System	Supplier/ Contractor Performance
	Utilisation of Resources (Pers & Equip)
Resource Management:	Infrastructure
	Work Environment
Human Resource Management:	Environmental Aspects

Areas/Processes	Processes/Scope
Recruitment	Environmental Management
Training	Environmental licences for compliance (i.e. water)
Performance Management	Structure/ Responsibilities/ Accountability
Payroll & Allowances	Consultation/ Communication
	Purchasing/ Verification of Product
	Cost Control
Asset Management:	Customer Focus: Complaints/ Feedback/ Communication
Fleet Management	Training
Equipment Management	Recruitment Process
Infrastructure	Induction Process
Workshops	Performance Management
Site Specific	Legislation: Management/ Review
Project Specific	Previous Audits/ Inspections/ Reviews
Earthworks	Measurement & Analysis: Use of Statistical Data/ Trend ID
Construction	Control of Measuring Devices
Specialised Haulage	Preventive Actions
	Corrective Actions
	Emergency Preparedness & Response/ Contingency Planning
Administration:	Improvement Opportunities: Identification/ Review
General Administration	Hazard Identification, Risk Assessment & Control
Purchasing	Accident/ Incident Investigation
	Injury Management & Rehabilitation
	Health Surveillance

Audit Criteria
• Conformance to planned arrangements • Performance against business targets & objectives • Performance against stakeholder expectations (Owners, Customers, Employees, Suppliers, Subcontractors Community & Government) • Conformance to International Standards (ISO 9001, ISO 45001 & ISO 14001) – Checklists available • Conformance to management plans (QMP, SMP, EMP & project specific management plans) • Evaluation of compliance to policies, procedures & work instructions (HSEQ) • Conformance to legislation

6.4 Auditor/Audit Team Selection

The auditor and audit team (dependant on the scope of the audit) is selected by the Systems Manager to ensure objectivity and impartiality. Auditors selected are to be considered suitably competent, trained (lead auditor), experienced and are not to audit their own work; auditors will normally be supervisors or managers.

6.5 Internal Audit Report Form

Once senior management has determined the audit scope, criteria and internal auditor to conduct the audit the Systems Manager is to prepare an Internal Audit Report Forms outlining the scope and criteria of the audit and is to brief the lead auditor or audit team on the conduct of the audit.

6.6 ISO Complicate Checklists

Internal audit checklists have been developed to aid in auditing compliance to International Standards (ISO 9001, ISO 45001 & ISO 14001) – should compliance to International Standards be selected as part of the scope of the internal audit.

These checklists can be used 'as is' or modified to suit the scope of the audit. It is not intended that these checklists be used as the sole internal audit tool.

6.7 Audit Preparation

Prior to commencing the audit, the auditor is to:

- Prepare for the audit, and where relevant, obtain reference material based on the audit scope and criteria; references, previous audit reports, non-conformance reports, International Standards and any other relevant documentation
- Advise the auditee(s) of the audit date and scope

6.8 Conduct of the Audit

The auditor/audit team is to complete a comprehensive evaluation of the area or process against the audit scope and criteria.

The audit report should identify any areas of conformance, minor non-conformance, major non-conformance and opportunities for improvement. A recommended solution should be identified for any non-compliance reported.

7. COMPLIANCE CODES

Compliance codes to be used in the report are as follows:

7.1 Conformance

- Adherence with requirements of the standard/ procedure/ process etc being audited. No major or minor non-conformances found.

7.2 Minor Non-Conformance

- A non-conformity that, based on the judgement and experience of the auditor, is not likely to result in the failure of the management system or reduce its ability to assure controlled processed or products. It may be either:
  - A failure in some part of the suppliers' management system relative to a specified requirement, or
  - A single observed lapse in following one item of a company's management system

Minor Non-Conformances will be raised for the above to ensure all corrective actions are addressed.

7.3 Major Non-Conformance

- The absence (omission not addressed) or total breakdown (commission, failure, not implemented) of a system to meet a specified requirement
- A number of minor non-conformities against one requirement can represent a total breakdown of the system and thus be considered a major non-conformity.
- Any non-conformance that would result in the probable shipment of a non-conforming product. Conditions that may result in the failure of or materially reduce the usability of the products or services for their intended purpose.
- A non-compliance that, in the judgement and experience of the auditor, is likely to either result in the failure of the management system or to materially reduce its ability to assure controlled processed and products.

Non-Conformances Reports will be raised for all Major Non-Conformances identified to ensure all corrective actions are addressed and closed out as per the *(QM-P-04) Control of Non-Conformances* procedure.

7.4 Opportunity for Improvement (OFI)

- A situation or condition of a management system that may be weak, cumbersome, redundant, overly complex, or in some other manner, may, in the opinion of the auditor, offer an opportunity for the organisation to improve its current status
- OFI's do not require any action on the part of the organisation; however the organisation should give them serious consideration in view of the auditor's knowledge and exposure to similar systems
- An OFI may be an improvement to the management system or could prevent future problems.

At the completion of the audit the auditor or audit team is to complete the Internal Audit Report Form and discuss the findings and recommendations of the report with the auditee.

8. POST AUDIT FOLLOW UP

A copy of the audit report is to be passed to the Systems Manager who is responsible for reporting results to the General Manager and the Executive Management Team. From the report the Systems Manager is to summarise the findings for follow up by the relevant Managers of the area or process audited.

The Managers are responsible for the audited area is to ensure that corrections, corrective and preventive actions (as appropriate) are taken without undue delay to eliminate detected non-conformities and their causes.

Priority is to be given to urgent matters where failure to correct would compromise safety, regulatory, contractual or environmental conformance.

Recommendations for improvement should be considered and acted upon where appropriate.

8.1 Verification

Audit outcomes and actions are to be documented by the Systems Manager and are to be reviewed as part of the management review process.

The Systems Manager is responsible for ensuring a copy of the completed audit report is filed and actions and recommendations arising from the audit recorded and closed off once completed.

9. REVIEW OF POLICIES AND PROCEDURES

All SMA Policies and Procedures are to be reviewed when changes to legislation occur or on an annual basis (as a minimum). The policies and procedures are to be reviewed against, but not limited to:

- Continued relevance to SMA business activities
- Legislation and statutory requirements
- The requirements of accredited Standards (i.e. ISO 45001)
- Client policies and procedures and compliance requirements

Review date and revision details (when a document is amended) are to be completed in accordance with *(QM-P-01) Controlling Documents, Plans & Data*.

New policies and procedures (where relevant) are to be included in the induction training package and communicated to the workforce via toolbox meetings, notice boards or electronic means (emails etc).

10. WORKPLACE SAFETY INSPECTIONS

Workplace safety inspections are a critical component of the hazard identification and risk assessment and risk management processes. Inspections are to be conducted regularly (currently on a weekly basis onsite and monthly in head office) using the Workplace HSE Inspection Form.

Where a weekly or monthly workplace inspection or audit is required by the client, in the clients own format, under the terms of a contract then the SMA format is not used.

Workplace safety inspections and audits are normally conducted by the HSE Advisor and / or Supervisor / Elected H&S Representative.

10.1 Follow up of Items Arising from Safety Audits

The status of action items arising from workplace safety audits are generally followed up at the project Internal Meetings. The HSE Advisor or Project Manager is to delegate responsibility to appropriate supervisors and managers to complete the actions as appropriate.

Recommendations/actions arising from the inspections are to be monitored by the HSE Advisor or Project Manager until completed and are recorded as Actions within Lucidity.

10.2 Records

Records of the audits and their results are maintained in accordance with *(QM-P-02) Record and File Management* procedure.

APPENDIX I RIGHT OF ENTRY PROCESS FLOW CHART AND RECORD

RIGHT OF ENTRY PROCEDURE

SMA respects and protects the employment rights of its workers through its Enterprise Agreements and access to ongoing support negating the need for third party involvement with our workers.
All employees have freedom of choice in deciding whether to be represented in grievance or dispute procedures and by whom, if applicable.

Union representative arrives on site

Notify the HR Manager and Project Manager

↓

To have legal access to site, the Union representative must provide:
1. Right of Entry Notice
- **At least 24 hours notice, unless for a suspected WHS breach, then no notice required.**
- **If the entry notice is for a suspected WHS breach, then it must be for a valid reason and notice can be provided after the entry.**

2. Valid Permit

↓

Union representative must comply with reasonable WHS requirements:
- **PPE**
- **Sign in/ visitor induction**

↓

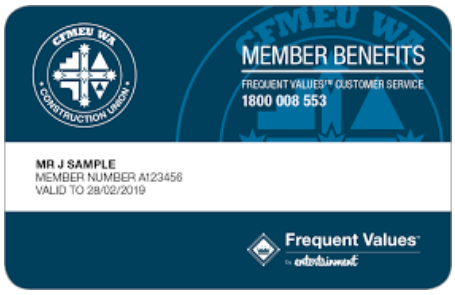
Always escort Union representative on site.

