

# ENFORCEABLE UNDERTAKING

PART 11

*Work Health and Safety Act 2011 (Cth)*

24 February 2022

The commitments in this enforceable undertaking  
are offered to Comcare

By

John Holland Pty Ltd  
ACN 004 282 268

# PRIVACY STATEMENT

Your privacy is important to us. We will only collect, use or disclose personal information in accordance with the *Privacy Act 1988* (Cth) and if it is reasonably necessary for, or directly related to, one or more of our functions, powers and/or activities. These include functions and activities under the *Safety, Rehabilitation and Compensation Act 1988* (Cth), the WHS Act, the *Seafarer's Rehabilitation and Compensation Act 1992* (Cth), and the *Asbestos-related Claims (Management of Commonwealth Liabilities) Act 2005* (Cth). If Comcare does not collect personal information from you, for the purposes of its legislated functions or related functions, we may not be able to respond appropriately.

Comcare is the Commonwealth agency authorised by the WHS Act to collect personal information relevant to the exercise of functions and powers under the WHS Act, *Work Health and Safety Regulations 2011* and the administration and evaluation of Comcare's WHS programs. Any personal information collected in these forms will be used for those purposes.

In exercising our functions and powers, we may disclose personal information, subject to confidentiality of information provisions under the WHS Act, to the following bodies and agencies, including but not limited to:

- Comcare's internal and external legal advisers
- the Safety, Rehabilitation and Compensation Commission
- a court or tribunal
- state or territory work health and safety regulatory agencies
- personnel engaged by Comcare to conduct research related activities
- enforcement agencies or bodies
- state and territory Coroners
- Commonwealth, state or territory industry regulators
- any other person assisting Comcare in the performance of its functions or exercise of its powers, including contractors and consultants
- any other person where there is an obligation under law to do so (for example but not limited to, responding to the direction of a court to produce documentation).

For further information on how Comcare handles personal information, please read our Privacy Policy on our website. To request a change to your personal information or to make a complaint, please phone or email us at [privacy@comcare.gov.au](mailto:privacy@comcare.gov.au).

# ENFORCEABLE UNDERTAKING

## Purpose

The purpose of this enforceable undertaking is to document the undertakings offered to Comcare pursuant to Part 11 of the *Work Health and Safety Act 2011* (Cth) (**WHS Act**) in connection with matters relating to alleged contraventions of the WHS Act or the *Work Health and Safety Regulations 2011* (Cth) (**WHS Regulations**).

## 1. SECTION 1: GENERAL INFORMATION

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### 1.1. Details of the person proposing the undertaking

John Holland Pty Ltd (**John Holland**) (ACN 004 282 268) is:

<b>Registered address – Head Office:</b>	Level 9, 180 Flinders Street Melbourne Victoria, 3000
<b>Postal address:</b>	As above
<b>Telephone contact:</b>	(03) 8698 9400
<b>Email address:</b>	reception.melbourne@jhg.com.au
<b>Status under the WHS Act:</b>	Licensee
<b>Legal structure:</b>	Company
<b>Type of business:</b>	Australian Proprietary Company, Limited By Shares
<b>Commencement date of the entity:</b>	14 September 1950
<b>Number of workers (full time; part time; casual)</b>	Staff: 3,827; Workforce 1,728; Total: 5,538 direct employees.  The average number of indirectly employed project-based workers over the past 12 months is 16,000.
<b>Products and/or services:</b>	Major Infrastructure and building construction and engineering  Transport and rail construction, maintenance and operations  Energy and water construction and maintenance

<b>Comments:</b>	Not applicable
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## 1.2. Details of the alleged contravention(s)

An incident occurred during the construction of the Castle Hill Station, part of the Sydney Metro Project (**Project**), on 11 September 2018. As a result of Comcare's investigation into the incident, it is alleged that on 11 September 2018 John Holland failed to discharge its obligations as a person conducting a business or undertaking under section 19(1) of the WHS Act, in that it did not ensure so far as reasonably practicable the health and safety of workers engaged, or caused to be engaged, by John Holland while workers were at Castle Hill Station.

Specifically, Comcare has alleged that John Holland failed to provide and maintain a safe working environment without risks to health and safety pursuant to section 19(3)(a) of the WHS Act.

## 1.3. Details of the events surrounding the alleged contravention e.g. incident details

On 11 September 2018, a worker employed by a subcontractor of John Holland was preparing a work area for laying blocks. The work area included a riser to facilitate a mechanical duct. A penetration cover was over the riser. The worker stepped on the penetration cover and it gave way, resulting in the worker falling to the level of the build below.

## 1.4. Acknowledgement that Comcare alleged a contravention has occurred

It is acknowledged that Comcare has alleged that John Holland has contravened section 19(1) of the WHS Act.

## 1.5. Details of any injury that arose from the alleged contravention

The worker suffered a broken femur and a damaged patella to the left leg, and a laceration to their left elbow.

## 1.6. The details of any enforcement notices issued that relate to the alleged contravention

Were enforcement notices received?

Yes ☒

Please provide details in the table below.

