

BUILDING CODE DECLARATION OF COMPLIANCE



DECLARATION OF COMPLIANCE WITH THE *BUILDING CODE 2013* OR *CODE FOR THE TENDERING AND PERFORMANCE OF BUILDING WORK 2016* (as applicable)

Project Name			
Business Name			
Trading Name			
ABN			
Business Type	SOLE TRADER <input type="checkbox"/>	PARTNERSHIP <input type="checkbox"/>	COMPANY <input type="checkbox"/>
Business Address			
Postal Address			
Phone Number		Fax Number	
Email Address			
Contact Name			
Position			
Work Category / Trade			
Services Provided	LABOUR ONLY <input type="checkbox"/>	PLANT / EQUIPMENT / MATERIALS ONLY (DRY HIRE) <input type="checkbox"/>	LABOUR AND PLANT / EQUIPMENT / MATERIALS (WET HIRE) <input type="checkbox"/>

SECTION ONE: CODE COMPLIANCE HISTORY		Y	N
1.1	<p>Has your business completed an assessment for compliance with the Building Code through John Holland within the last six (6) months?</p> <p>If NO – Please proceed to SECTION TWO.</p> <p>If YES – Please complete the section below and proceed to 1.2.</p>	<input type="checkbox"/>	<input type="checkbox"/>
	Report Number:	Report Date:	
	Project:	Assessor Name:	
1.2	<p>Have there been any changes to your industrial or business arrangements in the past six (6) months that would change the answers you provided in your previous Building Code Declaration of Compliance?</p> <p>If YES - Please proceed to SECTION TWO.</p> <p>If NO - Please proceed to SECTION NINE.</p>	<input type="checkbox"/>	<input type="checkbox"/>

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SECTION TWO: ENTERPRISE AGREEMENTS		Y	N
2.1	<p>Does your business engage employees?</p> <p>If NO please proceed to 2.5.</p> <p>If YES you must identify the number of employees engaged including working directors / partners.</p> <p>Number of Employees (including working directors):</p>	<input type="checkbox"/>	<input type="checkbox"/>
2.2	<p>Please identify the enterprise agreement(s) which will be applied on this project.</p> <p>You MUST provide ALL requested details. If you require assistance please contact the Fair Work Ombudsman on 13 13 94 or visit www.fairwork.gov.au.</p> <p>Enterprise Agreement(s):</p> <p>Agreement Lodgement Number:</p> <p>Expiry Date(s):</p> <p>Award (Modern Award):</p> <p>Award Identification Number:</p> <p>Other:</p>		
2.3	<p>Has your business sought to have the enterprise agreement or applicable Modern Award assessed by Australian Building and Construction Commission (ABCC) for a Building Code assessment?</p> <p>If YES please attach the Building Code assessment letter.</p> <p>If NO you are requested to contact ABCC and have the enterprise agreement(s) or Modern Award assessed.</p> <p>If you require assistance please contact the Australian Building and Construction Commission on 1800 003 338 or enquiry@abcc.gov.au or visit http://www.abcc.gov.au/.</p>	<input type="checkbox"/>	<input type="checkbox"/>
2.4	<p>Is your business currently operating under any unregistered agreements which provide for terms conditions or benefits of employment which may include over award payments?</p> <p>If NO - Please proceed to 2.5.</p> <p>If YES - Please identify the nature of these agreements and attach a copy of these agreements to this Declaration and then proceed to 2.5.</p> <p><i>Note: Unregistered Agreements will include side deals or memos of understanding or project specific workplace arrangements.</i></p> <p>Unregistered Agreement:</p>	<input type="checkbox"/>	<input type="checkbox"/>
2.5	<p>Does your business undertake to NOT engage in "sham contracting" arrangements, which are considered to be inconsistent with the Building Code?</p>	<input type="checkbox"/>	<input type="checkbox"/>