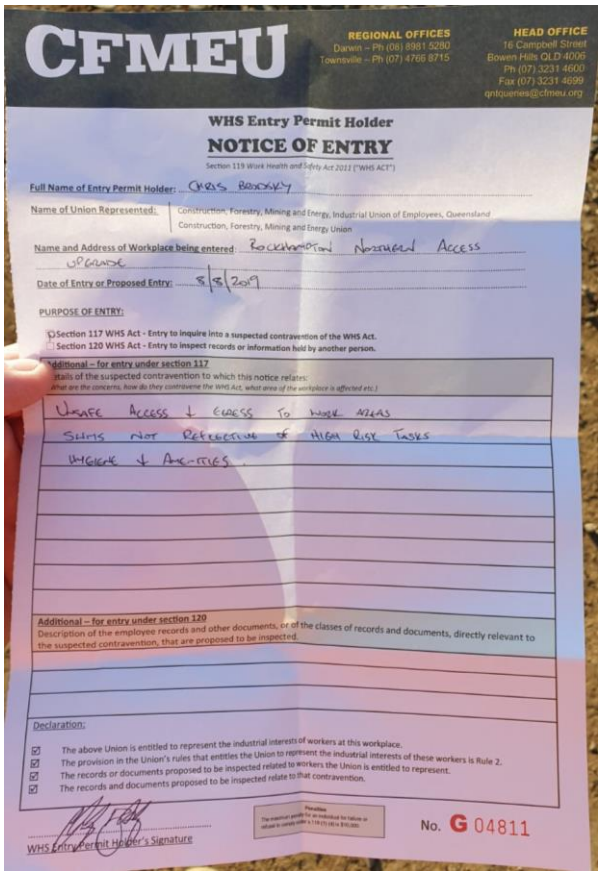
SMA representative for every Union representative.

↓

Provide dedicated area for the Union representative to meet workers.

Any meetings should be held during breaks (e.g. unpaid).





General

- SMA do not advertise/invite or promote unions or delegate visits on site.
- SMA respects the rights of union representatives under the legislation (Workplace Health and Safety Act per each state, and the Fair Work Act 2011).
- Remain professional and firm in all dealings with union representatives.
- Should a union representative not comply with any of the above then they are in contravention of the Act/Legislation and can be removed from site.

APPENDIX J REPORTING REQUIREMENTS

Australian Government
Australian Building and Construction Commission

REPORTING REQUIREMENTS

There are various reporting/notification requirements for code covered entities under the Build Code. The requirements are contained in section 16 (industrial action and secondary boycotts section 17 (Building Code breaches) and section 11D (security of payment)/ section 11E (disputed payments).

All reports/notifications can be made by emailing: codereporting@abcc.gov.au

INDUSTRIAL ACTION

Code covered entities must report to the ABCC as soon as practicable but no later than 24 ho after becoming aware of the threat or action:

- any actual or threatened protected or unprotected industrial action by their employees on Commonwealth funded building sites; and
- any actual or threatened unprotected industrial action by their employees on privately funde building sites.

A code covered entity must also, to the extent reasonably practicable, take steps to prevent or bring an end to industrial action that is not protected action taken by the employees of the enti

SECONDARY BOYCOTTS

Code covered entities must, in relation to building work, report to the ABCC as soon as practicable but no later than 24 hours after any direct or indirect request or demand is made b building association that the code covered entity engage in conduct that appears to be for the purposes of a secondary boycott within the meaning of the *Competition and Consumer Act 20*

BREACHES OR SUSPECTED BREACHES TO THE BUILDING CODE

Code covered entities must notify the ABCC of a breach, or a suspected breach of the Buildin Code as soon as practicable but no later than two working days after becoming aware of the breach or suspected breach.

When the initial notification is provided, the code covered entity is also required to set out the steps it proposes to take to rectify the breach. Within 14 days, a follow up notification confirmin the steps taken to rectify the breach is required.

SECURITY OF PAYMENT DISPUTES

Code covered entities must report any disputed or delayed progress payments to the ABC Commissioner and the relevant funding entity as soon as practicable after the date on which

payment falls due. Information on what constitutes a disputed or delayed progress payment is located at Security of payments.

NEED MORE INFORMATION?

For further information, advice or assistance please contact the ABCC at **1800 003 338** or enquiry@abcc.gov.au.

APPENDIX K CODE FOR THE TENDERING AND PERFORMANCE OF BUILDING WORK 2016

Code for the Tendering and Performance of Building Work 2016

made under section 34 of the

Building and Construction Industry (Improving Productivity) Act 2016

Compilation No. 2

Compilation date: 22 August 2017

Includes amendments up to: F2017L01052

About this compilation

This compilation

This is a compilation of the *Code for the Tendering and Performance of Building Work 2016* that shows the text of the law as amended and in force on 22 August 2017 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1..... Introductory

1 Name of code of practice

This code of practice is the *Code for the Tendering and Performance of Building Work 2016*.

2 Commencement

This code of practice commences on the day that it is registered on the Federal Register of Legislation.

3 Definitions

(1) In this code of practice:

ABCC means the body referred to in subsection 29(2) of the Act.

above-entitlements payment means a payment or benefit above the amount or value of a payment or benefit required to be paid under a Commonwealth industrial instrument or industrial law (within the meaning of the FW Act).

Act means the *Building and Construction Industry (Improving Productivity) Act 2016*.

code covered entity has the meaning given by section 6.

Note 1: paragraph 34(3)(a) of the Act provides that the code may require a person to comply with it in respect to building work only if the person is a building contractor that is a constitutional corporation.

Note 2: paragraph 34(3)(b) of the Act provides that the code may require a person to comply with it only if the person is a building industry participant carrying out work in a Territory or Commonwealth place. The definition of 'building industry participant' includes building contractors.

commonwealth funded building work: see items 1–8 of Schedule 1.

Department of Finance means the Department whose Minister administers the *Public Governance, Performance and Accountability Act 2013*.

enterprise agreement has the same meaning as in the FW Act.

essential services infrastructure: see subsection 6B(5).

acquiring entity: see subsection 18(2).

funding entity: see section 4.

FW Act means the *Fair Work Act 2009*.

head contractor means the person with management or control of the building site.

individual flexibility arrangement has the same meaning as in the FW Act.

infrastructure exemption: see subsection 6B(2).

inspector means a person appointed as, or taken to be appointed as, an Australian Building and Construction Inspector under the Act.

subcontractor is not confined to an individual.

working day means a day other than a Sunday or a public holiday.

WRMP means a Workplace Relations Management Plan that is developed in accordance with this code of practice.

Note: some terms used in this code of practice have defined meanings in the Act. For the definitions of the following terms, see section 5 of the Act:

- ABC Commissioner
- building association
- building contractor
- building industry participant
- building work
- Commonwealth industrial instrument

- designated building law
- industrial action
- protected industrial action

(2) In this code of practice, an entity (the second entity) is a ***related entity*** of a code covered entity if the second entity is engaged in building work and is:

(a) connected with the code covered entity by being a member of the entity; or

(b) an associated entity (within the meaning of section 50AAA of the *Corporations Act 2001*) of the code covered entity.

Note: two entities will be associated if they are related bodies corporate.

(3) In this code of practice, an ***exclusion sanction*** means a period during which a code covered entity is not permitted to tender for, or be awarded, Commonwealth funded building work. An exclusion sanction may:

(a) be for any period that the Minister is satisfied is appropriate, but no longer than 1 year in duration;

(b) be subject to conditions that apply the exclusion sanction only to a division of a business operating in a particular state or territory; and

(c) be extended to related entities if the Minister is satisfied it is appropriate to do so.

(4) In this code of practice, ***building work*** has the same meaning as in section 6 of the Act, but does not include:

(a) work that is described in paragraph 6(1)(e) of the Act;

(b) the off-site prefabrication of made-to-order components to form part of any building, structure or works unless that work is performed on an auxiliary or holding site that is separate from the primary construction site or sites.

4 Funding entities

In this code of practice, each of the following is a ***funding entity***:

(a) a non-corporate Commonwealth entity within the meaning of the *PublicGovernance, Performance and Accountability Act 2013*;

(b) a corporate Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013* that is directed by the Minister for Finance to comply with this code of practice.

Part 2 Conduct

5 General

This code of practice has been developed to:

(a) promote an improved workplace relations framework for building work and promote compliance with this code of practice, the Act and designated building laws and encourage the development of safe, healthy, fair, lawful and productive building sites for the benefit of all building industry participants; and

(b) assist industry stakeholders to understand the Commonwealth's expectations of, and requirements for, entities that choose to tender for Commonwealth funded building work, are awarded Commonwealth funded building work, or both; and

(c) increase efficiency and cost savings in the work performed by code covered entities by ensuring that they understand and comply with this code of practice, the Act and designated building laws; and

(d) increase the likelihood of timely, predictable, and cost-efficient delivery of Commonwealth funded building work through the use of building contractors and building industry participants that consistently adhere to this code of practice, the Act and designated building laws; and

(e) help funding entities to identify and work with building contractors and building industry participants with track records of compliance with this code of practice, the Act and designated building laws; and

(f) reduce execution delays and costs in relation to Commonwealth funded building work by not engaging building contractors and building industry participants with track records of non-compliance with this code of practice, the Act and designated building laws; and

(g) establish an enforcement framework under which building contractors and building industry participants may be excluded from tendering for, or being awarded, Commonwealth funded building work if they do not comply with this code of practice.

