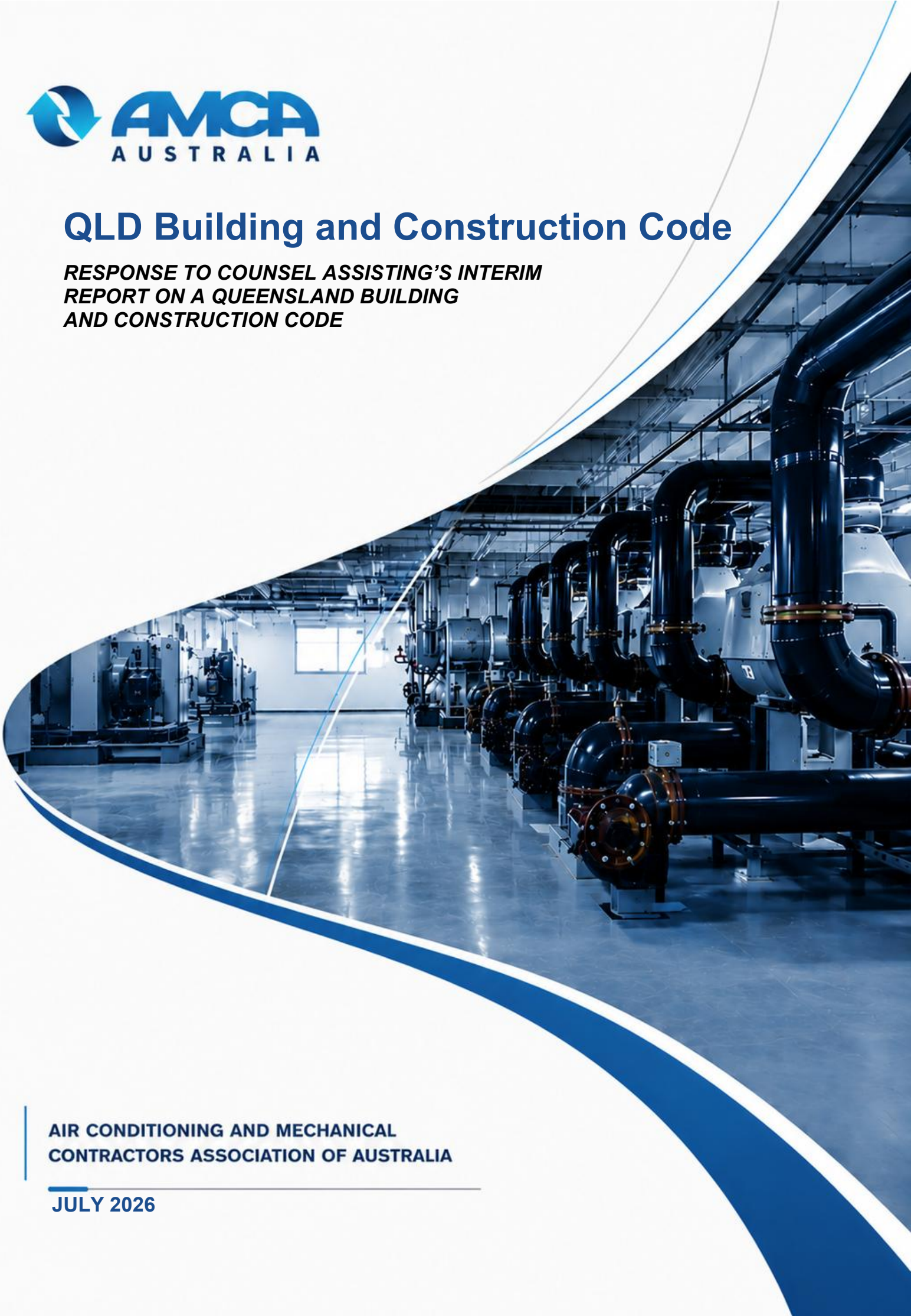
QLD Building and Construction Code

RESPONSE TO COUNSEL ASSISTING'S INTERIM REPORT ON A QUEENSLAND BUILDING AND CONSTRUCTION CODE



AIR CONDITIONING AND MECHANICAL CONTRACTORS ASSOCIATION OF AUSTRALIA

JULY 2026

EXECUTIVE SUMMARY

AMCA Australia supports the reintroduction of a Queensland code of practice for the building and construction industry, and the establishment of an independent regulator to administer it. The work practices described in Counsel Assisting's further submissions are familiar to our members, and our members carry a share of their cost. Our support is subject to the conditions set out in this submission.