<b>Date issued:</b>	12 September 2018
<b>Notice type:</b>	Prohibition Notice
<b>Notice number:</b>	MC7476-NT1

<b>Contravention or Prohibited Activity:</b>	Prohibited from carrying on, allowing, authorising or permitting, or carrying on in a specified way, all work within the workspace above the station platform, track and tunnelling until risks arising from penetration covers have been remedied
<b>Action taken in response to notice:</b>	<p>On the day of the incident, a direction was issued for all work in and around penetrations to stop.</p> <p>A Penetration Safety Audit was conducted at Castle Hill Station. The audit involved identifying all penetrations on site (119 in total) and confirming the status of protection in place, including additional remediation for some penetrations.</p> <p>The issuing inspector subsequently visited site and conducted an inspection. The inspector was satisfied that the risks subject of the notice had been remedied.</p>

Additional notices issued? NO

### When an alleged contravention is associated with an injury/illness

#### 1.7. Details of the support provided or proposed to the injured person

*Does the alleged contravention involve injury to a person?*

**No** ☐

or

**Yes** ☒

The injured person is:

An employee of the entity:	NO
A self-employed person:	NO
Other (please specify):	An employee of a subcontractor
Not applicable:	

#### 1.8. If the matter involves a death or very serious injury, or where the applicant has relevant prior convictions under the WHS Act, a claim to demonstrate that exceptional circumstances exist that the WHS undertaking is a more appropriate response than pursuing prosecution

Does the contravention involve a death or very serious injury?

☒ **No** ☐ **Yes**

Does the applicant have relevant prior convictions under the WHS Act within the preceding 5 years of the alleged contravention/incident:

☐ No ☒ Yes

If yes, provide details to demonstrate that exceptional circumstances exist.

Details to demonstrate that exceptional circumstances exist have been provided by John Holland in the supporting documentation accompanying this proposal.

1.9. Details of any existing work health and safety management system (WHSMS) at the workplace including the level of auditing currently undertaken

John Holland has an existing WHSMS compliant with AS/NZS ISO 45001:2018. Third party auditing of the workplace against AS/NZS ISO 45001:2018 is conducted on a yearly basis.

The health and safety of our employees, workforce and subcontractors is our first priority at John Holland. In order to achieve this, we need to ensure that we have systems and processes to manage risks to health and safety in place.

The fundamentals of the John Holland WHSMS includes key processes and procedures that must be implemented at our workplaces to effectively manage key risks and deliver our projects successfully. These key processes and procedures are to be implemented in conjunction with John Holland's Global Mandatory Requirements (**GMRs**).

The effectiveness of the WHSMS is also checked via internal audits. To ensure an independent approach and a high standard of auditing, all internal audits are undertaken by personnel with Lead Auditor Qualifications. John Holland is also accredited by the Federal Safety Commissioner for the WHS Accreditation Scheme. As part of the WHS Accreditation Scheme, John Holland is subject to ongoing audits to assess its compliance against the scheme's criteria.

1.10. Consultation within the workplace

As a result of the alleged contravention John Holland has consulted within the workplace regarding the proposal of a WHS undertaking in the following manner:

John Holland has carried out constructive consultation in relation to this proposal.

John Holland has engaged internally with its health and safety leaders and multiple teams, including Health Safety and Environment, Technology, Engineering and Knowledge, Corporate Affairs and Marketing, and Social Inclusion teams.

Externally, John Holland has engaged with beneficiaries named in this undertaking, including Wellness in Infrastructure which is made up of industry stakeholders, Professor Luke Downey, SydWest Multicultural Services, and NSW Aboriginal Consultative Group, as well as representatives from Comcare.



Industry groups have also been consulted, including the Australian Constructors Association and Master Builders Association, in relation to facilitating the presentation of lessons learnt from the incident and initiatives that will be undertaken by John Holland as part of the undertaking for working at height.

#### 1.11. A statement of regret that the incident occurred

John Holland deeply regrets that the incident on 11 September 2018 occurred and the worker sustained injuries as a result of the incident.

#### 1.12. Details of the rectifications to the workplace or work practices made as a result of the alleged contravention

As a result of the alleged contravention John Holland has made the following rectifications within the workplace:

The Company took action in response to the alleged contravention to ensure that risks to health and safety were being managed.

In addition to the Penetration Safety Audit conducted at Castle Hill Station mentioned at item 1.6 above, and engaging the Employee Assistance Program at the Project, the Company also undertook the following steps:

- Each of the Project's workplaces were notified of the incident and directed to immediately suspend all work in and around penetrations and check to ensure that all penetrations were protected and covers secured down;
- Each of the Project's workplaces were also instructed to carry out immediate inspections of work areas, with a focus on edge protection, penetration covers and perimeter fencing, among other things. The inspections were carried out with site-based safety committee members;
- Toolbox talks were conducted reminding workers about:
  - Implementing control measures listed in the Task Risk Assessment;
  - Establishing task lighting prior to any other set-up works; and
  - The use of Start Cards, barricades and signage; and
- The Project's Penetrations, Risers and Shafts Procedure was reviewed and amended to confirm how to obtain an engineering certificate for penetration covers greater than 1,000 mm via the Project's temporary works process.

Total amount spent on rectifications within the workplace, as outlined above:

The cost has not been quantified as all actions were internally resourced.

#### 1.13. Statement of assurance about future work health and safety behaviour

John Holland is committed to complying with its obligations under the WHS Act and ensuring, so far as reasonably practicable the health and safety of all

workers and that the health and safety of other persons who may be affected by its business or undertakings are not put at risk.