Note: the ABC Commissioner is responsible for monitoring compliance with this code of practice: see subsections 16 (a) and (b) of the Act.

6 Application of the code of practice

(1) A building contractor or building industry participant that could be required to comply with this code of practice by section 34 of the Act becomes subject to this code of practice (a ***code covered entity***) from the first time they submit an expression of interest or tender (howsoever described) for Commonwealth funded building work on or after the date this code of practice commences.

Related entities become code covered entities

(2) A related entity of an entity (the ***first entity***) becomes a code covered entity subject to this code of practice at the time the first entity becomes subject to the code of practice.

Code of practice applies to all new work

(3) A code covered entity is subject to this code of practice in respect of all building work that is described in Schedule 1 for which an expression of interest or request for tender (howsoever described) was called on or after the date this code of practice commenced.

Note 1: see section 2 for commencement date.

Note 2: Commonwealth funded building work is a defined term, see section 3.

Note 3: related entity is a defined term, see subsection 3(2).

Note 4: once a building contractor or building industry participant is subject to this code of practice, it and its related entities must comply with this code of practice on all new projects, including projects that are privately funded. However, some obligations in the code of practice only apply in respect of Commonwealth funded building work—see for example subsections 8(2)-(7) and Part 6.

6A Exemption for essential service providers

(1) The ABC Commissioner may exempt a building contractor or building industry participant from this code of practice if the Commissioner is satisfied that:

(a) building work performed by the building contractor or building industry participant involves the provision of essential services related to supply of electricity, natural gas, water, waste water, or telecommunications; and

(b) granting an exemption would be appropriate having regard to the objective in subparagraph 5(a) of this code of practice.

(2) An exemption must be issued in writing and may apply to building work performed by the building contractor or building industry participant for a period of time or may apply to a specified project.

(3) If the building contractor or building industry participant is a code covered entity the effect of an exemption is that the entity is deemed to not be a code covered entity for the duration of the specified period or in relation to the specified project.

(4) If the building contractor or building industry participant is not a code covered entity the effect of an exemption is that section 6 does not apply in relation to work covered by the exemption.

6B Exemption for essential services infrastructure

Applying for exemptions

(1) A building contractor or building industry participant may apply to the ABC Commissioner for an exemption from this code of practice.

(2) The ABC Commissioner must grant the exemption (the ***infrastructure exemption***) if the Commissioner is satisfied that:

(a) the principal business of the building contractor or building industry participant involves performing work for the provision of essential services related to supply of electricity, natural gas, water, waste water, or telecommunications; and

(b) the principal building work of the building contractor or building industry participant involves performing work for the provision of essential services infrastructure.

(3) An infrastructure exemption must be issued in writing and applies:

(a) for the period specified in the exemption; or

(b) if no period is specified, until it is revoked.

Revoking exemptions

(4) The ABC Commissioner must revoke an infrastructure exemption (including an exemption issued for a specified period) if the Commissioner is satisfied that paragraph (2)(a) or (b) no longer applies in relation to the building contractor or building industry participant.

Meaning of ***essential services infrastructure***

(5) ***Essential services infrastructure*** means systems or networks:

(a) to which consumers can connect for supply of electricity, natural gas, water, waste water, or telecommunications; and

(b) that:

(i) are important for the life, the personal safety or health, or the welfare, of the population or a significant part of it; or

(ii) make a significant contribution to the Australian economy or an important part of it.

Effect of infrastructure exemption

(6) If a building contractor or building industry participant is a code covered entity the effect of an infrastructure exemption is that the entity is deemed to not be a code covered entity while the exemption applies.

(7) If a building contractor or building industry participant is not a code covered entity the effect of an infrastructure exemption is that section 6 does not apply while the infrastructure exemption applies.

Part 3 Requirements to be complied with by code covered entities in respect of building work

7 General responsibilities of code covered entities

Code covered entities must:

(a) comply with this code of practice; and

(b) comply with any WRMP that applies to the building work; and

(c) respond to requests for information made by the ABCC concerning matters relating to this code of practice.

8 Subcontractors and related bodies and entities

(1) Subsections (2)–(7) apply in relation to Commonwealth funded building work only.

(2) A code covered entity must ensure that any request for expressions of interest or requests for tender (howsoever described) for building work requires a person responding to the tender:

(a) to comply with this code of practice; and

(b) to meet the eligibility requirements set out in section 23 at the time of lodging the expression of interest or tender.

(3) A code covered entity must not enter into an agreement in respect of building work with a subcontractor that could be required to comply with this code of practice by section 34 of the Act if:

(a) the subcontractor is subject to an exclusion sanction or is excluded from undertaking work funded by a state or territory government unless approval to do so is provided by the ABC Commissioner; or

(b) the subcontractor does not meet the requirements of section 11 of this code of practice.

(4) A code covered entity must ensure that an agreement entered into in relation to building work with a subcontractor requires the subcontractor to act consistently with this code of practice in respect of the building work that is the subject of the agreement.

(5) A code covered entity must ensure that subcontractors comply with this code of practice in respect of the building work that is the subject of the agreement.

Note: subsections (4) and (5) apply in respect of the conduct of all participants engaged in the relevant Commonwealth funded building work whether or not the subcontractor could be required to comply with this code of practice by s 34 of the Act. Note further, the prospective obligation in section 6 on subcontractors that could be required to comply with this code of practice by section 34 of the Act in respect of all future building work undertaken by that subcontractor.

(6) A code covered entity must ensure as far as is reasonably practicable that subcontractors that are engaged by the code covered entity in respect of building work take remedial action to rectify non-compliant behaviour.

(7) A code covered entity that is the head contractor in respect of building work at a particular site must ensure that all subcontractors on site comply with the WRMP that applies to the building work.

(8) A code covered entity must ensure that each of its related entities that could be required to comply with this code of practice by section 34 of the Act comply with this code of practice in respect of building work.

9 Compliance with laws, decisions, directions and orders

(1) A code covered entity must comply with the Act and all designated building laws that apply to the entity.

Examples

1 Commonwealth industrial instruments.

2 Laws relating to payments to employees during periods of industrial action (strike pay).

3 Laws relating to the right to enter premises where building work is performed and to have access to records.

(2) A code covered entity must comply with the *Competition and Consumer Act 2010* to the extent that it applies to the entity in relation to tendering for, or undertaking, building work.

(3) A code covered entity must comply with work health and safety laws, including work health and safety training requirements and asbestos safety requirements, to the extent that they apply to the entity in relation to building work, including strict compliance with procedures for the election of health and safety representatives and right of entry requirements.

(4) A code covered entity must comply with its obligations under the *Migration Act 1958* and its subordinate legislation.

(5) A code covered entity:

(a) must comply with a compliance notice issued under section 99 of the Act;

(b) must comply with a decision, direction or order made or given by a court or tribunal that applies to the entity in respect of building work; and

(c) must not enter into, participate in or facilitate an arrangement or practice which conflicts with a decision, direction or order made or given by a court or tribunal that applies to the code covered entity in respect of building work.

Note: an infringement notice or provisional improvement notice issued by an inspector is not a decision, direction or order made or given by a court or tribunal.

(6) Subsection (5) does not apply if:

(a) the period for payment, or for other compliance with the decision, direction or order, has not expired; or

(b) the decision, direction or order is stayed or has been revoked.

10 Unregistered written agreements and other agreements

(1) A code covered entity must not bargain in relation to an agreement, make an agreement, or implement an agreement in respect of building work:

(a) that deals with matters that would be not be permitted by section 11 to be included in the agreement if the agreement were an enterprise agreement; or

(b) that provides for terms, conditions or benefits of employment of employees of the employer or the employer's subcontractors (which may include above-entitlements payments); or

(c) that restricts or limits the form or type of engagement that may be used to engage subcontractors; and

(d) that either:

(i) will not be registered, lodged or otherwise approved under the FW Act; or

(ii) the code covered entity reasonably believes will not be registered, lodged or otherwise approved under the FW Act.

(2) Subsection (1) does not apply to an agreement that is a common law agreement made between an employer and an individual employee or to an individual flexibility arrangement.

Example: an unregistered site agreement or project agreement between a head contractor and relevant union would be an unregistered written agreement.

11 Content of agreements and prohibited conduct, arrangements and practices

(1) A code covered entity must not be covered by an enterprise agreement in respect of building work which includes clauses that:

(a) impose or purport to impose limits on the right of the code covered entity to manage its business or to improve productivity;

(b) discriminate, or have the effect of discriminating against certain persons, classes of employees, or subcontractors; or

(c) are inconsistent with freedom of association requirements set out in section 13 of this code of practice.

Example 1: clauses that impose a requirement on the code covered entity or a subcontractor engaged by the code covered entity to employ a non-working shop steward or job delegate, or which result in the employment of a non-working shop steward or job delegate.

Example 2: clauses permitting officials, delegates or other representatives of a building association to undertake or administer induction processes.

Note: Subsection (3) provides a non-exhaustive list of clauses that are not permitted to be included in enterprise agreements.

(2) Subsections (1) and (3) are subject to Schedule 5.