Timing is the immediate issue. Negotiation of the next enterprise agreement covering major Queensland projects is expected to begin later this year. If conditions derived from Best Practice Industry Conditions are written back into those agreements before a code is settled, the code will have limited practical effect until the following bargaining round. Our members are reporting measurable productivity improvements on projects delivered under current conditions. Those gains are capable of being conceded at the bargaining table within months.

Our concern is with where the compliance burden lands, not with the objective. The draft Implementation Guidelines at Annexure 2 are written for head contractors. Specialist subcontractors are captured indirectly, through contractual flow-down at Part 2.2, the related entity provisions at Part 2.4, and the extension of the code into privately funded work. They are captured without the thresholds, proportionality or guidance that would make compliance workable at that tier. Obligations flow down the contractual chain. Protections do not. A subcontractor does not control the site conditions that affect its productivity, and the code as drafted gives it no means of raising them. As drafted, a mid-sized HVAC contractor could take on obligations across its entire Queensland business, public and private, on the strength of a single subcontract package.

Summary Callout

- AMCA supports a Queensland code of practice and an independent regulator, subject to conditions
- Obligations flow down to subcontractors but protections do not, and the code should correct that
- The productivity benefits of current conditions are already measurable on live projects and should be secured before the next bargaining round
- Site practices that block a licensed specialist subcontractor from its contracted scope should be prohibited
- Compliance obligations should attach at subcontract package value, not head contract value
- The extension into privately funded work should carry a value threshold, so contractors committed to public work are not disadvantaged on private tenders
- The regulator's first response to a subcontractor should be educative, not commercial sanction
- Specialist subcontractor representation is required in code development and implementation

ABOUT OUR INDUSTRY

Heating, air conditioning and ventilation (HVAC) is a significant industry. It contributes over $8 billion to the Australian economy annually, has over 6,400 businesses, and employs over 18,900 people. The overwhelming majority of these businesses are small to medium enterprises.

The services provided by these businesses are omnipresent in the homes, workplaces and public buildings occupied by the entire community, providing safe, comfortable, healthy and productive spaces for people to live, work and recreate. These services include:

- Heating and cooling for comfort, wellbeing and productivity
- Ventilation and indoor air quality
- Fire and smoke control systems
- Air purification for hospitals, laboratories and other sensitive environments
- Climate control and air quality for commercial and industrial facility premises

A key feature of the sector is its position within the construction and building services supply chain. HVAC contractors are typically specialist subcontractors engaged by head contractors, tier-one builders, principals and facilities managers. They rarely hold the head contract, but they carry the obligations passed down through it. That structural position, combined with the small-business profile of most operators, is the context in which we have assessed the draft Implementation Guidelines.

CONSULTATION FOR THIS SUBMISSION

In preparing this submission, AMCA Australia has consulted our Queensland State Based Advisory Board, comprising business leaders from large, medium and small mechanical contracting, services and maintenance businesses operating in Queensland.

1. A CODE AND A REGULATOR ARE THE RIGHT RESPONSE

1.1 In-principle support

AMCA supports the reintroduction of a code. The practices described in Counsel Assisting's submissions, including restrictions on how a contractor resources a package of work, pressure applied over the terms on which subcontractors are engaged, and non-compliant site entry, are familiar to our members. Their effect on a specialist subcontractor is direct. Where a contractor cannot determine its own labour mix, its tendered price carries a cost it did not choose and cannot recover.

We also support an independent regulator. A code without an administering body has limited practical effect. Our members report that the prospect of losing access to government work changes behaviour in a way that monetary penalties do not.

A code is also the right instrument. It operates through the State's position as a client rather than through the general law, so it can be adjusted as practices change and assessed at tender rather than after the fact. The trade-off is that its reach is set by drafting rather than by statute, which is why the extension into privately funded work at Part 2.4 should be defined narrowly. We return to that at section 2.3.