1.14. Statement of commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

John Holland commits that the behaviour that lead to the alleged contravention has ceased and that it will take all reasonably practicable steps to prevent recurrence of this type of incident.

1.15. Statement of commitment to the ongoing effective management of work health and safety risks

John Holland commits that it will exercise its best endeavours to the ongoing effective management of work health and safety risks.

1.16. Statement of ability to comply with the terms of the WHS undertaking and meet the projected costs of the activities

John Holland acknowledges that it has the financial ability to comply with the terms of the enforceable undertaking and has provided evidence in the documentation accompanying this proposal to support this declaration.

1.17. Details of any prior work health and safety convictions

Comcare requests a list outlining details of any prior work health and safety convictions or findings of guilt under work health and safety legislation<sup>2</sup> or work health and safety related legislation.

**Yes** ☒ The list is attached as an annexure.

Subject to any local legal constraints such as spent conviction legislation.

1.18. Statement of assurance relationships with beneficiaries (of donations or scholarship or financial benefit contained in this undertaking)

John Holland acknowledges there are no known current relationships with any of the beneficiaries outlined in the enforceable undertaking, other than the current workers of John Holland (and industry associations of which John Holland is a member, although these benefits are not donations or scholarship or financial in nature).

1.19. Statement regarding Intellectual Property Licence

John Holland grants Comcare a permanent, irrevocable, royalty- free, worldwide, non-exclusive licence to use, reproduce, distribute, electronically transmit, electronically distribute, adapt and modify any materials developed as a result of this enforceable undertaking. To the extent that Comcare proposes to use, reproduce, distribute, electronically transmit, electronically distribute, adapt or



modify any materials incorporating any trade marks or branding of John Holland or its Related Bodies Corporate (as that term is defined in the *Corporations Act 2009* (Cth)) under this term 1.19, it will: (a) provide John Holland with samples of the proposed use of the trade mark or brand, and obtain John Holland's prior written approval to such use; and (b) comply with all branding guidelines and other directions provided by John Holland from time to time.

#### 1.20. Acknowledgement of WHS undertakings guidelines

John Holland has read and understood Comcare's enforceable undertaking guidelines for proposing a WHS undertaking.

## 2. SECTION 2: ENFORCEABLE TERMS

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### 2.1 Acknowledgement that the WHS undertaking will be published and publicised

John Holland acknowledges that the enforceable undertaking will be published on Comcare's internet site and may be referenced in Comcare's publications.

John Holland will, within thirty (30) days of the date of acceptance of this enforceable undertaking, cause a public notice to be published in The Australian, which will be drafted using the script provided in Annexure 1.

### 2.2 A commitment regarding linking the strategy and promotion of benefits to the WHS undertaking

John Holland is committed to ensuring that any promotion of a benefit arising from this enforceable undertaking will clearly link the benefit to the undertaking and that the undertaking was entered into as a result of the alleged contravention.

### 2.3 A commitment to disseminate information about the undertaking to workers, and other relevant parties (which may include work health and safety representatives), and in the annual report (if applicable)

John Holland agrees to disseminate information about the enforceable undertaking within the workplace, including to the members of any health and safety committee, health and safety representatives and all subcontractors working for John Holland. This information will be disseminated through John Holland's internal social media Workplace, John Holland's Intranet, a Leaders Call, Health, Safety and Environment (HSE) Managers Safety Forum, email announcement to leaders including workplace managers; and instructions to post a notice about the undertaking will be given to infrastructure and building projects nationally, all of which will be completed within three months from the date of acceptance of the enforceable undertaking.

John Holland commits that it will publish details of the enforceable undertaking in the first annual report due after the date the undertaking is accepted. John Holland's annual report is published by 1 April each year.

### 2.4 A commitment to participate constructively in all compliance monitoring activities of the undertaking

John Holland acknowledges that the responsibility for demonstrating compliance with this undertaking rests with the person who has given this undertaking. Evidence to demonstrate compliance with the terms will be provided to Comcare by the due date for the term, and in accordance with any Monitoring Plan agreed between the parties.

John Holland acknowledges that Comcare may undertake other compliance monitoring activities to verify the evidence that is provided and compliance with the relevant term. The evidence provided to demonstrate compliance with the

undertaking will be retained by the person who has given this undertaking until advised by Comcare that the undertaking has been completely discharged.

John Holland acknowledges that Comcare may initiate additional compliance monitoring activities, such as verification inspections, as considered necessary at Comcare's expense, and in addition to any Monitoring Plan agreed between the parties.

## 2.5 Undertakings that will deliver benefits for workplace, industry and community

### ➤ Undertakings that will deliver workplace and industry benefits

#### 1. Immersive technology application for working from height training

##### **Scope:**

John Holland will develop a virtual reality (VR) application (app) using game engine technology to be used for working from height training, corresponding to John Holland's GMR No.5 Working at Height, and provide that VR experience to its broad workforce.

The VR training app and its complete Unity (being the Gaming Engine to be used to create the VR app) project files, such as scenes, relevant assets and codes or equivalent if other engines are used, will also be made freely available to construction industry participants under a certain freeware license to enable them for modification and their private non-commercial use.

##### **Target issue:**

Working at height is a high risk activity and according to Safe Work Australia, a leading cause of death and serious injury in the Australian construction industry, based on the most recent statistics from the Construction Industry Profile.