(3) Without limiting the generality of subsection (1), clauses are not permitted to be included in enterprise agreements that:

(a) prescribe the number of employees or subcontractors that may be employed or engaged on a particular site, in a particular work area, or at a particular time;

Note: this does not prevent the inclusion of clauses in an enterprise agreement that encourage the employment of apprentices.

(b) restrict the employment or engagement of persons by reference to the type of contractual arrangement that is, or may be, offered by the employer;

Example: an agreement or practice that prohibits or limits the employment of casual or daily hire employees.

(c) require, or result in, discrimination between classes of employees because of the basis on which they are lawfully entitled to work in Australia;

(d) require a code covered entity to consult with, or seek the approval of, a building association or an officer, delegate or other representative of the building association in relation to the source or number of employees to be engaged, or type of employment offered to employees;

(e) require a code covered entity to consult with, or seek the approval of, a building association or an officer, delegate or other representative of the building association in relation to the engagement of subcontractors;

(f) prescribe the terms and conditions on which subcontractors are engaged (including the terms and conditions of employees of a subcontractor);

(g) prescribe the scope of work or tasks that may be performed by employees or subcontractors;

(h) limit or have the effect of limiting the right of an employer to make decisions about redundancy, demobilisation or redeployment of employees based on operational requirements;

Example: an arrangement or practice whereby employees are selected for redundancy based on length of service alone.

(i) prohibit the payment of a loaded rate of pay (whether or not expressed as an annual amount);

Example: an amount paid that nominally incorporates payment for ordinary time and other matters such as overtime and allowances in one loaded rate.

(j) require, or have the effect of requiring, the allocation of particular work to individual employees only if that allocation is extended to all other employees in the class of employees to which the individual employee belongs;

Example: a clause or practice that prevents an individual employee being selected to perform overtime unless other employees are similarly provided overtime.

(k) provide for the monitoring of agreements by persons other than the employer and employees to whom the agreement applies;

(l) include requirements to apply building association logos, mottos or indicia to company supplied property or equipment;

(m) directly or indirectly require a person to encourage, or discourage, a person from becoming, or remaining, a member of a building association;

(n) directly or indirectly require a person to indicate support, or lack of support, for persons being members of a building association or any other measure that suggests that membership is anything other than a matter for individual choice;

(o) limit the ability of an employer to determine with its employees when and where work can be performed to meet operational requirements or limit an employer's ability to determine by whom such work is to be performed;

(p) provide for the rights of an official of a building association to enter premises other than in compliance with Part 3-4 of the FW Act;

(q) provide for the establishment or maintenance of an area which is intended to be designated to be used by members, officers, delegates or other representatives of a building association in that capacity.

Note 1: this section does not authorise the taking of action that would constitute a contravention of the FW Act, and should be read in a manner that ensures consistency with that Act. For example, paragraph (d) does not override section 205 of the FW Act which provides that an enterprise agreement must include a consultation term that provides for consultation on major changes at the workplace.

Note 2: clauses of an enterprise agreement that are inconsistent with this section will impact on a code covered entity's eligibility to tender for or be awarded Commonwealth funded building work, see subsection 23(1)(a) of this code of practice.

Note 3: subsection 15(1) contains additional requirements for enterprise agreement content in relation to dispute settlement terms.

Conduct by parties

(4) A code covered entity must not engage in conduct, or implement a procedure or practice (howsoever described) in respect of building work which has, or is likely to have, any of the effects described in subsections (1) or (3) if the conduct, practice or procedure was contained in an enterprise agreement.

Example: a contractor must not attempt to circumvent the code by agreeing to run a redundancy process on the basis of a 'last on first off' rule or agree to set a schedule for rostered days off that does not allow for flexibility around operational requirements.

(5) Subsection (4) does not apply if the conduct, practice, or arrangement is:

(a) expressly permitted or required by a Commonwealth industrial instrument; or

(b) necessarily linked to the code covered entity's compliance with, or conduct expressly permitted by, an industrial instrument.

Note: section 11 does not require, permit or authorise a code covered entity to fail to comply with an enterprise agreement. A failure to meet the requirements of section 11 by a code covered entity, however, renders the entity ineligible to tender for, or be awarded, Commonwealth funded work—see subsection 23(1)(a).

11A Attempts to avoid section 11 requirements

(1) A code covered entity must not be covered by an agreement in respect of building work which includes clauses that:

(a) purport to remedy, or render ineffective, clauses in an enterprise agreement that are inconsistent with section 11, including clauses which:

(i) provide for clauses in the enterprise agreement to be read in a manner that is consistent with subsections 11(1) and (3); or

(ii) provide for clauses in the enterprise agreements to have no effect if they are inconsistent with subsection 11(1) or subsection 11(3); or

(b) require or provide for the application of terms and conditions contained in an enterprise agreement that does not cover and apply to the relevant employer and employees.

(2) Subsection (1) is subject to Schedule 5.

11B Sham contracting

(1) A code covered entity (the employer) must not engage, or propose to engage, an individual to perform building work under a contract for services where the true character of the engagement or proposed engagement is that of employment.

(2) A code covered entity (the employer) must not enter into a contract with another person (the contractor) under which services in the nature of building work are to be provided to the employer, if:

(a) the services are to be performed by an individual (who is not the contractor); and the individual has any ownership in, or is an officer or trustee of, the contractor; and

(b) if the contract were entered into with the individual, the contract would be a contract of employment.

11C Collusive practices

(1) A code covered entity must not engage in collusive tendering practices.

(2) For the purposes of subsection (1), collusive tendering practices include but are not limited to:-

(a) any agreement between tenderers as to who should be the successful tenderer;

(b) any meetings of tenderers to discuss tenders before the submission of tenders if the client is not present;

(c) any exchange of information between tenderers for the payment of money or the securing of reward or benefit for unsuccessful tenderers by the successfultenderers;

(d) any agreements between tenderers to fix prices or conditions of contract; that is, any collaboration between tenderers on prices or conditions to be included in contracts without the consent of the client;

(e) any assistance to any tenderer to submit a cover tender; that is, a tender submitted as genuine yet has been deliberately priced in order to not win the contract; and

(f) any agreement between tenderers before submission of tenders to fix the rate of payment of building association fees, where the payment of such fees is conditional on the tenderer being awarded the contract.

11D Security of payment

(1) A code covered entity must:

(a) comply with all applicable laws and other requirements relating to the security of payments that are due to persons; and

(b) ensure that payments which are due and payable by the code covered entity are made in a timely manner and are not unreasonably withheld; and

(c) have a documented dispute settlement process that details how disputes about payments to subcontractors will be resolved, and must comply with that process; and

(d) as far as practicable, ensure that disputes about payments are resolved in a reasonable, timely and cooperative way; and

(e) comply with any requirements relating to the operation of any project bank account or trust arrangement that apply to the code covered entity in relation to Commonwealth funded building work; and

(f) report any disputed or delayed progress payment to the ABC Commissioner and the relevant funding entity as soon as practicable after the date on which the payment falls due.

(2) A code covered entity must not engage in illegal or fraudulent phoenix activities for the purpose of avoiding any payment due to another building contractor or building industry participant or other creditor.

(3) A code covered entity must not:

(a) organise or take or threaten to organise or take action with intent to coerce a contractor, subcontractor or consultant to:

(i) exercise or not exercise, or propose to exercise or not exercise rights arising under state or territory laws relating to the security of payments that are due to persons; or

(ii) exercise or propose to exercise rights arising under laws relating to the security of payments that are due to persons in a particular way.

(b) apply or attempt to apply undue influence or undue pressure on a contractor, subcontractor or consultant to:

(i) exercise or not exercise, or propose to exercise or not exercise rights arising under state or territory laws relating to the security of payments that are due to persons; or

(ii) exercise or propose to exercise rights arising under laws relating to the security of payments that are due to persons in a particular way.

11E Disputed payments

(1) A code covered entity must:

(a) ensure that its documented dispute settlement process detailing how disputes about payments to subcontractors will be resolved includes a referral process to an independent adjudicator for determination if the dispute cannot be resolved between the parties, and must comply with that process and any determination; and

(b) as far as practicable, ensure that disputes about payments referred to 11E(1)(a) are resolved in a reasonable, timely and cooperative way; and

(c) comply with any requirements relating to the operation of any project bank account or trust arrangement that apply to the code covered entity in relation to Commonwealth funded building work; and

(d) report any disputed or delayed progress payment to the ABC Commissioner and the relevant funding entity as soon as practicable after the date on which the payment falls due.

11F Engagement of non-citizens or non-residents

(1)A code covered entity must ensure that no person that is not an Australian citizen or Australian permanent resident (within the meaning of the *Migration Act 1958*) is employed to undertake building work for the code covered entity unless:

(a) the position is first advertised in Australia; and

(b) the advertising was targeted in such a way that a significant proportion of suitably qualified Australian citizens and Australian permanent residents would be likely to be informed about the position; and

(c) any skills or experience requirements set out in the advertising were appropriate to the position; and

(d) the employer demonstrates that no Australian citizen or Australian permanent resident is suitable for the job.

Note: The *Migration Act 1958* and its subordinate legislation contain requirements relating to the engagement of persons that are not Australian citizens or Australian permanent residents.

