



# **OHS**

## **Fitness for work**

### **Policy and Procedures**

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 1 of 22    |

## Table of Contents

|   |    |
|---|----|
| FITNESS FOR WORK POLICY .....   | 3  |
| 1. PURPOSE .....  | 4  |
| 2. SCOPE .....  | 4  |
| 3. OBJECTIVE.....   | 5  |
| 4. DEFINITIONS .....  | 5  |
| 5. MANAGEMENT RESPONSIBILITIES.....                                   | 7  |
| 6. RESPONSIBILITIES OF EMPLOYEES, CONTRACTORS AND VISITORS .....      | 8  |
| 7. INFORMATION, EDUCATION AND TRAINING.....                           | 9  |
| 8. IMPAIRMENT ASSESSMENT .....  | 10 |
| 9. TESTING .....  | 13 |
| 10. CONTRACTORS AND SITE VISITORS .....                               | 16 |
| 11. TAMPERING WITH SALIVA/URINE SAMPLES .....                         | 17 |
| 12. DISPUTING A LABORATORY CONFIRMED POSITIVE URINE TEST RESULT ..... | 18 |
| 13. PRIVACY AND CONFIDENTIALITY .....                                 | 18 |
| 14. CONSULTATION.....   | 18 |
| 15. FATIGUE MANAGEMENT .....  | 19 |
| APPENDIX A .....  | 20 |
| APPENDIX B .....  | 21 |
| APPENDIX C .....  | 22 |

|  |               |        |              |            |
|--|---------------|--------|--------------|------------|
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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 2 of 22    |



## FITNESS FOR WORK POLICY

### Organisation Commitment

The Port of Townsville (the Corporation) is committed to providing a place of work and systems of work which minimise risks arising from lack of fitness for work. Risks arising from lack of fitness for work will be addressed in accordance with the Corporation's Fitness for work Procedures.

### Management Priorities

The Corporation will endeavour to:

- take measures to help Employees and Contractors maintain alertness while working;
- increase awareness in the Corporation's Workplaces about fitness for work, and Drug/Alcohol consumption;
- identify signs of Fatigue or other factors which could influence fitness for work;
- devise shift timetables to take account of the need to minimise Fatigue; and
- provide support for effective management of fitness for work.

### Employee & Contractor Commitment

Employees and Contractors have an obligation pursuant to the **Work Health and Safety Act 2011 (Qld)** not to wilfully place at risk the health and safety of any person and not to wilfully injure himself or herself in the Workplace.

For that reason Employees and Contractors are responsible for carrying out their duties in such a way that health and safety is not compromised by lack of fitness for work. Employees and Contractors have an obligation to:

- report problems with fitness for work;
- contribute to the assessment of risks;
- contribute to the design and implementation of control measures, and comply with such measures;
- manage individual factors which affect fitness for work (e.g. ensuring adequate rest between shifts, control Alcohol and Drug use); and
- ensure they are able to carry out their duties in a safe manner, unimpaired by Fatigue, Drugs or Alcohol.

Signed:

Date:

**Chief Executive Officer**

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 3 of 22    |

## FITNESS FOR WORK PROCEDURES

### 1. PURPOSE

The potential for Fatigue, Alcohol and Drugs to affect the work performance of the Port of Townsville's (the Corporation's) Employees and Contractors is a matter the Corporation takes very seriously. There is no doubt that the safety of the public, the Corporation's Employees and Contractors, Visitors to sites within the Port, and others, can depend on the ability of individuals to perform their jobs properly and without Impairment by Fatigue, Alcohol and/or Drugs.

Fitness for work is not just an issue associated with individual Employees. Systems of work and equipment both contribute significantly to Fitness for work, for example, through shift arrangements and ease of use of equipment.

The Corporation has an obligation under the Act to provide a safe Workplace. The Corporation has a responsibility to take appropriate action when health, safety or work performance of individuals in the Workplace is impacted by Fatigue, Alcohol and/or Drug use.

The Corporation also recognises that some Employees may need support for an Alcohol and/or Drug related problem and provides Employee Assistance Programme counsellors as a free service and on a confidential basis.

The purpose of these Fitness for work Procedures ("the **Procedures**") is to set a clear framework for the identification and management of Fatigue, Alcohol or Drug Impairment to ensure a safe working environment at the Port of Townsville. Specifically, these Procedures:

- outline the responsibilities of individuals, Managers/Supervisors and the Corporation in relation to Fatigue and Alcohol and/or Drug use;
- describe how Fatigue, Alcohol and/or Drug issues will be managed, in a manner that is consistent and fair to all;
- describe how Drug and Alcohol testing will be conducted;
- encourage and support Employees with Fatigue, Drug and/or Alcohol related problems to seek assistance; and
- outline the disciplinary procedures that will apply to individuals who fail Drug and/or Alcohol tests.

### 2. SCOPE

These Procedures apply to all current and prospective Employees, site Visitors and Contractors who are:

- working at or attending a Workplace of the Corporation; or
- conducting work or providing services for or on behalf of the Corporation away from a Workplace of the Corporation.

The terms of these Procedures apply as contractual conditions for all Employees and Contractors engaged by the Corporation. The Corporation may amend these Procedures at any time and any such amendments will apply as contractual conditions upon notification of the amendments to Employees and Contractors. All Visitors to a Workplace of the

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|--|---------------|--------|--------------|------------|
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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 4 of 22    |

Corporation must comply with these Procedures as part of the terms and conditions of entry to a Workplace of the Corporation.