Information, instruction and training about fall hazards, risks and control measures, as well as procedural awareness, must be provided to ensure workers understand the fall hazards to which they are exposed, the risk of injury, why control measures are needed and how to implement and maintain them.

Traditional training may be improved by better engagement, and this VR technology could provide that engagement, but it is not yet been utilised in safety applications in the construction industry. The VR app is expected to provide a much better training experience and therefore better training outcomes than class-room style or paper-based training because it is immersive and interactive.

The VR training app will provide trainees with an opportunity to practice identifying and assessing hazards and risks in specific tasks and scenarios that will closely resemble real-world scenarios, which is intended to bridge the gap between classroom-conducted safety training and real-life, on-the-job training.

Research has shown many advantages of the active experience of VR training compared with conventional methods, including:

- Hazardous situations can be experienced without compromising the safety of the trainee;
- More engaging training leads to more motivation and focus for the trainees;
- Higher learning retention rates; and
- Programmed consequences provide immediate feedback to the trainee, with the gaming technology allowing repeated feedback.

**Tangible outputs / deliverables:**

A standalone VR training app will be created in accordance with John Holland's GMR No.5 Working at Height. The training will address the critical controls required through the "planning" process (hazard identification of falls from height of persons or objects, preventative engineered controls) and the "doing" process (authorisations, training, approvals).

John Holland will provide the draft content of the material to Comcare for review.

The VR training app will be deployed on a single project initially, assistance and training for the VR training app will be provided and feedback will be gathered for improvement.

John Holland will invite Comcare to be involved in the feedback process.

The VR training app will then be scaled up and rolled out across targeted John Holland workplaces with assistance from John Holland's Learning and Development (**L&D**), Technology, Engineering and Knowledge (**TEK**) and HSE teams, including provision of required hardware and onsite technology capability.

The VR training app and its complete Unity project files will be made freely available under a freeware license, and John Holland will also provide technical support for industry users by providing a contact point for external users to communicate lessons learnt and for technical assistance.

**Audience / beneficiaries:**

The VR training app is applicable to any workers, including subcontractors, working on John Holland projects, particularly in the Building and Infrastructure divisions where work from height is most common, and any other staff, including managers, who need to understand working at height risks and controls.

It is also applicable to workers in the wider construction industry, outside John Holland's workforce. To facilitate this, the published VR training app and its complete Unity project files will be shared online. This will provide other construction industry participants with the option of a VR training app for a common safety hazard in the industry at no cost. It will also allow construction industry participants who are thinking about developing safety-related VR apps to see the benefits and make a business case to go ahead and develop their own.

**Delivery method:**

An external VR Developer will be engaged to develop this VR training app using a game engine and software development kits (**SDKs**) such as Unity and OpenVR/OpenXR.

John Holland's Digital Engineers in its TEK team will collaborate with the VR Developer, John Holland HSE and L&D teams to design the VR experience and

ensure GMR training outcomes are met. Comcare will also be invited to be involved in this process.

A John Holland-led construction project will be selected for initial deployment, training and feedback gathering. The project selected will be carefully considered for its suitability and the presence of critical fall from height risks.

A TEK Knowledge Manager will work with the other John Holland teams to capture the feedback and learning and also assess the need for any improvement. Comcare will also be invited to be involved in this process.

The VR app will then be rolled out to a further two (2) John Holland projects with the TEK team providing the technical support when required.

The VR training app is intended to be rolled out to John Holland offices and further projects outside the scope of this undertaking.

The VR training app and its complete Unity project files will be made freely available under a freeware license, and John Holland will also provide technical support for industry users by providing a contact point for external users to communicate lessons learnt and for technical assistance.

#### **Timeframes:**

John Holland otherwise agrees to provide quarterly updates to Comcare on the progress of all of the undertakings.

<b>Stages</b>		<b>Commencement</b>	<b>Completion</b>
1.1	Engagement and planning	Within 1 month of the acceptance of this undertaking	Within 3 months of the acceptance of this undertaking
1.2	Solution development	Following stage 1.1	Within 5 months following stage 1.1
1.3	Deployment, training and finalisation	Following stage 1.2	Within 3 months following stage 1.3
2	Project/business rollout at targeted workplaces	Following stage 1.3	Within 12 months following stage 1.3
3	Publish VR training app and complete Unity project files online and promote to industry	Following stage 2	Within 1 month following stage 2
<b>Overall:</b>		<b><i>Within 24 months of the acceptance of this undertaking</i></b>	

#### **Work health and safety outcome:**

As described in the advantages above, VR supports better safety training due to its immersive nature, active environment and feedback.

A supervisory function of the VR training app will collect data, including name and company (including subcontractors), training time and results, which will provide valuable information about engagement, learning and competencies.

Following 12 months of using the VR training app at John Holland workplaces, John Holland will present the benefits to the wider industry in order to promote the use of the technology to improve training engagement for other workers in our industry. This presentation forms part of undertaking 4 below.

**Cost Breakdown:**

Documents supporting the cost breakdown below have been provided by John Holland in the supporting documentation accompanying this proposal, together with evidence supporting the benefits of delivering VR training in the workplace and a copy of GMR No. 5 Working at Height.