12 Above-entitlements payments and related matters

(1) A code covered entity must not organise or take, or threaten to organise or take action with intent to coerce a contractor, subcontractor or consultant into making an above-entitlements payment in respect of building work.

(2) A code covered entity must not exert undue influence or undue pressure on a contractor, subcontractor or consultant to make an above-entitlements payment in respect of building work.

(3) A code covered entity, in respect of building work, must not:

(a) organise or take, or threaten to organise or take, action with intent to coerce a contractor, subcontractor or consultant into contributing to a particular fund or scheme, or supporting a particular product, service or arrangement; and

(b) apply, or attempt to apply, undue influence or undue pressure on a person to contribute to a particular fund or scheme, or to support a particular product, service or arrangement.

Example: a building contractor must not place undue pressure on a subcontractor to select a particular income protection insurance scheme or to make use of a particular training provider.

13 Freedom of association

(1) A code covered entity must protect freedom of association in respect of building work by adopting and implementing policies and practices that:

(a) ensure that persons are:

(i) free to become, or not become, members of building associations; and

(ii) free to be represented, or not represented, by building associations; and

(iii) free to participate, or not participate, in lawful industrial activities; and

(iv) not discriminated against in respect of benefits in the workplace because they are, or are not, members of a building association.

(2) Without limiting subsection (1), the code covered entity must ensure that:

(a) personal information is dealt with in accordance with the *Privacy Act 1988* and the FW Act; and

(b) 'no ticket, no start' signs, or similar, are not displayed and such arrangements are not implemented; and

(c) signs that seek to vilify or harass employees who participate, or do not participate, in industrial activities are not displayed; and

(d) 'show card' days do not occur; and

(e) there is:

(i) no discrimination against elected employee representatives; and

(ii) no disadvantage to elected employee representatives; and

(f) forms are not used to require:

(i) an employee to identify whether they are a member of a building association; or

(ii) a subcontractor to identify whether the contractor or its employees or subcontractors are a member of a building association; and

(g) practices that are not authorised by law which require, directly or indirectly, a person to disclose whether or not they are a member of a building association, are not engaged in; and

(h) individuals are not refused employment or engagement because they are, or are not, a member of a building association; and

(i) the employment of employees or engagement of subcontractors is not terminated because they are, or are not, a member of a building association; and

(j) building association logos, mottos or indicia are not applied to clothing, property or equipment supplied by, or which provision is made for by, the employer or any other conduct which implies that membership of a building association is anything other than an individual choice for each employee; and

(k) reasonable requests from a workplace delegate to represent an employee of the code covered entity in relation to a grievance, a dispute or a discussion with a member of a building association are not refused; and

(l) requirements are not imposed, or attempted to be imposed, on the code covered entity or a subcontractor engaged by the code covered entity to:

(i) employ a non-working shop steward or job delegate; or

(ii) hire an individual nominated by a building association; and

(m) the code covered entity does not employ a non-working shop steward or job delegate; and

(n) individuals are not required to pay a 'bargaining fee' (howsoever described) to a building association of which the individual is not a member, in respect of services provided by the association; and

(o) employees must be provided a freedom of choice in deciding whether to be represented in grievance or dispute procedures (whether or not pursuant to an enterprise agreement), and, if so, by whom; and

(p) officials, delegates, or other representatives of a building association do not undertake or administer induction processes.

14 Entry to premises where building work is performed

(1) A code covered entity must, in relation to premises where building work is performed, comply with all laws of the Commonwealth and each relevant State and Territory to which the entity is subject that give a right of entry permit holder a right to enter premises where work is performed.

Examples

1 The FW Act.

2 Work health and safety laws.

(2) A code covered entity must, so far as is reasonably practicable, ensure that:

(a) entry by an officer of a building association to premises where building work is performed must be for a purpose for which a right of entry could be exercised under Part 3-4 of the FW Act or a relevant work health and safety law; and

Example: a contractor could permit entry for the purposes of holding discussions with workers where the permit holder provides the requisite notice and complies with all requirements in the FW Act. However, inviting an officer of a building association to enter the site other than as could be permitted by the right of entry requirements would breach this code of practice.

(b) when an officer of a building association seeks to enter premises, the officer must strictly comply with all applicable legislative requirements in Part 3-4 of the FW Act or a work health and safety law, including permit and notice requirements.

Note: *officer* is a defined term in the Act and includes officials and employees of a building association.

15 Dispute settlement

(1) A code covered entity must:

(a) ensure that an enterprise agreement that covers the entity in respect of building work includes a term for settling disputes in accordance with subsection 186(6) of the FW Act; and

(b) if a dispute settlement term of an enterprise agreement in respect of building work provides for arbitration of a dispute or other binding outcome, the entity must ensure that the term requires any decision of the arbiter to be consistent with this code of practice.

(2) Subsection (1) is subject to Schedule 5.

16 Industrial impacts

(1) A code covered entity must, in relation to Commonwealth funded building work:

(a) report actual or threatened industrial action (whether protected industrial action under section 8 of the Act or industrial action that is not protected) by employees of the code covered entity to the ABCC as soon as practicable, but no later than 24 hours, after becoming aware of the threat or action.

(2) A code covered entity must, in relation to building work:

(a) report actual or threatened industrial action that is not protected action by employees of the code covered entity to the ABCC as soon as practicable, but no later than 24 hours, after becoming aware of the threat or action.

(3) A code covered entity must, to the extent reasonably practicable, take steps to prevent or bring an end to industrial action that is not protected action taken by the employees of the entity.

Note: reasonably practical steps may include, depending on the circumstances, the taking of legal action in the Fair Work Commission or a court where remedies are available.

(4) A code covered entity must, in relation to building work, report any request or demand by a building association, whether made directly or indirectly, that the code covered entity engage in conduct that appears to be for the purposes of a secondary boycott within the meaning of the *Competition and Consumer Act 2010* to the ABCC as soon as practicable, but no later than 24 hours, after the request or demand is made.

Note: subsection 9(2) requires code covered entities to comply with the *Competition and Consumer Act 2010.*

16A Fitness for work – alcohol or other drugs

(1) A code covered entity must ensure there is an approach to managing drug and alcohol issues in the workplace to help ensure that no person attending the site to perform building work does so under the influence of alcohol or drugs listed in Schedule 4.

(2) A code covered entity that is a head contractor must not pass the implementation and cost of any drug and alcohol testing to its subcontractors.

Part 4 Compliance, monitoring and enforcement arrangements

17 Notification

(1) A code covered entity must notify the ABCC of a breach, or a suspected breach, of this code of practice as soon as practicable, but no later than 2 working days after becoming aware of the breach or suspected breach and advise the ABCC of the steps proposed to be taken to rectify the breach.

(2) Where a notification under subsection (1) is made in relation to a breach of this code of practice, the code covered entity must notify the ABCC of the steps taken to rectify the breach within 14 days of providing the notification.

18 Consequences of breaching this code of practice

(1) If the ABC Commissioner is satisfied that:

(a) a code covered entity has failed to comply with this code of practice including, but not limited to, by having failed to comply with:

(i) work health and safety laws; or

(ii) the FW Act in relation to the underpayment of an employee's wages or entitlements; or

(b) a code covered entity has failed to comply with a compliance notice issued under section 99 of the Act in relation to this code of practice without a reasonable excuse,

the ABC Commissioner may refer the matter to the Minister with recommendations, if any, that a sanction should be imposed.

(1A) Where a matter has been referred to the Minister under subsection 18(1) (with the exception of a referral under subparagraph 18(1)(a)(i)) the Minister may:

(a) impose an exclusion sanction on the code covered entity; or

(b) issue a formal warning to the code covered entity that a further failure may result in the imposition of an exclusion sanction on the code covered entity.

Note: when considering whether to impose an exclusion sanction, the Minister will consider factors such as whether the failure to comply with this code of practice was intentional, ongoing and/or subject to timely notification and voluntary rectification.

(1B) Where a matter has been referred to the Minister under subparagraph 18(1)(a)(i) the Minister must impose an exclusion sanction on the code covered entity unless the Minister is satisfied that it would not be appropriate in the circumstances because of the nature of, or factors contributing to, the failure to comply. In those circumstances the Minister may issue a formal warning to the code covered entity that a further failure may result in the imposition of an exclusion sanction on the code covered entity.

(2) The Minister may impose an exclusion sanction on an entity (the *acquiring entity*) that has acquired ownership or beneficial use of some or all of the assets (whether tangible or intangible) of a code covered entity (the *acquired code covered entity*) if the Minister is satisfied that:

(a) the acquired code covered entity failed to comply with this code of practice; or

(b) the acquired code covered entity failed to comply with a compliance notice issued under section 99 of the Act in relation to this code of practice.

(3) Subsection (2) applies if the first entity is a building industry participant or building contractor that could be required to comply with this code of practice by section 34 of the Act.

19 Decision to impose an exclusion sanction

(1) If the Minister proposes to impose an exclusion sanction under section 18, the Minister must give a written notice to the code covered entity:

(a) informing the entity of the details of the alleged breach; and

(b) advising the code covered entity that they may, by a specified date (being not less than 21 days after giving the notice), make a submission in relation to the proposed sanction.