### 3. OBJECTIVE

These Procedures have the following objectives:

- to promote a healthy lifestyle and well being for all our Employees and Contractors;
- promote a Workplace culture of 'zero tolerance' towards Alcohol consumption and Drug use in the Workplace and during work activities;
- educate and provide information to all Corporation Employees and Contractors about the effects of Alcohol and Drug consumption especially in the work environment and its impact on Employees and Contractors regarding safety performance;
- assist Employees who may experience a problem with Drug and Alcohol dependency to seek assistance and counselling;
- encourage Employees to identify if they may have, or are developing, a Drug or Alcohol dependency issue;
- ensure that full confidentiality is maintained at all times, to the extent possible, in the event an Employee enters into a rehabilitation or counselling program; and
- implement an Impairment recognition program that is not intrusive, invasive or a breach of an individual's privacy or dignity and that assists the Corporation to meet its obligations under the Act.

### 4. DEFINITIONS

For the purpose of this Procedure: -

**"Act"** means the **Work Health and Safety Act 2011 (Qld)**.

**"Alcohol"** means ethyl alcohol or ethanol.

**"BAC"** means Blood Alcohol Concentration as measured in milligrams of Alcohol per 100ml of blood.

**"BAC Limit"** means the maximum BAC permitted for an Employee as set out in Appendix A.

**"Contractor"** is a person, company or other organisation that carries out any work required by the Corporation but is not an Employee of the Corporation, and includes inter-hire personnel.

**"Drug"** means any substance (with the exception of Alcohol) that, when consumed or used by any person, adversely affects, or has the potential to adversely affect, the health, safety, work performance or conduct of an Employee, Contractor or Visitor and includes:

- Prescription Drugs and Non-prescription Drugs;
- Illegal Drugs; and
- any other mind altering or intoxicating substances (e.g. inhalants).

**"Drug Screening Cut-off Levels"** means the levels specified for particular types of Drug in Appendix B.

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 5 of 22    |

**“Employee”** means anyone in receipt of salary or wages from the Corporation. This includes Officers of the Corporation.

**“Employee Assistance Programme” (EAP)** is a confidential, professional counselling service provided to the Corporation's Employees and their immediate families by a contracted employee assistance service organisation.

**“Fatigue”** means weariness from bodily or mental exertion and describes a range of afflictions, varying from a general state of lethargy to a specific work-induced burning sensation within one's muscles. Physical fatigue is the inability to continue functioning at the level of one's normal abilities. Mental fatigue includes decreased wakefulness or a general decrease in attention.

**“Fit for Work”** means being able to safely and efficiently undertake all tasks required by an Employee's job description or a Contractor's contracted services for the duration of the Employee's or Contractor's time at work, including not suffering from Fatigue, and not influenced by alcohol above the BAC Limit or by any Drug.

**“Illegal Drugs”** means every substance or article that is a dangerous drug according to the *Drugs Misuse Regulation 1987* (Qld) as amended from time to time.

**“Impairment”** is an inability to safely undertake tasks at the normal level of concentration and performance. "Impaired" has a corresponding meaning.

**“Impairment Assessment”** means an assessment of a person's level of Impairment conducted by observing the person's behaviour and physical appearance in accordance with the guidelines and procedures set out in clause 8.

**“Manager/Supervisor”** means any person with management or supervisory responsibility for one or more persons.

**“Motor Vehicle”** means a vehicle propelled by a motor that forms part of the vehicle.

**“NATA”** means National Association of Testing Authorities.

**“Non-prescription Drugs”** means any drug legally obtained but not prescribed by a medical practitioner including but not limited to "over the counter" medication.

**“Plant Item”** includes any item of fixed or mobile machinery (excluding a “Motor Vehicle”, “Small Plant and Equipment” and “Ship”), utilised by the Corporation for any operational purpose.

**“Prescription Drugs”** means any substance prescribed by a medical practitioner that has restrictions or specific instructions associated with its use.

**“Reasonable Suspicion or Cause”** means evidence exists that allows a reasonable determination to be made by the Corporation, at first instance the supervisor or other appropriate person, that a person is affected by Drugs and/or Alcohol, including but not limited to circumstances where a person is observed drinking Alcohol or taking Drugs.

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 6 of 22    |

**“Ship”** means any kind of boat or other vessel used or, for a boat or other vessel being built, intended to be used, in navigation by water or for any other purpose on water whatever the size and however it is propelled or moved (includes a barge, pilot boat, lighter, hovercraft or other floating vessel).

**“Small Plant and Equipment”** includes electrical, battery, gas or petroleum driven items of equipment or machinery (excluding Motor Vehicles and Plant Items) utilised by the Corporation for any operational purpose, and includes chainsaws, whacker packers, and drills.

**“Serious Incident”** is any event or circumstance which has actually led, or could potentially lead, to unintended and/or unnecessary mental or physical harm to a person, or loss or damage to the physical or intellectual property of the Corporation and/or third parties. Serious Incidents include adverse events (harm caused) and near miss incidents (no harm caused).