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SECTION THREE: WORKPLACE PRACTICES		Y	N
3.1	Is your business compliant with all relevant workplace laws, which include the Fair Work Act 2009 or any applicable workplace relations laws (including obligations under awards, enterprise agreements and employee superannuation entitlements, etc.), workplace health and safety laws and workers compensation laws?	<input type="checkbox"/>	<input type="checkbox"/>
3.2	Does your business ensure that all workers engaged in building and construction work are lawfully entitled to work in Australia in accordance with the the <i>Migration Act 1958</i> ?	<input type="checkbox"/>	<input type="checkbox"/>
3.3	Do you intend to engage any employees on the project that hold visas under the Migration Act 1958? If YES you must identify the number of employees and the visa type(s).	<input type="checkbox"/>	<input type="checkbox"/>
	Number of employees: _____ Visa type: _____		
3.4	Does your business ensure that payment is not made for any time spent engaged in industrial action unless legally required or authorised?	<input type="checkbox"/>	<input type="checkbox"/>
3.5	Is your business aware of the requirement to change your business practices in order to comply with the Building Code when non-compliant practices are drawn to your attention?	<input type="checkbox"/>	<input type="checkbox"/>
3.6	Does your business undertake to comply with the dispute settlement procedures as set out in the applicable industrial instrument?	<input type="checkbox"/>	<input type="checkbox"/>
3.7	Within the last 3 years has your business had any adverse decisions, directions or orders made by a court or tribunal for a breach of the <i>Independent Contractors Act 2006</i> , the <i>Fair Work Act 2009</i> , the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> or a Commonwealth industrial instrument?	<input type="checkbox"/>	<input type="checkbox"/>
3.8	If YES to 3.7 above, please confirm details:		
3.9	Within the last 3 years has your business been required to pay 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?	<input type="checkbox"/>	<input type="checkbox"/>
3.10	If YES to 3.9 above, please confirm details:		

SECTION FOUR: FREEDOM OF ASSOCIATION		Y	N
4.1	Does your business ensure that: <ul style="list-style-type: none"> Workers are free to become, or not become, members of industrial associations? Workers are free to be represented, or not represented, by industrial associations? Workers are free to participate, or not participate, in lawful industrial activities? Individuals are not refused employment because of their union status? Employees are not terminated because of their union status? Elected employee representatives are not subject to discrimination or disadvantage? Individuals are not required to pay a 'bargaining fee' (however described) to an industrial association of which the individual is not a member, in respect of services provided by the association? 	<input type="checkbox"/>	<input type="checkbox"/>
4.2	Does your business use induction forms that require: <ul style="list-style-type: none"> Employees to identify their union status? Subcontractors to identify the union status of their employees? 	<input type="checkbox"/>	<input type="checkbox"/>
4.3	Does your business have workplace agreements, policies or practices that ENCOURAGE OR DISCOURAGE employees to join or maintain financial membership with a union or industrial association?	<input type="checkbox"/>	<input type="checkbox"/>

SECTION FIVE: SUBCONTRACTORS AND CONSULTANTS		Y	N
5.1	Does your business engage subcontractors or consultants? If YES you must also complete SECTION SIX and TEN of this Declaration as well as the rest of this Declaration. If NO please proceed to SECTION SEVEN.	<input type="checkbox"/>	<input type="checkbox"/>
5.2	Does your business encourage, suggest or pressure subcontractors or consultants to have particular workplace arrangements in place including making or not making an enterprise agreement?	<input type="checkbox"/>	<input type="checkbox"/>
5.3	Does your business direct, require or coerce subcontractors or consultants to make payments to, or on behalf of, their employees in excess of an award, enterprise agreement or legislative requirements?	<input type="checkbox"/>	<input type="checkbox"/>
5.4	Does your business ensure subcontractors and consultants are aware of the obligation to provide the Commonwealth or any person authorised by the Commonwealth with access to sites, documents and personnel to monitor compliance?	<input type="checkbox"/>	<input type="checkbox"/>

SECTION SIX: SECURITY OF PAYMENT (only complete if you answered yes to 5.1)		Y	N
6.1	Does your business comply with all relevant security of payment laws?	<input type="checkbox"/>	<input type="checkbox"/>
6.2	Does your business ensure that all payments that are due and payable are made in a timely manner?	<input type="checkbox"/>	<input type="checkbox"/>
6.3	Does your business have in place a documented dispute resolution procedure that outlines how payment disputes with subcontractors will be resolved?	<input type="checkbox"/>	<input type="checkbox"/>
6.4	Are you aware of the requirement to report any disputed or delayed progress payment to JH and the ABCC on the date in which the payment falls due?	<input type="checkbox"/>	<input type="checkbox"/>