(2) Where the Minister proposes to impose an exclusion sanction on a related entity of the code covered entity, the Minister must give the same information in subsection (1) to the related entity.

(3) After the date specified in a notice under subsection (1), the Minister must:

(a) if the code covered entity or a related entity has made a submission—consider that submission; and

(b) whether or not the code covered entity or a related entity has made a submission—decide whether to impose a sanction; and

(c) within 14 days after making that decision, give the code covered entity and any relevant related entity written notice of the decision, including the reasons for the decision.

(4) An exclusion sanction imposed on a code covered entity takes effect on the date specified by the Minister in the written notice of decision issued pursuant to paragraph (3)(c).

(5) Where the Minister proposes to impose an exclusion sanction on an acquiring entity in accordance with subsection 18(2), the Minister must treat the acquiring entity as if it were a code covered entity for the purpose of this section.

(6) The Minister must advise the Finance Minister prior to imposing an exclusion sanction on a code covered entity.

22 Determination of Compliance with Section 11

(1) The ABCC may issue a determination that an enterprise agreement meets the requirements of section 11 of this code of practice.

(2) The ABCC may provide preliminary advice on whether a proposed enterprise agreement, if made and approved in a certain form, would become an enterprise agreement that meets the requirements of section 11 of this code of practice.

(3) A determination issued pursuant to subsection (1) is taken to be conclusive of the fact an enterprise agreement meets the requirements of section 11.

Part 5 Funding Entities

23 Key criteria for eligibility to be awarded Commonwealth funded building work

(1) To be eligible to be awarded Commonwealth funded building work:

(a) a code covered entity and its related entities must meet the requirements of section 11 of this code of practice; and

(b) a code covered entity must not be subject to an exclusion sanction.

24 Expressions of interest and tenders

(1) A funding entity must ensure that tender processes and calls for expressions of interest (howsoever described) in respect of Commonwealth funded building work are conducted in a manner consistent with this code of practice and must ensure that respondents are only permitted to participate in tender processes (howsoever described) where the respondent meets the eligibility requirements set out in section 23.

(2) A funding entity must ensure that any request for expressions of interest or request for tender (howsoever described) for Commonwealth funded building work requires a respondent:

(a) to confirm that the respondent and any related entity will comply with this code of practice when undertaking the Commonwealth funded building work; and

(b) to confirm that the respondent, and any related entities, will comply with this code of practice from the time of lodging an expression of interest or tender response (if not already obliged to do so); and

(c) to confirm that it is eligible to perform Commonwealth funded building work at the time of lodging an expression of interest or tender; and

(d) to demonstrate a positive commitment to the provision of appropriate training and skill development for their workforce. Such commitment may be evidenced by compliance with any state or territory government building training policies

and supporting the delivery of nationally endorsed building and construction competencies; and

(e) include details of the number of current apprentice and trainee employees and the number and classes of persons that hold visas under the *Migration Act 1958*that are engaged by the respondent, and that are intended to be engaged by the respondent to undertake the Commonwealth funded building work; and

(f) to advise whether the respondent has, within the preceding 3 year period:

(i) had an adverse decision, direction or order made by a court or tribunal for a breach of a designated building law, work health and safety law or the *Migration Act 1958*; or

(ii) been required to pay any amount under an adjudication certificate (provided in accordance with a law relating to the security of payments that are due to persons in respect of building work) including by any related entity to a building contractor or building industry participant; or

(iii) owed any unsatisfied judgement debts (including such debts owed by any related entity) to a building contractor or building industry participant.

Note 1: see section 23 which sets out eligibility requirements. Eligibility pursuant to that section includes a consideration of whether related entities meet the requirements of section 11.

Note 2: once a building contractor or building industry participant is subject to this code of practice (see section 6), it and its related entities, must comply with this code of practice on all new projects, including projects that are privately funded. However, some obligations in the code of practice only apply in respect of Commonwealth funded building work, see for example subsections 8(2)-(7) and Part 6.

25 Projects requiring a WRMP

(1) Where building work is of a type described in Schedule 2, a funding entity must:

(a) ensure the requirement to have a WRMP approved by the ABCC is included in all expressions of interest and tender documents;

(b) provide to the ABCC the WRMP of each of the respondents the funding entity proposes to shortlist, or has shortlisted, as part of the tender evaluation process; and

(c) not award the tender to a respondent unless that respondent's WRMP has been approved by the ABCC.

Example: a funding entity must not enter into a period of exclusive negotiation with a respondent tenderer unless the respondent's WRMP has been approved by the ABCC.

Note: see Part 6 for requirements for approval by the ABCC.

(2) As soon as practicable after a funding entity issues a request for expressions of interest or requests for tender (howsoever described) for building work, the funding entity must inform the ABCC.

(3) As soon as practicable after receiving a notification under subsection 25(2) the ABCC must inform the funding entity about whether the ABCC requires any of the matters outlined in Schedule 3 to be addressed in the proposed WRMP for the project.

25A Information to be provided by preferred tenderer

(1) A funding entity must ensure that before a contract is entered into in respect of Commonwealth funded building work, the preferred tenderer provides the following information:

(a) the extent to which domestically sourced and manufactured building materials will be used to undertake the building work;

(b) whether the building materials to be used to undertake the building work comply with relevant Australian standards published by, or on behalf of, Standards Australia;

(c) the preferred tenderer's assessment of the whole-of-life costs of the project to which the building work relates;

(d) the impact on jobs of the project to which the building work relates; and

(e) whether the project to which the building work relates will contribute to skills growth.

26 Contracts

(1) A funding entity must not enter into a contract in respect of building work with a code covered entity that does not meet the eligibility requirements set out in section 23.

Note: see, in respect of subcontractors, paragraph 8(3)(b) which provides that a code covered entity performing Commonwealth funded building work must not enter into a contract with a subcontractor that either does not comply with section 11 of this code of practice or is subject to an exclusion sanction.

(2) A funding entity must not enter into a contract in respect of building work with a code covered entity that is excluded from performing work funded by a state or territory government unless approval to do so is provided by the ABC Commissioner.

Example: other than with the approval of the ABC Commissioner funding entities must apply exclusion sanctions (howsoever described) imposed on building contractors pursuant to state or territory government funded procurement policies in respect of Commonwealth funded projects.

(3) A funding entity must only enter into a contract in respect of building work with a code covered entity if the funding entity is satisfied that the code covered entity will comply with this code of practice when undertaking the work.

Example: a funding entity may be satisfied of future compliance if the person has a history of compliance with this code of practice or has provided sufficient undertakings that it will comply with this code of practice.

(4) A funding entity must not enter into a contract in respect of building work with any code covered entity that:

(a) has had an adverse decision, direction or order made by a court or tribunal for a breach of the Act, a designated building law, work health and safety law or competition and consumer law; and

(b) has not fully complied, or is not fully complying, with such a decision, direction or order.

(5) Paragraphs (4)(a) and (b) do not apply if:

(a) the period for payment, or for other compliance with the decision, direction or order, has not expired; or

(b) the decision, direction or order is stayed or has been revoked.

(6) A funding entity must not enter into a contract with a code covered entity for a project of the type described in Schedule 2 for which the funding entity is required to have a WRMP approved by the ABCC but for which the funding entity has not obtained that approval.

(7) A funding entity must only enter into a contract in respect of building work with a code covered entity that will require its subcontractors:

(a) to advise, prior to entering into a contract with them, whether the subcontractor has, within the preceding three year period:

(i) had an adverse decision direction or order made by a court or tribunal for a breach of a designated building law, work health and safety law or the *Migration Act 1958;* or

(ii) been required to pay any amounts under an adjudication certificate (provided in accordance with a law relating to the security of payments that are due to persons in respect of building work) or owed any unsatisfied judgement debts (including by any related entity) to a building contractor or building industry participant; and

(b) to update the advice referred to in paragraph (7)(a) every six months for the duration of the contract between the code covered entity and the subcontractor.

(8) A funding entity must only enter into a contract in respect of building work with a code covered entity that only uses products in building work that comply with the relevant Australian standards published by, or on behalf of, Standards Australia.

27 Notification of head contractor

(1) Funding entities must notify the ABCC when a tender process is completed and a code covered entity has been awarded a contract to undertake Commonwealth funded building work. The notification must include:

(a) the name and contact details of the code covered entity; and

(b) a description of the work; and

(c) the location of the proposed work; and

(d) the cost of the project; and

(e) proposed project start and completion dates.

28 Notification by funding entities

(1) Funding entities must:

(a) notify the ABCC of all allegations of breaches of this code of practice as soon as practicable but no later than 7 days after the funding entity became aware of the alleged breach;

(b) respond to requests for information concerning matters related to this code of practice made by the ABCC; and

(c) respond to alleged breaches, with initial actions designed to encourage the voluntary modification or cessation of noncompliant behaviour.

29 Funding entity compliance

(1) Where the ABC Commissioner considers a funding entity, or an official, is not complying with, or has not complied with, this code of practice (whether or not in relation to a particular project, tender or expression of interest), the ABC Commissioner may:

(a) refer the matter; or

(b) make a complaint,

to the Secretary of the Department of Finance for investigation or further action.