Description	\$ Amount
Engaging an external visualisation company to create the application	\$215,050
Project management	\$52,500
Project equipment and set up (Sydney / Melbourne / Brisbane / Perth)	\$80,000
Travel costs for set up	\$5,000

**Total estimated cost: \$352,550**

**2. Immersive technology for site inductions****Scope:**

John Holland will investigate and develop a solution which utilises 360 camera and VR systems to improve the current John Holland site induction process. Locations, site plans, and key hazards will be recorded and identified for an immersive visual experience.

John Holland will also make the details of the equipment used and the software selected to create the interactive induction freely available to construction industry participants.

**Target issue:**

Site specific induction training is used frequently on site in order to give workforces a clear indication of site hazards, rules, procedures, management and consultation details and must be given prior to any worker commencing work for the first time on site.

Methods of delivery for site induction training is verbal via PowerPoint using workplace images. There is a risk of workers being disengaged, and the efficacy of the training can be impacted by the method of delivery.

Interactive footage will provide a more immersive visual experience during the induction which will improve engagement, familiarisation, and understanding of a site. A 360 degree camera with VR systems will be able to adapt to include future development of the site through construction phases, and document spaces which are not normally visible or easily accessible for inspection.

As described above, a more immersive and active environment also has benefits of improved retention of knowledge through engagement without compromising the safety of the trainee. The virtual induction solution is expected to provide a much better training experience and therefore better training outcomes than class-room style or paper-based training because it is immersive and interactive.

**Tangible outputs / deliverables:**

John Holland will investigate technical solutions that can be employed to create 360 interactive site inductions.



The 360 degree interactive induction will be able to support multi-media content including, 360 video, regular video, animations, images and texts and is easy and user-friendly to be updated to suit the changing construction environment.

The virtual site induction will be a standalone desktop application and potentially a VR app for VR-ready projects. It will be rolled out with assistance from John Holland's L&D, TEK and HSE teams, including provision of required hardware and onsite technology capability.

The details of the equipment used and the software selected to create the interactive induction will be shared with the industry participants.

**Audience / beneficiaries:**

The intended audience is any worker, including subcontractors, working on a John Holland project requiring site induction.

It is also applicable to workers in the wider construction industry, outside John Holland's workforce. To facilitate this, the virtual induction solution and the details of the equipment used and the software selected to create it will be made freely available to construction industry participants.

**Delivery method:**

John Holland will select a project to record the 360 degree content required for site induction, working with that particular project team. The content will be provided to Comcare for review.

Using the 360 degree content captured, John Holland's TEK team will select and explore solutions to create an immersive site induction app. The result will be reviewed by TEK to recommend the most appropriate solution. The aim is to provide a solution which can be delivered from a desktop computer or a VR headset.

The virtual site induction will be rolled out on the single project and to Comcare for feedback. As the project progresses, more content will be captured and updated by the project and HSE team. The TEK team will provide training and support to the project along the way.

Lessons learnt from the process will be captured and the immersive site induction development solution and process will be introduced to two (2) other John Holland projects for a 6 month period which are at a suitable stage for implementation of the virtual site induction.

The Immersive site inductions are intended to be rolled out to further projects outside the scope of this undertaking.

The details of the equipment used and the software selected to create the interactive induction will be shared with the industry participants.

**Timeframes:**

John Holland otherwise agrees to provide quarterly updates to Comcare on the progress of all of the undertakings.

<b>Stages</b>		<b>Commencement</b>	<b>Completion</b>
1.1	Project selection and planning	Within 1 month of the acceptance of this undertaking	Within 3 months of the acceptance of this undertaking

Stages		Commencement	Completion
1.2	Footage recording and material gathering	Following stage 1.1	Within 1 month following stage 1.1
1.3	Solution development	Following stage 1.2	Within 3 months following stage 1.2
2	Project implementation and improvements	Following stage 1.3	Within 6 months following stage 1.3
3	Knowledge capture and roll out to 2 further projects	Following stage 2	Within 6 months following stage 2
4	Publish virtual site induction information online and promote to industry	Following stage 3	Within 3 months following stage 3
<b>Overall:</b>		<b><i>Within 22 months of the acceptance of this undertaking</i></b>	

#### **Work health and safety outcome:**

As described in the benefits above, visual and interactive virtual site inductions will be more engaging and impactful, including hazards not able to be captured with conventional methods. This will build greater understanding of site hazards and risks among workers and can be performed off-site.

Following six (6) months of using the immersive site inductions solution at two (2) John Holland workplaces, John Holland will present the benefits to the wider industry in order to promote the use of the technology to improve engagement for site inductions for other workers in our industry. This presentation forms part of undertaking 4 below.

#### **Cost Breakdown:**

A document supporting the cost breakdown below has been provided by John Holland in the supporting documentation accompanying this proposal.

Description	\$ Amount
Project management/Coordination/Technical Development	\$52,500
Knowledge capture	\$10,000
Content development and training	\$90,000
Software cost over 2 years	\$30,000
Hardware cost	\$38,000
Travel	\$5,000

**Total estimated cost:                      \$225,500**

### **3. Immersive / Digital Engineering technology for GMR Good Practices**

#### **Scope:**

John Holland will use a 360 degree camera or photogrammetry technologies to record good GMR practices and link them to the respective GMRs on the John Holland GMR Online Guide website ([gmr.jhq.com.au](http://gmr.jhq.com.au)), which is publicly available.