**“Visitor”** means any person who visits a Workplace of the Corporation,

**“Workplace”** means any place where work is, or is to be, performed by a worker or a person conducting a business or undertaking.

**“Workplace Health and Safety Committee”** means a committee at a Workplace of the Corporation established and operating pursuant to the Act.

**“Workplace Health and Safety Representative”** has the meaning given to it in the Act.

## 5. MANAGEMENT RESPONSIBILITIES

- Managers/Supervisors are responsible for taking prompt and appropriate action whenever they have Reasonable Suspicion or Cause to suspect that an individual may be Impaired.
- Managers/Supervisors are responsible for taking prompt and appropriate action in line with these Procedures whenever they receive a report that an individual may be Impaired.
- A Manager/Supervisor may conduct Impairment Assessments in line with these Procedures.
- Managers/Supervisors must request the attendance of a Workplace Health and Safety Representative or Workplace delegate to witness the Impairment Assessment.
- Managers/Supervisors shall maintain confidentiality, to the extent possible, in relation to the following:
  - an Employee failing an Impairment Assessment;
  - an Employee identifying he/she has a Drug and/or Alcohol problem; and
  - an Employee being referred to Employee Assistance Programme (EAP) for counselling and/or rehabilitation.
- Managers/Supervisors will be provided with an appropriate level of education and training in relation to Fatigue, Drugs and Alcohol in the Workplace and how to effectively communicate any disciplinary procedures resulting from failure to adhere to these Procedures.
- Managers/Supervisors must follow the Corporation’s occupational health and safety policies and procedures at all times.

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 7 of 22    |

- Managers/Supervisors will assist with the implementation and monitoring these Procedures in consultation with Employee Workplace delegates/representatives and the Workplace Health and Safety Committee.
- Managers/Supervisors will make appropriate Workplace adjustments to support the rehabilitation of Employees where this is reasonable and practicable.
- Managers/Supervisors will encourage Employees to use the Employee Assistance Programme to support them and their families with issues of Drug and Alcohol misuse.
- Managers/Supervisors will assist the Corporation and the Workplace Health and Safety Committee in providing information about counselling, treatment and rehabilitation services where appropriate.

## 6. RESPONSIBILITIES OF EMPLOYEES, CONTRACTORS AND VISITORS

- It is every individual's responsibility to ensure they are Fit for Work and are not impaired by Fatigue, or the influence of Alcohol or any Drugs that may in any way affect their, or others', ability to safely perform their duties or negatively impact on their health and wellbeing.
- These Procedures are not intended to intrude on the private life of an Employee, Contractor or Visitor outside the Workplace (other than to the extent necessary to ensure compliance with obligations under the Act). However, Employees, Contractors and Visitors who are at a Workplace of the Corporation or who are conducting work or providing services for or on behalf of the Corporation away from a Workplace of the Corporation must not:
  - be adversely affected by Alcohol and/or Drugs when they are at work, or in charge of a Ship, a Motor Vehicle, Plant Item or Small Plant and Equipment such that they are not Fit for Work;
  - sell, provide or manufacture Alcohol and/or Drugs in the Workplace;
  - consume, or take by other means, Alcohol and/or Drugs in the Workplace;
  - carry or store Alcohol and/or Drugs in the Workplace;
  - refuse a request to stop work if there is a Reasonable Suspicion or Cause that they are affected by Fatigue, Alcohol or Drugs and are not Fit for Work; or
  - falsify, manipulate or contaminate test specimens, samples or results.
- It is the responsibility of Employees, Contractors and Visitors in the Workplace to:
  - take reasonable care for the health and safety of themselves and their co-workers in the Workplace and cooperate with the Corporation to enable compliance with the Act;
  - report all Workplace hazards to their Workplace Health and Safety Representative, Manager/Supervisor;
  - not be Impaired by Fatigue, Drugs and/or Alcohol when they report for duty;
  - confirm with their doctor that they are safe to work in their current job while taking prescription Drugs;
  - confirm with their pharmacist that they are safe to work in their current job while taking non-prescription Drugs;
  - comply with any directions given by an authorised representative of the Corporation in accordance with these Procedures; and

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 8 of 22    |



- participate in Drug and/or Alcohol tests and training if required.
- Employees should discuss with their Manager/Supervisor, Workplace Health and Safety Representative or union representative if they are concerned about working with other Employees because of a perceived safety risk due to Drug/Alcohol use or abuse.

## 7. INFORMATION, EDUCATION AND TRAINING

The Corporation will:

- inform all Employees, Contractors and Visitors about the content of these Procedures, including in relation to possession or consumption of Alcohol or Drugs at the Workplace;
- inform all Employees, Contractors and Visitors, as part of an overall healthy lifestyle program, of their responsibilities in relation to consumption of Alcohol or Drugs which may adversely affect their work performance or conduct;
- provide practical guidelines and training to Managers/Supervisors for dealing with Employees who may be affected by Alcohol or Drugs including disciplinary sanctions and maintenance, to the extent possible, of confidentiality; and
- incorporate its Drug and Alcohol training programs into its corporate health program, which deals with fitness for work, nutrition and well being.

### 7.1 OHS Induction Programs

Information about these Procedures shall be provided to all Employees upon commencement of employment as part of their induction, in on-going training programs and in communication through information bulletins.

### 7.2 Provision of Education and Training

The Corporation will provide information and training where applicable to all Employees, including Managers/Supervisors, regarding these Procedures.