Note: funding entities and officials in funding entities must strictly comply with the requirements of this code of practice.

Part 6 Workplace Relations Management Plans

30 Requirement for a WRMP

(1) This Part sets out the requirements for a WRMP to be approved within tender processes for projects of a type described in Schedule 2.

Note: section 26 provides that a funding entity must not enter into a contract with any person or entity that has been required to, but has not submitted a WRMP that has been approved by the ABCC.

31 Application for approval of a WRMP

(1) Funding entities must apply to the ABCC to have a WRMP for a particular project approved.

(2) An application to the ABCC for approval of a WRMP must be made in the manner and form required by the ABC Commissioner.

(3) The proposed WRMP must be accompanied by any supporting evidence required by the ABCC.

(4) If an application for approval of a WRMP by the ABCC does not contain sufficient information to enable the ABCC to make a decision whether or not to approve the proposed WRMP, the ABCC may ask the funding entity to obtain and provide additional information.

Note: section 26 provides that a funding entity must not enter into a contract with a code covered entity if the entity is required to have a WRMP approved by the ABCC and has not obtained that approval.

32 Content of a WRMP

(1) A proposed WRMP must demonstrate how the code covered entity proposes to comply with the requirements of this code of practice on a particular project by:

(a) explaining the systems, processes and procedures that the code covered entity has in place (or will put in place) to:

(i) clearly and effectively communicate how the requirements of this code of practice apply to all building industry participants on site, including subcontractors that are engaged by the code covered entity; and

(ii) promote a fair, lawful, efficient and productive workplace;

(iii) deliver the project on time and within budget; and

(b) addressing any of the matters listed in Schedule 3 that the ABCC considers necessary.

(2) A proposed WRMP must include:

(a) a fitness for work policy to manage alcohol and other drugs in the workplace that applies to all persons engaged to perform building work on a project and addresses the matters set out in Schedule 4; and

(b) details of the processes that are or will be put in place to ensure that all applicable laws and other requirements in relation to the security of payments that are due to persons in respect of building work will be adhered to throughout the life of the project.

Note: section 25 provides that as soon as practicable after receiving notification about an expression of interest the ABCC must inform the funding entity about whether the ABCC requires any of the matters outlined in Schedule 3 to be addressed in the proposed WRMP for the project.

33 Approval process of a WRMP

(1) The ABCC must approve a proposed WRMP if satisfied that the proposed WRMP sufficiently:

(a) demonstrates how the code covered entity will comply with the requirements of this code of practice on the project to which the WRMP relates;

(b) addresses the matters in Schedule 3 that the ABCC requires to be addressed in the WRMP for the particular project; and

(c) addresses the matters in subsection 32(2).

(2) The ABCC must notify the funding entity about whether it approves or does not approve a proposed WRMP.

(3) If the ABCC does not approve a proposed WRMP, the ABCC must give a written notice to the funding entity informing the funding entity of the reasons for not approving the code covered entity's WRMP.

(4) A funding entity is not prevented from reapplying for approval of a code covered entity's WRMP.

34 Compliance with an approved WRMP

(1) A head contractor must ensure that, so far as is reasonably practicable, all subcontractors comply with the WRMP on the project to which the WRMP relates.

Note: section 7 places a general obligation on all code covered entities to comply with relevant WRMPs. A failure by a subcontractor to comply with a WRMP may result in a breach of this code of practice by the head contractor. See also subsection 8(7).

(2) A failure by a head contractor to comply with its WRMP is a breach of this code of practice.

Schedule 1 Building work to which code of practice applies

(subsection 6(3))

1 Building work that is being undertaken for, or on behalf of, a funding entity (irrespective of the value of a project).

2 Building work:

(a) that is indirectly funded by the Commonwealth by a grant or other program in circumstances in which funding for the building work is an explicit component of the grant or program; and

(b) for which:

(i) the value of the Commonwealth's contribution to the project that includes the building work is at least $5,000,000 and represents at least 50% of the total construction project value; or

(ii) the Commonwealth's contribution to the project that includes the building work is at least $10,000,000 (irrespective of its proportion of the total construction project value).

3 Building work:

(a) for which the Commonwealth provides assistance in advance of the commencement of construction; and

(b) which has an identified capital component; and

(c) for which:

(i) the value of the Commonwealth's contribution to the project that includes the building work is at least $5,000,000 and represents at least 50% of the total construction project value; or

(ii) the Commonwealth's contribution to the project that includes the building work is at least $10,000,000 (irrespective of its proportion of the total construction project value).

4 A Build, Own, Operate, Transfer ('BOOT') project initiated by an agency of the Commonwealth for the delivery of functions or services of the Commonwealth.

5 A Build, Own, Operate ('BOO') project initiated by an agency of the Commonwealth for the delivery of functions or services of the Commonwealth.

6 Building work that involves a pre-commitment lease to which a funding entity is a party.

7 Building work that involves a Public Private Partnership ('PPP') for the delivery of functions or services of the Commonwealth.

Note: a PPP involves the creation of an asset through financing and ownership control by a private party and private sector delivery of related services that may normally have been provided by the Commonwealth. An agency of the Commonwealth may contribute to establishing the infrastructure, for example through land, capital works or risk sharing. The service delivered may be paid for by the Commonwealth or directly by the end user.

8 Building work that involves a Private Finance Initiative ('PFI') for the delivery of functions or services of the Commonwealth.

Note: a PFI involves the creation of an asset through financing and ownership control by a private party and private sector delivery of related services that may normally have been provided by the Commonwealth. An agency of the Commonwealth may contribute to establishing the infrastructure, for example through land, capital works or risk sharing. The service delivered may be paid for by the Commonwealth or directly by the end user.

9 Building work whose funding is not described in items 1 to 8 (***privately funded building work***).

Schedule 2 Building work for which a Workplace Relations Management Plan is required

(Part 6)

1 Commonwealth funded building work for which:

(i) the value of the Commonwealth's contribution to the project that includes the building work is at least $5,000,000 and represents at least 50% of the total construction project value; or

(ii) the Commonwealth's contribution to the project that includes the building work is at least $10,000,000 (irrespective of its proportion of the total construction project value).

Schedule 3 Workplace Relations Management Plans

The ABCC may require WRMPs to address:

1 Workplace Arrangements and Compliance

a) how workplace arrangements will be regulated and monitored on the project;

b) the approach to ensuring compliance with statutory workplace rights including, but not limited to, applicable Commonwealth industrial instruments, freedom of association, freedom from unlawful coercion and undue influence and freedom from unlawful discrimination.

2 Productivity measures—measuring productivity

a) the approaches that have been, or will be, adopted to develop and maintain a productive workforce, ensuring the optimal use of labour requirements (e.g. the approach to managing inclement weather and heat, rostered days off and how the head contractor will maintain the ability to determine when, where and by whom work will be performed on the project to meet operational requirements);

b) how productivity will be objectively measured, monitored and recorded on the project.

3 Other parties and lines of communication

a) the approach to relationship management with employees, subcontractors and officers, delegates and other representatives of building associations, including but not limited to the approach to, and process for, communicating with the workforce;

b) outline the organisational structure and reporting lines that will be implemented on the project, and identifying the personnel that will be responsible for:

(i) monitoring and delivering labour productivity;

(ii) subcontractor management;

(iii) compliance with this code of practice;

(iv) grievance management.

c) the approach to managing site access by third parties, including:

(i) how right of entry and the requirements of this code of practice will be monitored and implemented on the project (including by subcontractors);

(ii) how unauthorised entry will be monitored and dealt with.

4 Workplace relations risk and past experience

a) the identification of workplace relations risks in relation to the project and details of the proposed approaches to managing those risks;

b) the management of subcontractors that are engaged by the code covered entity;

c) the processes and procedures that will apply to dealing with and addressing:

(i) industrial action (including threatened industrial action); and

(ii) employee and workforce grievances.

d) the head contractor's past experience and track record of delivering projects on time and on budget. This may include a requirement to provide a summary of current and completed projects in Australia within 2 years of the date of tender identifying:

(i) the estimated and actual completion costs and completion dates for the projects;

(ii) where there was a cost escalation or completion delay, a summary of the causes, factors or reasons for the cost escalation or delay; and

(iii) where workplace relations management issues caused or were a factor in the cost escalation or delay, an explanation of what steps have been, and will be, taken to prevent similar issues impacting on productivity, project costs or the completion schedule.

Note: The information in paragraph 4(d) will be required to be addressed in a WRMP for projects of significant value or importance.

5 Compliance with this Code of Practice

a) how compliance with this code of practice (including compliance against the WRMP) will be monitored and promoted throughout the life of the project.

Example: Information about the requirements of this code of practice, how it will be implemented on site, and the importance of doing so should be communicated on site, for example, during site inductions.

Schedule 4 Fitness for Work/Alcohol and other drugs in the workplace

(paragraph 32(2)(a))

The fitness for work policy referred to in paragraph 32(2)(a) must address:

1 how those on site (including employees of the head contractor, subcontractors and their employees and others) will be required to comply with the relevant fitness for work policy (i.e. through contract or some other enforceable means).

