



OBERON COUNCIL

### Sub Contractor's Declaration

## WHS Questionnaire/Statement Regarding Workers Compensation, Payroll Tax and Remuneration (See Notes)

The Work Health and Safety Act 2011 and associated Regulation require that Council provide a safe workplace for

- Council employees
- Contractors and their employees
- Sub contractors and their employees
- Volunteers
- Visitors

This statement must be completed and returned to Council before the commencement of any work for or on behalf of Council when required to do so.

<b>1. Sub Contractor details</b>	
<b>Name:</b>	
<b>Address:</b>	<b>Nature of contract work:</b>
<b>ABN:</b>	<b>Number of employees:</b>
<b>DECLARATION</b>	
I, _____ a Director of/a person authorised by the subcontractor on whose behalf this declaration is made, hereby state that I am in a position to know the truth of the matters which are contained in this statement and declare the following to the best of my knowledge and belief on behalf of the abovementioned subcontractor:	
	<b>Circle Yes or No where applicable</b>
<b>Is either</b>	
An individual, sole trader or partnership without workers or subcontractors (Note 6)	<b>Yes / No</b>
<b>OR</b>	
Has and will maintain in force valid workers compensation insurance, policy no: _____ held with _____ as indicated on the attached Certificate of Currency dated _____, in respect of work done in connection with the contract, during any period of the contract and has paid all workers compensation insurance premiums payable in connection with the contract. (Note 7)	<b>Yes / No</b>
Are you also a principal contractor in connection with the work under contract. (Note 8)	<b>Yes / No</b>
Have you been given a written statement by subcontractors in connection with the work. (Note 5)	<b>Yes / No</b>
Are you required to be registered as an employer under the <i>Payroll Tax Act 2007</i> .	<b>Yes / No</b>
Have you paid all payroll due in respect of employees who performed the work for the principal contractor, as required at the date of this statement. (Note 9)	<b>Yes / No</b>
Have you paid all remuneration payable to relevant employees, for work done under the contract during the period outlined above. (Note 10)	<b>Yes / No</b>

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<p><b>2. Documentation required</b> Please circle 'Yes' or 'No' in answer to the following questions and attach appropriate documents where indicated</p>	
<p><b>3.a Responsibilities</b> <b>Documents required: Names and job titles responsible for WHS</b> Have you provided the names and job titles of those people in your company who would be responsible for the following?  <ul style="list-style-type: none"> <li>- Workplace Health &amp; Safety</li> <li>- Answering WorkCover enquiries</li> <li>- Day-to-day management of the contract</li> </ul> </p>	Yes / No
<p><b>3.b Work Health and Safety Records</b> Has your company been prosecuted or fined under WHS legislation in the last three (3) years? If the answer is 'Yes', please attach details</p> <p>Has you company had any workers' compensation claims in the past three (3) years? If the answer is 'Yes', please attach details. Are details attached?</p>	Yes / No  Yes / No  Yes / No
<p><b>3.c Safe Systems of Work</b> Can your company demonstrate familiarity with safe systems of work?</p> <p>Does your company have documented procedures for storing and handling hazardous substances?</p> <p>Does your company have any permit-to-work systems?</p> <p>Will your company provide required Personal Protective Equipment for the job?</p> <p><b>* Documents required: Examples of forms, policies, SWMS's, SOP's etc.</b></p>	Yes / No  Yes / No  Yes / No  Yes / No
<p><b>3.d Public Liability</b> Do you have \$20 million Public Liability Insurance?</p> <p><b>* Document required: Certificate of Currency</b></p>	Yes / No
<p><b>3.e Workers Compensation</b> Do you have Workers compensation Insurance or Personal Injury Insurance (Sole Trader Only)?</p> <p><b>* Document required: Certificate of Currency</b></p>	Yes / No
<p><b>4. Safety of Plant and Equipment</b> Does your company have documented evidence to show that all your plant, equipment and vehicles are kept in safe working condition?</p> <p><b>* Document required: Description of system used for plant and equipment maintenance.</b></p>	Yes / No
<p><b>5. Work Health and Safety Training and Information</b> <b>5.a</b> Does your company provide staff with training in the identification and control of hazards in the workplace?</p>	Yes / No

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5.b Does your company provide employees with training in safe manual handling techniques?	Yes / No
5.c Does your company have written procedures for employees to identify, assess and control risks involved in work activities?	Yes / No
<b>* Documentation required: Examples of procedures, forms used etc.</b>	

Signature: \_\_\_\_\_

Full Name: \_\_\_\_\_

Position/Title: \_\_\_\_\_

Dated: \_\_\_\_\_

<b>WARNING</b>
<ul style="list-style-type: none"> <li>• Any subcontractor, who knowingly provides a principal contractor with a written statement that is false, is guilty of an offence (Maximum penalty 100 units or \$11,000).</li> <li>• Any written statement will not relieve the principal contractor of liability if, at the time the written statement was provided the principal contractor believed the written statement to be false.</li> <li>• The principal contractor must retain a copy of any written statement for a period of not less than five years (Payroll Tax), six years (Remuneration) or seven years (Workers Compensation).</li> <li>• <b>This statement must be accompanied by the relevant Certificate of Currency to comply with Section 175B of the <i>Workers Compensation Act 1987</i>.</b></li> </ul>

**NOTES**

1. This form is prepared for the purpose of Section 175B of the *Workers Compensation Act 1987*, Schedule 2 Part 5 of the *Payroll Tax Act 2007* and Section 127 of the *Industrial Relations Act 1996*. If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor.
2. For the purpose of this statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity), referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal.
3. In order to meet the requirements of s127 *Industrial Relations Act 1996*, a statement in relation to remuneration must state the period to which the statement relates.  
  
Section 127(6) *Industrial Relations Act 1996* defines remuneration as 'remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employee.'  
  
Section 127(11) of the *Industrial Relations Act 1996* states to 'to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.'
4. Payment claim details – Where a subcontractor has entered into a payment schedule with a principal contractor they must identify the period or payment to which the statement applies.
5. An accurate description of the work covered by the contract must be included.
6. In completing the statement, a subcontractor declares that they are a sole trader or partnership without workers or subcontractors and is not required to hold workers compensation insurance.
7. In completing the statement, a subcontractor declares that workers compensation premiums payable up to and including the date(s) on the statement have been paid, and all premiums owing during the term of the contract will be paid.

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8. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out work. If your business falls within this category you should also obtain statements from your subcontractors.
9. In completing the statement, a subcontractor declares that all payroll tax payable relating to work undertaken as part of the contract has been paid.
10. In completing the statement, a subcontractor declares that all remuneration payable has been paid.

It is noted that definitions of employer, employee, remuneration, and specific provisions for employers of outworkers in the clothing trades are as defined in s127A of the *Industrial Relations Act 1996*.

11. Failure to complete this statement may result in the principal contractor withholding any payment due to the subcontractor. Any penalty for late payment under the contract does not apply to any payment withheld under this subsection. Subcontractors may wish to keep a copy of the statement for their own records.

For more information, please visit the Safework NSW website [www.safework.nsw.gov.au](http://www.safework.nsw.gov.au), Office of State Revenue website [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au), or Office of Industrial Relations, website [www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au). Copies of the *Workers Compensation Act 1987*, the *Payroll Tax Act 2007* and the *Industrial Relations Act 1996* can be found at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

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