1.2 Implementation should be prompt

AMCA supports prompt implementation and does not seek a transitional delay. The timing point is more immediate than the nominal expiry dates at Annexure 1 suggest. Negotiation of the next enterprise agreement covering major Queensland projects is expected to commence later this year. Industry has the option of continuing under the existing agreement for a further twelve months, and whether that option is taken will depend in part on when a code is settled.

The risk is specific. If bargaining concludes before a code is in place, conditions derived from Best Practice Industry Conditions can be written back into the agreements then made. A code settled afterwards would operate against instruments already agreed. Its prohibitions would bind future arrangements but would have limited practical effect on the terms governing work in the interim, and the reduction in impact would run until the following bargaining round. On current cycles, that is three to four years. If that round proceeds on the currently expected timetable, the window in which a code can influence the terms actually agreed is measured in months rather than years.

A second consequence falls on contractors rather than on the code. A contractor whose enterprise agreement does not meet the code is excluded from tendering for government work or must renegotiate its agreement to comply. Renegotiation takes time and money, and until it concludes the contractor cannot price its highest single cost with confidence. Members preparing to tender for the forecast program carry that uncertainty now, before they know what a code will require of them.

AMCA asks that this be resolved through a definition Counsel Assisting has already proposed. The introduction of Workplace Arrangement, covering any agreement, understanding, practice, policy, procedure or arrangement whether written or not, moves the test from what an instrument says to what occurs on site. Compliance should be assessed on that basis. A contractor whose enterprise agreement was made before the code was published should not be excluded from tendering where its practices comply, and the code should say so.

What contractors need at commencement is usable guidance rather than more time. Part 5.1 of the draft Guidelines refers to a model Workplace Relations Management Plan that has not yet been prepared. AMCA asks that the model plan, and plain guidance on what the code requires of a subcontractor, be published at the same time the code is made rather than after it. Contracts already on foot should not be disturbed.

1.3 The productivity benefits are no longer theoretical

The Commission has received evidence estimating the cost of Best Practice Industry Conditions to the Queensland community, and that evidence was contested in cross examination on the question

of whether aggregate data supports it. AMCA does not enter that argument. We make a narrower point drawn from what our members are delivering now.

Since Best Practice Industry Conditions were suspended and the CFMEU was placed into administration, our members report improvements in productivity that are being observed on live projects rather than modelled. Programs are being met. Crews are being sized to the task rather than to a minimum manning requirement, and contractors are able to resource a package according to the work it contains. These are not projections. They are outcomes being recorded on current work.

Member case study: two comparable projects

A Queensland AMCA member delivered a mechanical services package under Best Practice Industry Conditions, before the CFMEU was placed into administration. That project ran over budget and behind program. The member reports it placed a significant financial and management burden on the business.

The same member is now delivering a near-identical package on a comparable project under current conditions. The member reports that project as running under budget and ahead of program.

The projects are not identified, for commercial reasons. The comparison is the member's own, on work of similar scope, scale and delivery method, performed by the same business.

The point for the Commission is that the benefit of the current settings has already been realised and can be measured. A code that gives those settings a durable footing protects a gain the industry is banking now. A code that arrives after the next bargaining round risks conceding it before it is secured.

2. SPECIALIST SUBCONTRACTORS AND THE CODE

2.1 Protection should match obligation

Members operating under codes in other jurisdictions report that the benefits of those codes have largely stayed with head contractors and have not flowed down the supply chain. AMCA asks the Commission to design against that outcome from the outset.

The reason it occurs is structural. A subcontractor does not control the site. The head contractor does. Site access, sequencing, the conduct of site meetings, who is permitted on site and how a stoppage is managed are all determined above the subcontractor’s contract. A subcontractor losing productivity to conduct on a site it does not control has no practical means of changing it.

The draft Guidelines transmit obligations down that chain but not protections. A subcontractor warrants compliance under Part 2.2, consents to inspection of its records and interview of its staff, and is exposed to the sanctions at Part 10. It gains no corresponding right where the conduct affecting it occurs above it.