#### **Target issue:**

The purpose of John Holland's GMRs are to protect the lives of the people we work with and the environment we work in.

The GMRs identify the key risks we are exposed to across our business and provide clarity on how these risks must be managed. The GMRs have been developed to provide a clear and concise point of reference for our key risks, and apply to all John Holland workers (including employees, contractors and subcontractors), joint venture partners, visitors and workplaces where applicable.

All work must be conducted in accordance with the GMRs and their critical controls. It is important that they are understood and demonstrated in a dynamic and engaging way, which technology can help provide.

Currently, the GMR Online Guide is supplemented by regular camera images from across the John Holland business.











### **Tangible outputs / deliverables:**

John Holland will use 360 degree cameras to capture real GMR practices.

A drone could also be used where a 360 camera is not possible, to produce a photogrammetry model.

The outputs will be linked to the John Holland GMR Online Guide website ([gmr.jhq.com.au](http://gmr.jhq.com.au)) to form supplementary material for each GMR to give the audience real John Holland project examples that they can interact with.

The GMRs are made up of ten (10) key risks that would result in significant consequence if not appropriately managed, throughout the life of a project. These risks are outlined below. There are 9 WHS-related GMRs – 1-8, and 10.

GMR		Personal Commitment
1	 <b>Traffic, Plant and People</b>	I will protect myself and others from interactions with plant
2	 <b>Excavation and Trenching</b>	I will only enter an excavation or trench with approved support or controls in place
3	 <b>Lifting Operations</b>	I will only engage in lifting operations if trained and competent to do so
4	 <b>Electrical Safety</b>	I will protect myself and others from electrical hazards
5	 <b>Working at Height</b>	I will protect myself and others from falling objects and falls from height
6	 <b>Wellbeing</b>	I will take care of my own wellbeing and the wellbeing of others
7	 <b>Temporary Works</b>	I will support the safe delivery of temporary works
8	 <b>Isolation</b>	I will protect myself and others against exposure to energy sources
9	 <b>Environmental Management</b>	I will protect the environment, prevent pollution, and minimise waste and resource use
10	 <b>Work on Rail</b>	I will only enter and work in the Rail Danger Zone when all the required controls are in place

### **Audience / beneficiaries:**

The GMRs are applicable to all John Holland workers (including employees, contractors and subcontractors), joint venture partners, visitors and workplaces.

### **Delivery method:**

John Holland will record footage demonstrating each GMR using 360 degree VR camera or drone depending on suitability. The material/footage will be captured over a period of 15 months.

What can be captured and which GMR will be relevant will be dependent on the activities on John Holland projects at any given time.

John Holland will engage its subject matter experts, project based teams and HSE teams to actively participate in planning for GMR footage to be taken when relevant events are planned to occur.

The footage will then be published on the GMR Online Guide website, which is publicly available to the wider construction industry. Once published, a link to the website ([gmr.jhg.com.au](http://gmr.jhg.com.au)) will be sent to Comcare.

**Timeframes:**

John Holland otherwise agrees to provide quarterly updates to Comcare on the progress of all of the undertakings.

Stages		Commencement	Completion
1	Project planning	Within 1 month of the acceptance of this undertaking	Within 3 months of the acceptance of this undertaking
2	Footage recording and material gathering	Following stage 1	Within 15 months following stage 1
3	Edit and complete footage and publish on website	Following or during stage 2	Within 24 months of the acceptance of this undertaking
4	Promote website to users	Following stage 3	Within 24 months of the acceptance of this undertaking
<b>Overall:</b>		<b><i>Within 24 months of the acceptance of the undertaking</i></b>	

**Work health and safety outcome:**

With a preference for best practice demonstration, this undertaking will promote a positive safety culture and supplement the GMR training conducted across John Holland.

The technology will allow spaces which are not normally visible or easily accessible, to be recorded, documented and inspected, resulting in improvements in understanding the GMRs by workers.

John Holland will communicate and promote the website when the WHS-related GMRs have been supplemented with the 360 degree footage. This will be achieved through John Holland HSE leaders, intranet, internal social media, and communications at the workplace and through the procurement process. The website ([gmr.jhg.com.au](http://gmr.jhg.com.au)) will also be promoted at the presentation which forms part of undertaking 4 below.

**Cost Breakdown:**

A document supporting the cost breakdown below has been provided by John Holland in the supporting documentation accompanying this proposal.

Description	\$ Amount
Footage capture and processing	\$60,000
Knowledge capture for Knowledge Management System integration	\$12,250
Technical support	\$10,000

Description	\$ Amount
Software for editing and creating photogrammetry	\$20,000
Drone and other equipment and licence	\$18,000
Travel	\$10,000

**Total estimated cost:                   \$130,250**

#### **4. Presentation to industry on working at height and immersive safety training applications**

**Scope:**

John Holland will prepare a presentation for the construction industry that will be in two parts: the first part will cover the incident and lessons learnt. The format for this information will be aided by an animation of the incident; the second part will cover the VR training app and immersive induction applications that have been developed as part of undertakings 1 and 2 above.

**Target issue:**

Construction sites are dynamic and evolving workplaces, with multiple persons conducting businesses or undertakings (PCBU) all working alongside one another, and influencing the work being carried out. Managing the changing hazards to maintain risk controls for falls from height can present challenges.