The Corporation's education and training will focus on:

- testing procedures;
- the promotion of a healthy lifestyle;
- Impairment and how to recognise Impairment;
- providing strategies to encourage an understanding that work, Alcohol and Drugs do not mix (for example, the responsible service of Alcohol at work functions);
- assisting Managers/Supervisors to deal appropriately with Employees who are intoxicated;
- assisting people who may develop problems associated with Alcohol and Drugs;
- helping Employees with Alcohol and Drug problems to seek effective solutions and treatment;
- providing information that will enable Employees with Alcohol and Drug problems to make an informed choice about solutions and treatment;
- the consequences for Employees who fail to comply with these Procedures;
- the effects of the misuse of Alcohol and other Drugs on health, safety and performance in the Workplace; and

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 9 of 22    |

- methods for Employees with Alcohol and Drug problems to disclose their problems to their General Manager, immediate Manager/Supervisor, a Workplace delegate/OHS representative and/or the Human Resource Advisor in a confidential and discreet manner.

### 7.3 Specialist Training

Training for Managers/Supervisors, Workplace Health and Safety Representatives and other designated personnel shall include:

- their role and responsibility for implementing these Procedures;
- how to identify and approach Employees, Contractors and Visitors who are or are reasonably suspected of being affected by Alcohol or other Drugs in the Workplace;
- dealing with long-term users and those intoxicated in one-off situations;
- how to sensitively refer an Employee to specialist counselling and treatment and avoid taking on the counselling role themselves;
- observation of Employees, Contractors and Visitors suspected of being under the influence of Drugs and/or Alcohol, using the criteria for assessment in clause 8.3 below;
- accuracy of tests;
- saliva based testing; and
- the Australian Standard ASNZS 4308:2008 '*Procedure for the Collection, Detection and Quantification of Drugs of Abuse in Urine*' (as amended).

## 8. IMPAIRMENT ASSESSMENT

An Impairment Assessment is an assessment of a person's level of Impairment conducted by observing the person's behaviour and physical appearance in accordance with the guidelines and procedures set out in this clause 8. An Impairment Assessment may be conducted as an isolated event to determine a person's immediate fitness for work, or over a longer period to determine if a person has a problem with Alcohol or Drug dependence.

### 8.1 Recognising Impairment

Impairment is an inability to safely undertake tasks at the normal level of concentration and performance.

It is important to recognise that Impairment can be associated with a range of factors including, but not limited to the following:

- Fatigue;
- Drug and Alcohol misuse;
- psychological (e.g. stress and anxiety etc);
- physical (e.g. injury or functional fitness etc);
- Workplace environmental factors (e.g. heat, dust, noise, chemicals, etc); and
- design of work.

Anyone who is Impaired, no matter what the cause, should not be involved in safety critical tasks, such as operating heavy plant and machinery or driving Motor Vehicles or Ships. Section 79 of the *Transport Operations (Road Use Management) Act 1995* (Qld)

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 10 of 22   |

Research indicates that a Fatigued person's performance may be similar to concentration with 0.1% BAC, which is twice the legal driving limit.

Common indicators of an Alcohol and/or Drug problem are outlined in clause 8.3 below. Whilst these indicators may suggest possible Alcohol or Drug effects, many may also be present as a result of Fatigue, stress or health issues.

## **8.2 Prescription and Non-prescription Drugs**

Employees and Contractors have an obligation to inform the Corporation if they are Impaired by any Prescription or non-prescription Drugs.

There are some Drugs (whether Prescription or non-prescription) that have side effects which may cause Impairment in an individual. Often the information on the label indicates whether the Drug can cause Impairment or Fatigue.

An Employee or Contractor does not have to disclose to the Corporation the type of Drug that has been prescribed by their doctor or pharmacist. The Employee or Contractor needs to follow the medical instructions and if the medication affects their ability to perform their normal daily tasks they must advise the relevant General Manager, immediate Manager/Supervisor, a Workplace delegate/OHS representative and/or the Human Resource Advisor. The Corporation's Return to Work Coordinator will then discuss their normal daily tasks with their doctor or pharmacist to confirm whether the Employee or Contractor is able to safely complete these duties. The Employee or Contractor must, if requested, produce a consent enabling the Return to Work Coordinator to speak to their doctor or pharmacist in this respect.

Employees or Contractors should seek advice about their ability to work safely from:

- their doctor, for Prescription Drugs;
- their pharmacist, for non-prescription Drugs; and
- the labels on any prescription or non-prescription Drugs.

Employees and Contractors must not commence their normal daily tasks if their doctor or pharmacist indicates that they are not safe to do their job.

Employees and Contractors shall outline the duties of their job (as per their position description or terms of engagement) to their doctor, or pharmacist as the case may be, and seek advice as to whether the safe performance of their duties will be affected by taking the medication, and if so, should actively seek an alternative medication which will not affect the safe performance of their duties.

Depending on individual circumstances Employees who are unable to perform normal duties due to Drugs are entitled to access sick and/or annual leave or should be taken off unsafe working duties and have alternate duties assigned to them, if alternative duties are available.

## **8.3 Alcohol or Drug Abuse at the Workplace**

Managers/Supervisors shall take into account the possibility that a decline in work performance could be the result of an illness, disability, or other personal factors not related to Drug and Alcohol use. In such cases the list below is inapplicable.