AMCA asks that the code provide a route for a subcontractor to raise a suspected breach with the regulator directly, and that a subcontractor not be sanctioned for site conditions determined by the head contractor. Without that, the code imposes cost at the tier least able to influence the behaviour it targets.

2.2 Thresholds should reflect the value of the work performed

Part 2.1 applies the Guidelines to publicly funded work exceeding $2 million. Part 5.1 sets the Workplace Relations Management Plan trigger at $10 million for building work and $20 million for civil work. Each of those thresholds is measured against the project or the head contract.

A specialist subcontractor's exposure does not scale with the head contract. A mechanical services package on a multimillion-dollar hospital attracts the same obligations as the head contractor's own performance, transmitted through the warranty and consent provisions at Part 2.2. AMCA asks that a separate threshold apply at subcontract package value, below which a subcontractor remains bound by the substantive prohibitions in Parts 3, 4 and 9 but not by the plan, audit and reporting machinery.

2.3 The extension into privately funded work should be narrowed

Part 2.4 requires a party to comply with Sections 3, 4, 7, 8 and 9 on privately funded Queensland work from the point at which it first expresses interest in public work. Part 2.4 also extends the Guidelines to related entities in respect of all building and construction work they undertake in, or connected with, Queensland.

AMCA does not oppose the principle. A code that applies only on public sites invites contractors to maintain two sets of practices, and the evidence before the Commission suggests that is what happens. Applied to private work, the code also helps prevent the same productivity-affecting behaviours re-establishing themselves there. The drafting as it stands, however, is open-ended. There is no value threshold, no defined duration, and no requirement that the private work bear any relationship to the public work that triggered coverage.

The practical difficulty is competitive rather than administrative. A contractor becomes code-covered because it pursues public work. It then carries the code's compliance requirements into private tenders, where it competes against contractors holding no public work and therefore not covered. On smaller private projects that asymmetry is material. The contractor that has committed to the State's program is disadvantaged in the market it uses to keep its workforce engaged between public jobs. A value threshold is the direct answer. It removes the smaller private work where the asymmetry bites hardest and leaves the reach intact where it matters.

AMCA asks that the extension be limited in three respects. It should apply from award of public work rather than from expression of interest. It should run for a defined period tied to that contract. And it should carry the same value threshold that applies to publicly funded work.

2.4 Reporting obligations should identify who they bind

Part 2.3 requires notification to the Building Construction Compliance Branch within 24 hours of any threatened, impending, possible, probable or actual unlawful industrial conduct or breach. It is expressed to bind head contractors and consultants. Part 7.1 requires reporting of lost time arising from industrial action or from any work health and safety matter or purported work health and safety matter.

The relationship between these obligations and a subcontractor is unclear. If a subcontractor's duty is to report to the head contractor, the Guidelines should say so. If it reports directly to the regulator, the drafting should address the position of a subcontractor reporting conduct on a site it does not control. That is the structural point made at section 2.1. If the code is to work at this tier, a subcontractor must be able to report what it observes without being answerable for conditions it does not set. We would also note that possible unlawful conduct is not a workable reporting trigger for a business without in-house legal advice.

The extension of reporting to purported work health and safety matters warrants care. Genuine safety concerns raised by workers must not be discouraged. We suggest the drafting record lost time attributable to a safety matter without requiring the reporting party to characterise whether the matter was genuine.

2.5 Workforce and training

Part 4(e)(i) provides that a Workplace Arrangement must not prescribe or limit the number of employees or workers a company may engage. On its face, this captures minimum apprentice ratio clauses, and Counsel Assisting supports that outcome.

AMCA agrees that industrial instruments are the wrong mechanism for setting apprentice numbers. A ratio fixed in an enterprise agreement bears no relationship to the work available or to the quality of the training experience, and it can leave apprentices on site without meaningful supervised work.

That does not remove the underlying problem. Queensland faces a documented shortage in the specialist mechanical trades, and the forecast public pipeline will draw on the same workforce. Removing a training lever without replacing it will make that worse. AMCA asks that the code and the Queensland Procurement Policy 2026 be aligned so that apprentice engagement is addressed through the procurement framework and assessed on training outcomes, rather than left to the industrial instrument the code prohibits.