2 the use of an objective medical testing method/s to detect the presence of drugs or alcohol in a worker's system and outline the detection method/s to be used on the project.

3 the requirement that all of the following substances are tested for:

(i) Alcohol;

(ii) Opiates;

(iii) THC;

(iv) Cocaine;

(v) Benzodiazepines;

(vi) Amphetamine; and

(vii) Methamphetamine.

4 that a person who returns a positive result for any of the substances listed above will be deemed not to be fit for work (in respect of each substance listed above, subject to testing detectable levels, there is a zero level tolerance).

5 how a person who returns a positive result will be prevented from performing work until they can prove they are fit to return to work, and other processes that will apply in the event of a positive result or deemed positive result (i.e. a failure to submit to a test).

6 the requirement that, as a minimum, frequent and periodic testing (at least once per month) of the workforce (both construction workers and site office workers) will be as follows:

(i) where there are less than 30 workers on site – at least 10% of the workforce;

(ii) where there are 30 to 100 workers on site – a minimum of 5 workers per month; and

(iii) where there are greater than 100 workers on site – a minimum of 10 workers per month.

7 procedures for the selection of personnel to be tested (including staged selection across a worksite or random selection for testing if the entire workforce is not to be tested in a testing round).

8 procedures for the targeted testing of higher-risk activities, voluntary testing and for-cause testing.

9 how workers who attend for work affected by drugs or alcohol will be counselled and assisted, apart from any disciplinary process that might apply.

Schedule 5 Application of sections 11, 11A and 15

(subsections 11(2), 11A(2) and 15(2))

1 Application of sections 11, 11A and 15

(1) Subsections 11(1) and (3), 11A(1) and 15(1) do not apply in relation to an enterprise agreement made before 2 December 2016 that covers a building contractor, a building industry participant, or a related entity of a building contractor or building industry participant, to the extent that the requirements in those subsections must be met for the purposes of:

(a) the lodging of an expression of interest or tender by the contractor or participant before 1 September 2017; or

(b) the awarding, before 29 November 2018, of building work relating to an expression of interest or tender lodged by the contractor or participant in the period beginning on 2 December 2016 and ending at the commencement of the *Building and Construction Industry (Improving Productivity) Amendment Act 2017* (the ***Amendment Act commencement***); or

(c) the undertaking of building work referred to in paragraph (b); or

(d) the awarding, before 1 September 2017, of building work relating to an expression of interest or tender lodged by the contractor or participant after the Amendment Act commencement if the enterprise agreement does not apply to the contractor, participant or related entity in respect of that building work; or

(e) the undertaking of building work referred to in paragraph (d).

(2) Subsections 11(1) and (3), 11A(1) and 15(1) do not apply in relation to an enterprise agreement that covers a building contractor, a building industry participant, or a related entity of a building contractor or building industry participant, if:

(a) the enterprise agreement:

(i) was made before 2 December 2016; and

(ii) applies to the contractor, participant or related entity in respect only of building work relating to an expression of interest or tender lodged by the contractor or participant before 2 December 2016; or

(b) the enterprise agreement:

(i) was made before 25 April 2014; and

(ii) has not been varied in accordance with section 207 of the *Fair Work Act 2009*.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s)/sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Code for the Tendering and Performance of Building Work 2016	2 December 2016 (F2016L01859)	2 December 2016	
Code for the Tendering and Performance of Building Work Amendment Instrument 2017	20 February 2017 (F2017L00132)	21 February 2017	—
Code for the Tendering and Performance of Building Work Amendment	21 August 2017 (F2017L01052)	22 August 2017	—

Name	Registration	Commencement	Application, saving and transitional provisions
(Infrastructure Exemptions) Instrument 2017			

Endnote 4 –Amendment History

Provision affected	How affected
Part 1	
s 3(1) …….	am F2017L01052
Part 2	
s 6B…….....	ad F2017L01052
Part 3	
s 11(2)……	rs F2017L00132
s 11A(2)…….	rs F2017L00132
s 15(2)……	rs F2017L00132
Schedule 5	
Sch 5……...	ad F2017L00132

APPENDIX L FREEDOM OF ASSOCIATION

Schedule 13 of the *Code for the Tendering and Performance of Building Work 2016*

1. A code covered entity must protect freedom of association in respect of building work by adopting and implementing policies and practices that:
   (a) ensure that persons are:
      i. free to become, or not become, members of building associations; and
      ii. free to be represented, or not represented, by building associations; and
      iii. free to participate, or not participate, in lawful industrial activities; and
      iv. not discriminated against in respect of benefits in the workplace because they are, or are not, members of a building association.
2. Without limiting subsection (1), the code covered entity must ensure that:
   (a) personal information is dealt with in accordance with the Privacy Act 1988 and the Fair Work Act 2009; and
   (b) 'no ticket, no start' signs, or similar, are not displayed and such arrangements are not implemented; and
   (c) signs that seek to vilify or harass employees who participate, or do not participate, in industrial activities are not displayed; and
   (d) 'show card' days do not occur; and
   (e) there is:
      i. no discrimination against elected employee representatives; and
      ii. no disadvantage to elected employee representatives; and
   (f) forms are not used to require:
      i. an employee to identify whether they are a member of a building association; or
      ii. a subcontractor to identify whether the contractor or its employees or subcontractors are a member of a building association; and
   (g) practices that are not authorised by law which require, directly or indirectly, a person to disclose whether or not they are a member of a building association, are not engaged in; and
   (h) individuals are not refused employment or engagement because they are, or are not, a member of a building association; and
   (i) the employment of employees or engagement of subcontractors is not terminated because they are, or are not, a member of a building association; and
   (j) building association logos, mottos or indicia are not applied to clothing, property or equipment supplied by, or which provision is made for by, the employer or any other conduct which implies that membership of a building association is anything other than an individual choice for each employee; and
   (k) reasonable requests from a workplace delegate to represent an employee of the code covered entity in relation to a grievance, a dispute or a discussion with a member of a building association are not refused; and
   (l) requirements are not imposed, or attempted to be imposed, on the code covered entity or a subcontractor engaged by the code covered entity to:
      i. employ a non-working shop steward or job delegate; or
      ii. hire an individual nominated by a building association
   (m) the code covered entity does not employ a non-working shop steward or job delegate; and
   (n) individuals are not required to pay a 'bargaining fee' (howsoever described) to a building association of which the individual is not a member, in respect of services provided by the association; and
   (o) employees must be provided a freedom of choice in deciding whether to be represented in grievance or dispute procedures (whether or not pursuant to an enterprise agreement), and, if so, by whom; and
   (p) officials, delegates, or other representatives of a building association do not undertake or administer induction processes.

APPENDIX M HR-POL-07 FREEDOM OF ASSOCIATION POLICY

FREEDOM OF ASSOCIATION POLICY

At all times SMA will protect freedom of association in respect of building work by ensuring employees are:

- Free to become, or not become, members of building associations; and
- Free to be represented, or not represented, by building associations; and
- Free to participate, or not participate, in lawful industrial activities; and
- Not discriminated against in respect of benefits in the workplace because they are, or are not members of a building association.

Following the company's obligations and without limiting the above, SMA will ensure that:

- Personal information is dealt with in accordance with the *Privacy Act 1988* and the *Fair Work Act 2009*; and
- 'no ticket, no start' signs, or similar, are not displayed, and such arrangements are not implemented; and
- Signs that seek to vilify or harass employees who participate, or do not participate, in industrial activities are not displayed; and
- 'show card' days do not occur; and
- There is:
  - No discrimination against elected employee representatives; and
  - No disadvantage to elected employee representatives; and
- Forms are not used to require:
  - An employee to identify whether they are a member of a building association; or
  - A subcontractor to identify whether the contractor or its employees or subcontractors are a member of a building association; and
- Practices that are not authorised by law which require, directly or indirectly, a person to disclose whether or not they are a member of a building association, are not engaged in; and
- Individuals are not refused employment or engagement because they are, or are not, a member of a building association; and
- The employment of employees or engagement of subcontractors is not terminated because they are, or are not, a member of a building association; and
- Building association logos, mottos or indicia are not applied to clothing, property or equipment supplied by, or which provision is made for by, the employer or any other conduct which implies that membership of a building association is anything other than an individual choice for each employee; and
- Reasonable requests from a workplace delegate to represent an employee of the code covered entity in relation to a grievance, a dispute or a discussion with a member of a building association are not refused; and
- Requirements are not imposed, or attempted to be imposed, on the code covered entity or a subcontractor engaged by the code covered entity to:
  - Employ a non-working shop steward or job delegate; or
  - Hire an individual nominated by a building association
- The code covered entity does not employ a non-working shop steward or job delegate; and
- Individuals are not required to pay a 'bargaining fee' (howsoever described) to a building association of which the individual is not a member, in respect of services provided by the association; and
- Employees must be provided a freedom of choice in deciding whether to be represented in grievance or dispute procedures (whether or not pursuant to an enterprise agreement), and, if so, by whom; and
- Officials, delegates, or other representatives of a building association do not undertake or administer induction processes.

Any breach of the above policy needs to be reported to the HR Department.