SECTION SEVEN: ONSITE PRACTICES		Y	N
7.1	Does your business ensure that union officials seeking to enter ANY location where work is performed: <ul style="list-style-type: none"> • Hold a valid federal right of entry permit? • Provide at least 24 hours written notice of entry, unless in relation to relevant Workplace Health and Safety laws? • Provide details of any alleged breach they are investigating? • Only visit during project working hours and hold discussions during meal times or other breaks? • Show their valid permit and notice of entry upon request? • Comply with your reasonable requests about the areas on site they can use for holding discussions or interviews? • Comply with your reasonable requests about the route they should take to access these areas? 	<input type="checkbox"/>	<input type="checkbox"/>
7.2	Does your business ensure that: <ul style="list-style-type: none"> • ALL locations where work is performed are free from posters, signs and other promotional material implying compulsory union membership? • "Show card" days do not occur? • Employee records are securely stored and not provided to a third party other than as required by law? 	<input type="checkbox"/>	<input type="checkbox"/>
7.3	Are you aware that you are NOT permitted to invite a union official to a project site?	<input type="checkbox"/>	<input type="checkbox"/>
7.4	Does your business undertake to comply with any Workplace Relations Management Plan or Health and Safety Management Plan as applicable to the project?	<input type="checkbox"/>	<input type="checkbox"/>

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SECTION EIGHT: REPORTING PRACTICES		Y	N
8.1	Is your business aware of the obligation to provide the Commonwealth or any person authorised by the Commonwealth with access to sites, documents and personnel to monitor compliance?	<input type="checkbox"/>	<input type="checkbox"/>
8.2	Does your business have systems in place to report to John Holland and any relevant authority: <ul style="list-style-type: none"> • Alleged or suspected breaches of the Building Code and Fair Work Act 2009 as soon as practicable? • Industrial and Workplace Health and Safety disputes at the earliest opportunity? • Right of entry by union officials including unlawful entry or attempted unlawful entry at the earliest opportunity? • Freedom of association breaches at the earliest opportunity? • Actual or threatened industrial action at the earliest opportunity? 	<input type="checkbox"/>	<input type="checkbox"/>
8.3	Is your business aware that the Commonwealth may impose sanctions on a business that does not comply with the Building Code?	<input type="checkbox"/>	<input type="checkbox"/>
8.4	Has your business (or your related entities) ever had a sanction applied to it by the Commonwealth or any other State or Territory Government, which precludes your business from tendering for or otherwise performing government funded work?	<input type="checkbox"/>	<input type="checkbox"/>

I have completed and returned the Declaration of Compliance YES NO

I have provided details of the enterprise agreement that applies to my business YES NO

I have provided a copy of the ABCC Building Code assessment letter YES NO

I have provided a copy of the Approval Decision which applies to my enterprise agreement YES NO

FOR MORE INFORMATION CONTACT:		
Australian Building and Construction Commission (ABCC)	1800 003 338	www.abcc.gov.au
Fair Work Commission	1300 799 675	www.fwc.gov.au
Fair Work Ombudsman	13 13 94	www.fairwork.gov.au

SECTION NINE: GENERAL DECLARATION

In making this declaration, the business confirms that:

- The business complies with the Building Code in preparing this Tender;
- The business undertakes to comply with the Building Code in performing the Contract, should it be the successful Tenderer;
- The business undertakes to ensure compliance from all subcontractors, consultants and related entities engaged on this project, should it be the successful Tenderer;
- The business acknowledges that all contracts must expressly require compliance with the Building Code;
- The business acknowledges that consents provided in this undertaking are not limited to this Tender process;
- The business acknowledges that any false or misleading information or undertakings with regards to this declaration may constitute a breach of the Building Code and may result in the tender being rejected from consideration;
- The business confirms that it will comply with John Holland's policies and procedures pertaining to Industrial Relations, including Building Code compliance and any Workplace Relations Management Plan or Health and Safety Management Plan as applicable to the Project.

I hereby acknowledge that this information is true and accurate to the best of my knowledge.

Authorised Representative:	
Position:	
Signature:	
Date:	

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SECTION TEN: SUBCONTRACTOR INFORMATION

Note: If you intend to engage subcontractors or consultants on the project then you must complete the form below. This form must be completed for each subcontractor or consultant that you intend to engage on the project. Please attach additional forms as necessary to complete the Declaration.