The scale of the obligation is material. Arrangements on Queensland projects require one apprentice for every five tradespeople for the first twenty tradespeople, and one further apprentice for every additional ten. Members report that the training capacity to support ratios at that level does not exist in the registered training organisations servicing the mechanical trades, and that the difficulty will grow as the work programme expands towards 2032. A ratio that cannot be met from available training places does not produce trained workers. It produces a compliance problem, and it constrains a contractor's ability to scale labour to meet the pipeline the State is funding.

2.6 Allocation of labour and redeployment

One practice warrants specific mention because it goes to both work health and safety and productivity, and because it is likely to be raised in the bargaining round now approaching.

Where a safety incident occurs, arrangements on some projects require work to stop across the whole site or the whole project rather than across the area affected. Workers on unaffected areas, and workers who could be moved to another part of the project or to a different site, are stood down for the duration. For a specialist subcontractor with a small crew committed to a program, that lost time cannot be recovered, and it does nothing to improve the safety outcome in the area actually affected.

The same pattern applies more widely. Where a site is affected by weather, by a stoppage or by delay, arrangements can prevent a contractor from moving workers to unaffected work, whether elsewhere on the same project or on another project. Members report instances of transfer between two projects in the same city being refused even where the contractor offered to meet the cost of transport. The result is paid downtime on one site while work waits on another. No safety or entitlement outcome is served by it.

AMCA does not propose any restriction on stopping work in an affected area. That decision belongs with the person conducting the business and the workers involved, under the Work Health and Safety Act 2011 (Qld), and nothing in a code should qualify it. Our point is narrower. A Workplace Arrangement should not prevent a contractor from redeploying workers to unaffected work while an incident is investigated and the affected area is made safe.

This falls within the prohibitions already proposed. An arrangement that dictates a project-wide stand-down irrespective of the area affected, or that prevents transfer to unaffected work, is an arrangement limiting how a contractor allocates work, and Part 4 is directed at arrangements of that kind. It also bears on Part 7.1, which requires lost time arising from a work health and safety matter to be reported. AMCA asks that Part 4 address redeployment expressly, covering safety stoppages, weather events, disruption and delay, so the position is settled before it is bargained rather than after.

2.7 Demarcation and specialist scopes of work

Counsel Assisting proposes that the Guidelines prohibit Workplace Arrangements that undermine the demarcation of union eligibility and coverage, on evidence of a dispute between unions on civil projects. AMCA supports that addition. We ask that it be drafted to cover a second situation, which our members encounter from the opposite direction.

Specialist subcontractors are engaged for proprietary and specialist systems. Refrigeration and cold room installation, controls, commissioning and specialist mechanical works are performed by workers whose qualifications, licences and tickets are specific to the task. Members report being prevented from performing their contracted scope on the basis of which union their workers belong to, rather than whether those workers hold the qualification the work requires. Reported examples include cold room installers refused access to install insulated panel, and licensed riggers refused permission to set chillers.

The effect is direct and it is borne by the project. The work still has to be done. It is performed later, by different labour, at additional cost, and the delay flows through the programme. On publicly funded work the State pays for it.

AMCA asks that the prohibition extend to any Workplace Arrangement or site practice that conditions the performance of contracted work on union membership or coverage, where the worker holds the qualification, licence or ticket that the work requires. Competence and licensing should determine who performs the work.

2.8 Resourcing and workforce decisions

Three further practices sit within the first group of prohibitions Counsel Assisting proposes and are worth confirming expressly.

The first is selection for redundancy. Counsel Assisting identifies order of redundancy clauses. The related question is who decides. Where a contractor reduces its workforce, selection should be capable of being made on skills held, licences held, forward workload and operational requirement. An arrangement that removes that judgement leaves a contractor retaining workers it does not need for the work remaining and releasing workers it does.

The second is labour hire. Consultation requirements, notification obligations and cost penalties attaching to engagements beyond a set period reduce a contractor's ability to respond to workload peaks. On a programme of the scale forecast for Queensland, that inflexibility will be felt most by subcontractors whose labour demand moves with the head contractor's programme rather than their own.