The misuse of Alcohol or other Drugs may result in an observable decline in work performance. While it is not the responsibility of Managers/Supervisors to diagnose personal or health problems, they should be aware of the common indicators that suggest

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 11 of 22   |

that an Alcohol or other Drug problem may exist. These common indicators include but are not limited to:

- habitual lateness or excessive absenteeism;
- extended lunch breaks;
- aggressive outbursts;
- problems with-
  - coordination,
  - forgetfulness, and
  - 'near miss' incidents.
- possible time management issues; and
- clear intoxication at work or signs of drinking prior to commencement of work, such as:
  - strong smell of Alcohol on the breath;
  - slurred or incoherent speech;
  - unsteadiness on their feet;
  - red, bloodshot or watery eyes;
  - flushed or ruddy face;
  - noticeably smaller or larger pupils;
  - lack of (or poor) muscle coordination;
  - person may be aggressive or argumentative;
  - person may be overexcited or agitated;
  - simple instructions may not be followed;
  - drowsiness or asleep on the job or on work breaks;
  - difficulty in concentrating on a task or a conversation;
  - poor balance and coordination; and
  - loss of inhibitions.

Any Employee proven to have engaged in any Illegal Drug dealing within the Workplace of the Corporation or in vehicles owned by the Corporation will be summarily dismissed.

#### **8.4 Workplace Assistance for an Alcohol and Drug Abuse Problem**

Employees with a problem relating to Alcohol or Drug abuse may approach any of the following personnel within the Corporation for confidential advice and assistance:

- their General Manager;
- immediate Manager/Supervisor;
- a Workplace delegate/OHS representative; and/or
- Human Resource Advisor.

The Employee shall be referred to the EAP in the first instance.

#### **8.5 Rehabilitation Programs**

An Employee who identifies that they have a problem with Drugs and/or Alcohol should notify their General Manager, immediate Manager/Supervisor, a Workplace delegate/OHS representative and/or the Human Resources Advisor. The Employee's General Manager, immediate Manager/Supervisor, Workplace delegate/OHS representative and/or the Corporation's Human Resources Advisor may be required to removed the Employee from their work role and provide them with safe alternative duties where available. A reasonable

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 12 of 22   |

time period, to be determined in the Corporation's sole discretion, will apply to these arrangements.

The Employee shall then consult either their own doctor, use the EAP, or enter into a Voluntary Alcohol and Drug Rehabilitation Agreement, contained in Appendix C to these Procedures, with the Corporation to consult a recognised Drug and/or Alcohol rehabilitation counsellor. The Corporation will assist Employees who have a problem with Drugs and/or Alcohol by meeting the costs of the initial referral/assessment and first consultation session.

The Corporation will require evidence from the provider that the Employee has commenced treatment and will require regular reports of compliance and attendance in respect of the treatment/program.

Employees in receipt of an aggregate wage will continue to receive the aggregate wage, and all other Employees will receive their normal wage, for a reasonable time period, to be determined in the Corporation's sole discretion, while they continue to participate in a recognised rehabilitation program.

The Corporation will require that the program and the provider have:

- a record of success in dealing with people with Drug and Alcohol abuse problems;
- the capacity to identify when an Employee is ready to return to work and the level of responsibility to which the Employee can return; and
- the willingness to provide a reasonable estimate of the time required for the Employee to be suitable for return to work and, if not in the short term, to make such a statement.

A return to work plan would be arranged and agreed to and can be gradual or total (depending on the advice of the provider, the Employee's doctor and the criticality of the work performed by the Employee).

## **9. TESTING**

All Employees, Contractors and Visitors can be tested for Alcohol or Drug levels on entry to or while they are at a Workplace of the Corporation. Testing (other than self testing) will be conducted in accordance with these Procedures by a suitably trained, qualified collector who is authorised by the Corporation.

A flowchart detailing the fitness for work testing procedures is contained in Appendix E.

### **9.1 Self Testing**

The Corporation will make Alcohol self test kits available to all Employees and Contractors for the purpose of testing prior to the commencement of work. The self-testing facilities will be provided in the Corporation's First Aid room, or another discreet area.

Employees and Contractors who test positive in a self-test shall not commence work until they are Fit for Work. An Employee must notify their immediate General Manager, immediate Manager/Supervisor, a Workplace delegate/OHS representative and/or the Human Resources Advisor of their positive result, and may request assistance with transport or access to support and/or counselling services if required. A Contractor must inform the person to whom they report, pursuant to their contract with the Corporation, of the positive test result.

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 13 of 22   |

An Employee or Contractor who has tested positive in a self-test can not commence work until they pass a further test pursuant to clause 9.2. Employees who have tested positive in a self-test may access sick leave or other paid or unpaid leave, in accordance with the relevant Corporation procedure, employment contract or industrial agreement, until they pass a test pursuant to clause 9.2. Absenteeism on sick leave or other leave because an Employee has failed a self test will be monitored and managed by the Corporation and will be subject to the disciplinary procedures set out in clause 9.4.

Calibration of the self-test kits shall be in accordance with the manufacturer's recommendations as per AS 3547:1997 '*Breath Alcohol Testing Devices for Personal Use*'.