Bringing awareness to the construction industry about the incident, the learnings from the incident and subsequent steps taken by John Holland for working at heights as part of undertakings above can assist the audience to reflect on their own working at height controls, including options for how training is delivered, and other controls for working alongside, and/or in conjunction with, other PCBUs.

**Tangible outputs / deliverables:**

John Holland will engage an animation developer to produce an animation of the incident. John Holland's HSE team will collaborate with the animation developer to create the video. Comcare will be invited to participate in this process. This video will be used as part of a presentation to construction industry participants about the incident.

The presentation will also discuss the VR training app and the immersive induction solution developed as part of undertakings 1 and 2 above, and highlight the free availability of the technology. The presentation will also refer to the recording of good GMR practices which will be available on the John Holland GMR Online Guide website, as part of undertaking 3 above.

**Audience / beneficiaries:**

John Holland has approached the Australian Constructors Association, the Office of the Federal Safety Commissioner and the Master Builders Association (NSW) to inform them about this undertaking and to assist facilitate the proposed presentations, should the undertaking proceed. The results of those approaches and the forums identified for the presentations will be confirmed in consultation with Comcare. The fact that forums may not be immediately available has been

**Total estimated cost: \$20,600**



## **5. Wellness in Infrastructure Mentorship Program**

### **Scope:**

John Holland will partner with, and make a financial contribution to, the *Wellness in Infrastructure Mentoring Program*.

Wellness in Infrastructure (**WII**) is a steering group which was established by a number of lead contractors in Victoria in response to research into the psychological impact of work-related stress and related occupational factors in the Australian construction and infrastructure industry. The research is known as the 'Downey-Swinburne Report'.

The WII Steering Committee is in discussions with the Australian Constructors Association's WHS Board Advisory Group about a formal association as a way of increasing the engagement of the broader construction industry and levels of support.

The Mentoring Program will select and train mentors and mentees, benchmark evaluations for emotional intelligence (**EI**), run speaking events, group sessions with specialised EI coaching, publicise, program evaluation, and develop a smart phone application in order to build the skillset of mentors and mentees.

### **Target issue:**

The infrastructure construction industry has particular occupational factors which have been shown to result in a higher prevalence of depression, anxiety and stress than in the general population.

Existing programs focus directly on workforce rather than on skill building of other roles in the industry which could influence the systemic causes.

The Mentoring Program will build capability and capacity in addressing the 'Six Hazards and Contributing Factors' that were identified in the research:

1. **Pressure** - workload, work schedules and work environment;
2. **Influence** - employee ability to control aspects of their workload and direction;
3. **Promotion** - employee support, development, encouragement and resources provided;
4. **Relationships** - positive relationships built on foundational rapport at all levels;
5. **Role** - employee understanding of role in industry/organisation and description of that role; and
6. **Change** - how organisational change is managed and communicated.

### **Tangible outputs / deliverables:**

WII will assess the Mentoring Program via:

1. Self-assessment to identify improvements in personal resilience; and
2. Post-implementation review.

Program materials produced for the Mentoring Program will be provided to Comcare for review.

A mid-point Mentoring Program review will be produced and provided to Comcare.

A report on the outcomes of the Mentoring Program will be produced and provided to Comcare.

**Audience / beneficiaries:**

WII is focussed on industry wide improvement in the mental health and wellbeing of workers.

The Mentoring Program is aimed at all functions within the construction industry, including the safety, quality, human resources, stakeholder engagement and commercial functions in order to improve the management of mental health issues now and to impact the design of the industry in the future.

**Delivery method:**

The Mentoring program will complete its planning phase, to build processes and selection criteria and administration of the program.

An engagement phase will involve the soft launch of the program, including information sessions and open applications and selection of mentors and mentees.

The mentors and mentees will participate in an introduction to the program, and will then be involved in group training in the 'Six Hazards and Contributing Factors' outlined above.

The EI of participants at the start and end of the Mentoring Program will be measured, and the outcomes evaluated.

**Timeframes:**

<b>Stages</b>		<b>Commencement</b>	<b>Completion</b>
1	Project planning	Within 1 month of the acceptance of this undertaking	Within 3 months of the acceptance of this undertaking
2	Soft launch/information sessions	Following stage 1	Within 4 months following stage 1
3	Applications and selection of participants	Following stage 2	Within 2 months following stage 2
4	Program start – preparation workshops and group sessions	Following stage 3	Within 6 months following stage 3
5	Midpoint program review	Following stage 4	Within 2 months following stage 4
6	Group session 3	Following stage 5	Within 1 month following stage 5
7	Close workshop	Following stage 6	Within 3 months following stage 6
8	Program end review	Following stage 7	Within 3 months following stage 7
<b>Overall:</b>		<b><i>Within 24 months of the acceptance of this undertaking</i></b>	

**Work health and safety outcome:**

The mentees will understand the importance of robust mental health, the challenges the industry presents and have a level of competency in managing mental health issues.

The mentees will become wellness champions, working to destigmatise mental health and build a future industry that addresses the systemic challenges, taking the learnings back to their organisations to build effective change within their discipline and beyond.

Success will be measured in the individual improvement of EI of participants and assessment of the program.

WII and John Holland will approach the Australian Constructors Association and Comcare to jointly launch the program to share its benefits.

The WII website will include information about the program, and it will also be promoted via social media through WII's presence on LinkedIn.