The third is smaller. Counsel Assisting proposes prohibiting non-working workplace delegates. Members report a related practice, in which delegate status is treated as attaching to the person and carried between projects or across a company, rather than to the site at which the appointment was made. AMCA asks that the drafting confirm delegate appointment is site-specific.

3. MAKING THE CODE WORK

3.1 An educative first response

Counsel Assisting records evidence that previous regulators took an educative approach where a party was willing to engage. AMCA supports that approach and asks that it be expressed in the code rather than left to administrative practice.

The sanctions at Part 10 are commercial. For a specialist subcontractor, partial or full exclusion from tendering is not a proportionate first response to an administrative failure. AMCA asks that the code distinguish deliberate or systemic conduct from a first-instance procedural breach, and that formal warning and remediation be the standard response to the latter. We support the review right at Part 10.1 and ask that review be conducted by a person independent of the branch that made the decision, with the substance of the alleged breach given in sufficient detail to respond to it.

3.2 Representation in development and implementation

Part 10.1 contemplates that the circumstances of a breach may be referred to the relevant industry association for action under that association's rules. If associations are to carry that role, they should also be part of the code's development and its ongoing review.

AMCA asks that any implementation or advisory body include specialist subcontractor representation as of right, distinct from head contractor and developer representation. The two groups sit on opposite sides of the contractual arrangements this code regulates. Their interests are not the same, and a consultation process that treats them as interchangeable will produce a code that is difficult to comply with at the tier where most of the work is performed.

4. AMCA'S RECOMMENDATIONS

AMCA Australia makes the following recommendations to the Commission:

1. That the Commissioner recommend the reintroduction of a Queensland code of practice for the building and construction industry administered by an independent regulator, settled before the next enterprise agreement bargaining round concludes, with the model Workplace Relations Management Plan and subcontractor guidance published at the same time the code is made, and with contracts already on foot unaffected.
2. That compliance be assessed against practice rather than against the text of an industrial instrument, consistent with the definition of Workplace Arrangement, so that a contractor whose enterprise agreement was made before the code was published is not excluded from tendering where its practices comply.
3. That the code provide a route for a subcontractor to raise a suspected breach with the regulator directly, and provide that a subcontractor not be sanctioned for site conditions determined by the head contractor.
4. That a subcontract package value threshold be introduced, below which a subcontractor is bound by the substantive prohibitions but not by the plan, audit and reporting requirements.
5. That the extension into privately funded work at Part 2.4 apply only from award of public work, for a defined period, and subject to the same value threshold as publicly funded work.
6. That the Guidelines state clearly whether a subcontractor reports to the head contractor or directly to the regulator, that the reporting trigger be confined to conduct the reporting party can reasonably identify, and that reporting of safety-related lost time not require the reporting party to characterise whether the underlying safety matter was genuine.
7. That Part 4 address expressly the allocation of labour, covering redeployment to unaffected work following a safety stoppage, weather event, disruption or delay without qualifying any decision to stop work in an affected area; selection for redundancy on skills, licences, forward workload and operational requirement; restrictions on labour hire; and site-specific delegate appointment.
8. That the proposed demarcation prohibition extend to any Workplace Arrangement or site practice conditioning the performance of contracted work on union membership or coverage, where the worker holds the qualification, licence or ticket the work requires.
9. That apprentice engagement be addressed through the Queensland Procurement Policy 2026 and assessed on training outcomes, in place of the ratio clauses the code would prohibit.
10. That the code provide expressly for an educative first response with independent review, commercial sanctions reserved for deliberate or systemic conduct, and specialist subcontractor representation included as of right in the code's development, implementation and ongoing review.

5. CONCLUSION

The need for updated building codes is no longer just a theoretical productivity boost, our members are reporting productivity gains on projects delivered under current conditions, and the next bargaining round will determine whether those gains hold. A code settled after that round would arrive too late to influence the terms that matter most.

AMCA Australia welcomes the opportunity to discuss any matter raised in this submission with the Commission, and to contribute to the development and implementation of any code the Commissioner recommends.

AMCA AUSTRALIA



5/609 Canterbury Road,
Surrey Hills 3127
Victoria Australia

T. 1300 475 615
E. Policy@amca.com.au
W. amca.com.au