## 9.2 Alcohol and Drug Testing

Testing of Employees and Contractors in order to determine if they are under the influence of Alcohol or Drugs is to be carried out either:

- by a random testing programme conducted over four block periods;
- where there is Reasonable Suspicion or Cause;
- where an Employee has been directly or significantly involved in a Serious Incident; or
- where an Employee is returning to work after an Alcohol or Drug rehabilitation program.

Alcohol testing will be conducted by collection and analysis utilising a calibrated breathalyser that meets the Australian Standard AS 3547:1997 - Breath Alcohol Testing Devices for Personal Use. A positive initial test will require a second test 20 minutes afterwards to confirm BAC. The second reading will be the official BAC level recorded.

If a properly calibrated breathalyser is not readily available, an independent or authorised person will undertake an Impairment Assessment. The Employee has the right to have their Workplace Health and Safety Representative or union delegate present as a witness to the Impairment Assessment.

If an Impairment Assessment is conducted and the Employee is deemed fit to continue duties, no further testing is required on this day for the presence of Alcohol. However, further testing may be conducted where there is Reasonable Suspicion or Cause or where an Employee has been directly or significantly involved in a Serious Incident later during that same day.

Employees may personally choose the method of initial Drug testing by way of either:

1. the collection and analysis of a saliva sample in accordance with Australian Standard AS/NZS 4760:2006 '*Saliva Testing (Drug/Substance)*' (as amended); or
2. the collection and analysis of a urine test sample in accordance with AS/NZS 4308:2008 '*Procedures for the Collection, Detection and Quantitation of Drugs of Abuse in Urine*' (as amended).

A positive initial saliva or urine test result will require a further urine test for laboratory confirmation testing utilising the parameters stipulated in this Procedure and in accordance with AS/NZS 4308:2008. All collection and possible dispatches will also be in accordance with AS/NZS 4308:2008. Two samples from the confirmatory urine test will be sent for testing only to a laboratory accredited in accordance with paragraph 9.3 below.

|  |               |        |              |            |
|--|---------------|--------|--------------|------------|
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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 14 of 22   |

The Employee has the right to have a union delegate or Employee representative in attendance. Testing after an incident must be undertaken within a reasonable time.

Pending confirmation through laboratory testing, the Employee the subject of the positive saliva/urine test will be sent home on paid sick leave. If no paid sick leave is available the Employee can choose to take another form of paid leave, if available, or unpaid leave. If the result is confirmed as negative, the Employee will return to work with no disciplinary action taken, will be re-credited the sick leave or other leave unless the circumstances involved reasonably justify deduction of leave, and will resume work as normal.

### 9.3 Laboratory Testing

The Corporation shall only use NATA laboratories that are accredited to Class 10.61.16 Drugs for Toxicological Purposes. This standard is important as it guarantees the technical quality and integrity of the tests.

### 9.4 Disciplinary Procedures

Where any Employee returns a positive reading to a saliva/urine test and then a subsequent confirmatory urine test above the Drug Screening Cut-Off Levels, or a breath test above the BAC Limit, during that Employee's normal working hours the following process will apply:

- (a) The Employee will be transported from the Workplace to their home address.
- (b) The Employee will be required to utilise their sick leave or other available leave entitlements until capable of providing a negative test.
- (c) If the Corporation determines that the Employee did breach these Procedures but, in the opinion of the Corporation, the breach did not and would not have given rise to a Serious Incident, and the Employee has not previously been issued with a written warning in respect of a positive test result, the Employee will be issued with a written warning. The Employee will be required to undertake four random non-invasive Alcohol and / or Drugs tests within the 12 month period following the breach.
- (d) If the Corporation considers on the balance of probabilities that the Employee's breach did or may have given rise to a Serious Incident, or the Employee has previously been issued with at least one written warning in respect of a positive test result, the following process will apply:
  - a. The findings of the Corporation's investigation will be relayed to the Employee, in writing, in a manner that allows the Employee to reasonably respond to the allegations.
  - b. The Employee shall be given reasonable time to seek advice and/or representation.
  - c. A meeting will be held with the Employee and his/her representative to allow the Employee to respond to the Corporation's findings in relation to the incident.
  - d. The Corporation will consider the Employee's response/s taking into account all/any mitigating circumstances and any previous positive test results or warnings issued in respect of positive test results.
  - e. The Corporation will make a decision to take one of the following actions:
    - i. issue the Employee with a written warning;

|  |               |        |              |            |
|--|---------------|--------|--------------|------------|
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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 15 of 22   |

- ii. issue the Employee with a written warning and compulsory referral to the Corporation EAP provider, counsellor and/or a medical practitioner nominated by the Corporation;
  - iii. terminate the Employee's employment; or
  - iv. any other disciplinary action or sanction the Corporation believes is reasonable in the circumstances.
- (e) If the Employee does not return a positive saliva, urine or breath test in breach of these Procedures over the following 12 months, and both the Corporation and the relevant union are satisfied that the Employee has gained a better understanding of the risks related to Drug and Alcohol abuse, the Corporation may, in its absolute discretion, remove any warning issued pursuant to this clause 9.4 of the Procedure. The Corporation may retain all written records relating to the Employee's positive readings to Drug and/or Alcohol tests despite the expiration of any warning issue due to the Corporation's statutory obligations under the *Public Records Act 2002* (Qld).