Project Name		
Business Name		
Trading Name		
ABN		
Business Type	SOLE TRADER <input type="checkbox"/>	PARTNERSHIP <input type="checkbox"/>
Business Address		
Postal Address		
Phone Number	Fax Number	
Email Address		
Contact Name		
Position		
Work Category / Trade		
Please identify what services the subcontractor will be providing to your business:		
LABOUR ONLY <input type="checkbox"/>	PLANT / EQUIPMENT / MATERIALS ONLY (DRY HIRE) <input type="checkbox"/>	LABOUR AND PLANT / EQUIPMENT / MATERIALS (WET HIRE) <input type="checkbox"/>

SECTION ELEVEN: STATE CODE COMPLIANCE SCHEDULE

If you are undertaking work on a project in New South Wales, Queensland or Western Australia which is funded by the state government then you MUST complete **SECTION ELEVEN** to demonstrate compliance with the applicable State Code. If you are undertaking work in Tasmania which is funded by the state government then you MUST complete **SECTION TWELVE** to demonstrate compliance.

State Code Authority(s) responsible for enforcing and monitoring compliance with the applicable State Code:

NSW	<p>Businesses undertaking work in New South Wales are required to demonstrate compliance with the New South Wales Code of Practice for Procurement and the Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction.</p> <p>If you require assistance please contact the Construction Compliance Unit, NSW Industrial Relations on 13 16 28 or ccu@industrialrelations.nsw.gov.au</p>
QUEENSLAND	<p>Businesses undertaking work in Queensland are required to demonstrate compliance with the Queensland Code of Practice for the Building and Construction Industry and the Implementation Guidelines to the Queensland Code of Practice for the Building and Construction Industry.</p> <p>If you require assistance please contact the Building Construction Compliance Branch, Department of Justice and Attorney General on (07) 3325 2299 or bccb@justice.qld.gov.au</p>
WA	<p>Businesses undertaking work in WA are required to demonstrate compliance with the West Australian Building and Construction Industry Code of Conduct 2016.</p> <p>If you require assistance please contact the Building and Construction Code Monitoring Unit, Department of Commerce on 1300 110 232 or bccmu@commerce.wa.gov.au</p>

Primary acknowledgments and undertakings

- 1) By completing this Compliance Schedule and submitting an expression of interest or tender response, the tenderer:
 - a) Acknowledges that the State Code and relevant Guidelines apply to the project the subject of this tender.
 - b) Undertakes that it, and its related entities, will comply with the State Code and relevant Guidelines on:
 - i) The project the subject of this tender; and
 - ii) Any privately and publicly funded building and construction work to which the State Code and relevant Guidelines apply, on and from the date of submitting this expression of interest or tender response (if not already required to comply on such privately and publicly funded projects).
 - c) Confirms that it and its related entities have complied with:
 - i) The State Code and relevant Guidelines on all its other projects to which the State Code and relevant Guidelines apply or have applied; and
 - ii) All applicable legislation, court and tribunal orders, directions and decisions, common law agreements between an employer and employee and industrial instruments and modern awards.
 - d) Confirms that, where it and its related entities are, or have been, required to comply with any national Code of Practice for the Construction Industry as applicable from time to time, they have done so; and
 - e) Confirms that neither it, nor any of its related entities, are subject to a sanction or other circumstance that would preclude the tenderer from submitting an expression of interest or tender response, or, if successful, being awarded the tender.

Sanctions for non-compliance

- 2) The State Code Authority has responsibility for enforcing, and ensuring compliance with, the State Code and relevant Guidelines.
- 3) The tenderer acknowledges that where it, or a related entity, fails to comply with the State Code and relevant Guidelines, a sanction may be imposed on the tenderer or its related entity or both. The sanctions that can be imposed include, but are not limited to, one or more of the following:
 - a) A formal warning that a further breach will lead to more severe sanctions;
 - b) Referral of a complaint to the relevant industry organisation for assessment against its own professional code of conduct and appropriate action;
 - c) Reduction in tendering opportunities at either agency or government-wide level, for example, by exclusion of the breaching party from tendering for government work above a certain value, or for a specified period;
 - d) Reporting the breach to an appropriate statutory body; and
 - e) Publicising the breach and identity of the party.

Disclosure of information

- 4) The tenderer agrees, consents (or reaffirms its consent) and confirms that its related entities agree, consent (or reaffirm their consent), to the disclosure of information concerning the tenderer's, and the tenderer's related entities', past and present compliance with the State Code and relevant Guidelines as applicable from time to time. This includes consideration of whether or not sanctions have been imposed on the tenderer or its related entities by the Commonwealth or any State or any government agency.