## **9.5 Refusing a Test**

Any Employee who refuses Drug or Alcohol testing after having the consequences of failing to undergo such testing explained to them shall be deemed to have returned a positive result and will be subject to the process in clause 9.4. The same procedure applies for Employees who intentionally leave the site without participating in a test.

Visitors who refuse Drug or Alcohol testing shall be refused access to, or removed from, the Corporation Workplace.

## **10. CONTRACTORS AND SITE VISITORS**

### **10.1 Drug Abuse and Drug Dealing while working for the Corporation**

Contractors who take illegal Drugs at a Workplace of the Corporation or in vehicles owned by the Corporation shall be removed from the Corporation's Workplace immediately. Evidence of such activity must include eyewitness accounts and documented accounts of the activity. The Corporation will notify police of any illegal Drug dealing that occurs within a Workplace of the Corporation or in a vehicle owned by the Corporation.

### **10.2 Alcohol or Substance Abuse while working for the Corporation**

All Contractors shall be subject to Drug and Alcohol testing in accordance with clause 9 of these Procedures and, in the event they return a positive result to a breath or urine test in breach of these Procedures, the process set out in clause 10.3 will apply. These terms shall be incorporated into relevant contractor agreements and induction programs for Contractors.

Any Contractor who refuses Drug or Alcohol testing after having the consequences of failing to undergo such testing explained to them shall be deemed to have returned a positive result and will be subject to the process in clause 10.3. The same procedure applies for Contractors who intentionally leave the Workplace without participating in a test.

### **10.3 Contractors – Breath & Saliva/Urine Testing (Positive)**

Where a Contractor returns a positive reading to a saliva/urine test and then a subsequent urine test above the Drug Screening Cut-off Levels, or breath test above the BAC Limit, during his/her normal working hours the following process will apply:

|  |               |        |              |            |
|--|---------------|--------|--------------|------------|
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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 16 of 22   |



- 1) The confirmed positive breath/urine test result will be recorded on the appropriate form and will be retained in the permanent record system.
- 2) The principal employer of the Contractor will be contacted by the Corporation to arrange for the safe transport of the person from the Workplace. The Contractor or principal employer will be required to meet, or reimburse the Corporation for, any costs incurred in the transport of the Contractor from the Workplace.
- 3) The principal employer of the Contractor will be responsible for the removal of any vehicle and/or equipment left on site as a result of the safe transport of the Contractor from the Workplace.
- 4) The Corporation will ensure that it promptly notifies the contracting company or principal employer of the positive result recorded.
- 5) If the Corporation determines on the balance of probabilities that the person's breach gave rise to, or may have given risen to, a Serious Incident, the Contractor will not be permitted on any Corporation Workplace at any time in the future, unless the Corporation determines otherwise. The principal employer of the Contractor will be informed of the Corporation's decision accordingly.

#### **10.4 Site Visitors**

All site Visitors are subject to Drug and Alcohol testing in accordance with clause 9 of these Procedures, except that positive saliva tests will be deemed final and not subjected to confirmation through laboratory testing of urine samples.

In the event a site Visitor returns a positive result to a breath or saliva test in breach of these Procedures, they will be removed from the Corporation's Workplace immediately and not permitted to return unless they can provide a negative test result. If an individual site Visitor returns a positive test result, whether it is a breath or saliva test, on more than one occasion they will be banned indefinitely from entering all Workplaces of the Corporation at the Corporation's absolute discretion.

Any site Visitor who refuses Drug or Alcohol testing is deemed to have returned a positive result.

Acceptance of these procedures by site Visitors is a condition of entry to all Workplaces of the Corporation.

#### **11. TAMPERING WITH SALIVA/URINE SAMPLES**

Any Employee, Contractor or Visitor who provides a substituted saliva and/or urine sample or interferes in any way with a saliva and/or urine sample so as to prevent detection of a Drug or Alcohol will be treated as if their saliva and/or urine sample tested positive in breach of these Procedures and will be subject to disciplinary action:

- (a) in the case of Employees - in accordance with clause 9.4;
- (b) in the case of Contractors - in accordance with clause 10.3; and
- (c) in the case of Visitors – in accordance clause 10.4.

|  |               |        |              |            |
|--|---------------|--------|--------------|------------|
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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 17 of 22   |

## **12. DISPUTING A LABORATORY CONFIRMED POSITIVE URINE TEST RESULT**

If an Employee or Contractor disputes the result of a laboratory confirmed urine test, they have only seven (7) days after notification of the result to dispute the result in writing.

After lodging a written dispute with the Corporation, the Employee or Contractor can request in writing that either the original laboratory conduct confirmatory analysis of the urine sample, or that the sample be forwarded to another laboratory accredited in accordance with clause 9.3 for confirmatory analysis. In either case, the confirmatory analysis of the sample must be conducted as soon as practicable after the dispute is lodged.

Should a dispute be lodged, any disciplinary action under these Procedures shall be suspended pending the result of the confirmatory laboratory analysis. A positive confirmatory result or a result deemed invalid will cause a re-commencement of disciplinary procedures as appropriate. There will be no further reviews of this process.

The Employee or Contractor lodging the dispute is responsible for all costs incurred in the confirmatory analysis.

## **13. PRIVACY AND CONFIDENTIALITY**

The Corporation will ensure reasonable and appropriate confidentiality of Employee, Contractor and Visitor information is maintained and will handle all documentation according to relevant privacy legislation from time to time.

This will not prevent the Corporation from discharging its obligations under these Procedures by ensuring that those Employees with a legitimate need to be aware of information ascertained from testing, for example a Manager/Supervisor or the Human Resources Advisor, will be provided with this documentation, so as to manage risk.

Further, it is important for persons tested to be aware that whilst the Corporation will endeavor to maintain confidentiality of results and documentation obtained in accordance with these Procedures, there may be circumstances where this cannot occur.

For example, where the test results are required to be disclosed by law, in accordance with these Procedures or are necessary to enforce or maintain action taken by the Corporation pursuant to these Procedures.

## **14. CONSULTATION**

In the event of a proposed change to any Corporation policy or these Procedures that will or may impact on the terms or conditions in these Procedures, Employees, and their respective union/s, and Contractors will be advised of the change. Prior to any change being inserted into policy, any dispute or disagreement by Employees or the union in relation to the proposed change shall be progressed through the dispute resolution clause of the collective agreement governing the employment of the Employees from time to time. A dispute or disagreement by a Contractor in relation to the proposed change shall be resolved in accordance with the terms of the Contractor's engagement.

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 18 of 22   |

## 15. FATIGUE MANAGEMENT

To manage Fatigue at the Workplace the Corporation requires that every person (including Contractors) working for the Corporation must have at least 10 hours break prior to commencing their next shift. No person is permitted to work greater than 60 hours in a week without the prior written approval of their General Manager.

If for some extraordinary reason a person is required to work more than 60 hours a week for consecutive weeks then prior written approval from the Chief Executive Officer is required.

The only exception to these requirements is Port Service Officers Grade 4 who, under their current agreement, are rostered for an 84 hour week for a 7 day period every rotating shift. An accepted Fatigue management programme is to be developed by the Corporation's Safety Advisor for these Employees.

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 19 of 22   |

## APPENDIX A

|   |   |
|---|---|
| BAC Limit figures represent the mg of Alcohol per 100 ml of blood | Port of Townsville Application                |
| Zero 0.00   | All Employees, Contractors and site Visitors. |

|  |               |        |              |            |
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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 20 of 22   |

## APPENDIX B

| Drug Type   | Code       | Cut-Off Level |                 |
|---|------------|---------------|-----------------|
|   |            | Urine         | Oral Fluid      |
| <b>Amphetamine</b><br>(Sympathomimetic Amines)<br>Includes methamphetamine and MDMA (Ecstasy) | AMP        | 300 µg/L      | 50 ng/ml        |
| <b>Cannabis</b>   | THC        | 50 µg/L       | 25 ng/ml        |
| <b>Cocaine</b>  | COC        | 300 µg/L      | 50 ng/ml        |
| <b>Methamphetamines</b>   | mAMP (MET) | 300 µg/L      | 50 ng/ml        |
| <b>Opiates</b> , including Heroin, Morphine, Hydromorphone, Oxycodone and Codeine             | OPI        | 300 µg/L      | 50 ng/ml        |
| <b>Phencyclidine</b>  | PCP        | 25 µg/L       | Can't be tested |

|  |               |        |              |            |
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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 21 of 22   |

## APPENDIX C

### VOLUNTARY ALCOHOL & DRUG REHABILITATION - AGREEMENT

#### Aim

The aim of this agreement is to provide an option of rehabilitation for those Employees who have an Alcohol and / or Drug problem and who are voluntarily seeking assistance.

#### Initial Assessment

The detail of an Employee's rehabilitation programme will be determined after an initial assessment has been carried out by an authorised Corporation person / external testing provider.

Employees who enter into this agreement undertake to fully participate in the treatment programme put in place following their initial assessment including attending all sessions and programme requirements.

#### Detail of this Agreement

In entering into this agreement the Employee also undertakes and agrees to the following:

1. Any Employee entering into a rehabilitation program can choose to access their sick and/or other leave entitlements for the period of their rehabilitation. If all leave entitlements have been exhausted, special leave may be considered.
2. A non-invasive baseline Alcohol and Drug test will be undertaken at the commencement of rehabilitation.
3. The Corporation will meet the costs of the initial referral/assessment and first consultation session of the medically recommended rehabilitation programme and / or counselling sessions.
4. To undertake further non-invasive testing during and at the completion of their treatment to assess compliance with the programme and / or to determine their fitness to return to work.
5. To undertake random non-invasive Alcohol and Drug tests within the 12-month period following completion of their treatment and return to work.
6. In cases where the Employee is unfit to return to normal duties whilst on rehabilitation, suitable alternative duties may be considered.
7. All testing completed under this agreement will test for both Alcohol (breathalyser) and Drugs (saliva/urine).
8. A positive test result will be reported if levels of Alcohol or Drugs are found which reflect recent use (see Fitness for Work Policy for levels).
9. Refusal to submit to or co-operate fully with testing, to return two (2) or more dilute test results without reasonable cause, will be deemed a breach of this policy and the Employee will be subject to disciplinary action.
10. Employees who adulterate, substitute, tamper or falsify any sample will be subject to disciplinary action.

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|  |               |        | Date         | 30/03/2015 |
|  |               |        | Page         | 22 of 22   |