- 5) The tenderer confirms that it has obtained, or will obtain, the consent of each subcontractor or consultant it proposes to use on the project, or that it will use if successful in the tender, to the disclosure of information concerning the subcontractor's or consultant's compliance and past compliance with the State Code and relevant Guidelines and its predecessors and any national Code of Practice for the Construction Industry as applicable from time to time whether or not sanctions have been imposed on the subcontractor or consultant or its related entities.
- 6) The consent (or reaffirmation of consent) by the tenderer, its related entities and any proposed or subsequent subcontractors, is given to the applicable State, its agencies, Ministers and the State Code Authority (and its authorised personnel) for purposes including:
 - a) The exercise of their statutory or portfolio responsibilities;
 - b) Investigating and checking claims and assertions made by the tenderer in any documents provided as part of its expression of interest or tender response (including, but not limited to, any Workplace Relations Management Plans or Health and Safety Management Plan);
 - c) Monitoring, investigating and enforcing the State Code and relevant Guidelines; and
 - d) Ensuring, facilitating and promoting compliance with the State Code and relevant Guidelines.
- 7) The tenderer acknowledges that this consent is not limited to this tender, or this project, as parties are expected to comply with the State Code and relevant Guidelines on future projects to which it applies.

Tenderer's obligations

- 8) Without limiting the obligations and requirements in the State Code and relevant Guidelines, the tenderer acknowledges and undertakes to comply with its obligations under the State Code and relevant Guidelines, including by:
 - a) Complying with any Workplace Relations Management Plan and Health and Safety Management Plan;
 - b) Allow State Government or State Code Authority authorised personnel to:
 - (i) Access the project site and other premises;
 - (ii) Monitor and investigate compliance with the State Code and relevant Guidelines;
 - (iii) Inspect any work, material, machinery, appliance, article, or facility;
 - (iv) Inspect and copy any record relevant to the project; and
 - (v) Interview any person, as is necessary to demonstrate compliance with the State Code and relevant Guidelines;
 - c) Notifying the State Code Authority (or nominee), the Client Agency and John Holland of any alleged breaches of the State Code and relevant Guidelines and of remedial action taken, as soon as practicable, but no later than 24 hours (48 hours for WA State Code) after becoming aware of the breach or suspected breach;
 - d) Reporting any threatened or actual industrial action that may impact the project, project costs, related contracts or timelines to the State Code Authority (or nominee), the Client Agency and John Holland within 24 hours and providing regular updates to the State Code Authority (or nominee), the Client Agency and John Holland about the steps being taken to resolve the threatened or actual industrial action;
 - e) Taking all steps reasonably available to prevent or resolve industrial action which adversely affects, or has the potential to adversely affect, the delivery of the project or other related contracts on time and within budget; and

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- f) Taking all reasonably available steps to prevent, or bring to an end, unprotected industrial action occurring on, or affecting the project, including by pursuing legal action where possible.
- 9) The tenderer acknowledges that it will ensure, through contract that subcontractors or consultants similarly do provide for these obligations.
- i) Access the sites and premises;
- ii) Monitor and investigate compliance with the State Code and relevant Guidelines;
- iii) Inspect any work, material, machinery, appliance, article, or facility;
- iv) Inspect and copy any record relevant to the project; and
- v) Interview any person, as is necessary to demonstrate compliance with the State Code and relevant Guidelines;
- d) Ensure contractors and consultants similarly do, or allow, for each of these obligations.

Privately funded work

- 10) The tenderer acknowledges and agrees that in respect of its privately funded building and construction work (to which the State Code and relevant Guidelines applies) it, and its related entities, will:
 - a) Comply with the State Code and relevant Guidelines;
 - b) Maintain adequate records of compliance with the State Code and relevant Guidelines;
 - c) Allow State Code Authority authorised personnel to:

Declaration by tenderer and authorised representative

- 11) By signing this declaration on behalf of the tenderer, the authorised representative declares that they have full authority to execute it and have obtained any necessary consents and approvals to do so.

SECTION ELEVEN: GENERAL DECLARATION

Authorised Representative:	
Position:	
Signature:	
Date:	

SECTION TWELVE: TASMANIAN CODE COMPLIANCE DECLARATION

I hereby agree to comply with the National Code of Practice for the Construction Industry 1997 edition and the Tasmanian Annexure to the National Code of Practice for the Construction Industry. Further Information can be obtained from purchasing@treasury.tas.gov.au

Authorised Representative:	
Position:	
Signature:	
Date:	