WII will also approach boards and members of other industry bodies such as Roads Australia, Engineers Australia, Consult Australia, Civil Contractors Federation to share the results of the program.

#### **Cost Breakdown:**

A document supporting the cost breakdown below has been provided by John Holland in the supporting documentation accompanying this proposal, together with a copy of the Downey-Swinburne Report and evidence of other activity taken to date within the infrastructure construction industry in response to the report.

Description	\$ Amount
Pre-program costs (content planning and design launch events, information sessions, promotional materials, application processing)	\$41,500
Workshops and group sessions	\$45,000
EI evaluations and coaching	\$41,440
Program evaluation and reporting	\$10,000
Knowledge transfer and sharing, media, speaking events	\$10,000
Program administration and support including smart-phone app	\$30,000

**Total estimated cost: \$177,940**

**Total estimated cost of workplace and industry benefits \$906,840**

#### **> Undertakings that will deliver community benefits**

### **6. Developing the next generation of Aboriginal & Torres Strait Islander Engineers**

#### **Scope:**

John Holland acknowledges the responsibility to support the communities in which it operates. For this undertaking, John Holland is seeking to provide benefits to the community where the incident occurred.

John Holland will partner with NSW Aboriginal Education Consultative Group (**AECG**) to support regional Science, Technology, Engineering, and Maths (**STEM**) camps, annual scholarships and work experience for Aboriginal and Torres Strait Islander students undertaking STEM-related university studies.

**Target issue:**

It has been reported that:

- Aboriginal and Torres Strait Islander students represent a very small proportion of STEM enrolments in tertiary education, especially in engineering, building, natural and physical sciences, architecture and IT.
- Aboriginal and Torres Strait Islander students perform worse in STEM education than their non-aboriginal peers. For example, 68% of Aboriginal and Torres Strait Islander students scored below the international standard in Year 8, compared with 34% of non- Aboriginal and Torres Strait Islander students. Science results were similar.
- Gaps in STEM achievement have remained steady over the past 20 years.
- Aboriginal and Torres Strait Islander students are less likely to express interest in a STEM-related career.
- Aboriginal and Torres Strait Islander students often rely on parents and/or local communities for career advice, which may be fragmented.

*Source: Australian Government, Dept Education, Skills and Employment*

<https://www.dese.gov.au/australian-curriculum/national-stem-education-resources-toolkit/i-want-know-about-stem-education/which-school-students-need-stem-education/aboriginal-and-torres-strait-islander-students>

**Tangible outputs / deliverables:**

John Holland will form a partnership with AECG to sponsor existing NSW AECG STEM camps for three (3) years and/or target new regional locations for the program. John Holland will also participate where practicable in the STEM camps, for example by providing guest speakers from John Holland.

John Holland will also support the design of scholarship guidelines and help select winners and fund scholarships each year, with a minimum of one female scholarship winner per year.

John Holland will also provide opportunities for STEM camp students and scholarship winners to visit John Holland projects/offices to learn more about the construction industry.

The financial contribution will amount to \$150,000 over the duration of the undertaking. AECG and John Holland will provide Comcare with a report at the end of each year outlining the activities delivered through the partnership.

**Audience / beneficiaries:**

This undertaking is aimed at Aboriginal and Torres Strait Islander secondary school students.

**Delivery method:**

AECG and John Holland, via this partnership, are committed to increasing Aboriginal and Torres Strait Islander participation within John Holland and the wider construction industry. John Holland has demonstrated this commitment through employment targets, including in its Reconciliation Action Plan.

The NSW AECG STEM camps for Aboriginal and Torres Strait Islander students in remote and regional parts of NSW foster students' interests in STEM subjects and allow students to engage with industries to see the practical applications of STEM.

AECG and John Holland will also work together to deliver annual scholarships valued and casual, ongoing paid work experience for Aboriginal and Torres Strait Islander students (at least one female student) on a John Holland project or corporate office while they complete their university studies.

#### **Timeframes:**

<b>Stages</b>		<b>Commencement</b>	<b>Completion</b>
1	Partnership development and launch	Within 1 month of the acceptance of this undertaking	Within 4 months of the acceptance of this undertaking
2	STEM Scholarship development	Following stage 1	Within 2 months following stage 1
3	Applications for first round of STEM Scholarships open	Following stage 2	Within 3 months following stage 2
4	First round scholarship winners announced	Following stage 3	Within 2 months following stage 3
5	Annual STEM camps	Following stage 1	Within 12 months following stage 2
6	Applications for second round STEM Scholarships open	Following stages 3-5	Within 12 months following stage 5
7	Second round scholarship winners announced	Following stage 6	Within 2 months following stage 6
8	Annual STEM camps	Following stages 3-5	Within 12 months following stage 5
9	Applications for third round STEM scholarships open	Following stages 6-8	Within 12 months following stage 8
10	Third round scholarship winners announced	Following stage 9	Within 2 months following stage 9
11	Annual STEM camps	Following stages 6-8	Within 12 months following stage 8
<b>Overall:</b>		<b><i>Within 36 months of the acceptance of this undertaking</i></b>	

#### **Community outcome:**

The aim of the partnership is to increase the number of regional Aboriginal and Torres Strait Islander students attending NSW AECG regional STEM camps, and to increase the number of Aboriginal students undertaking STEM courses at university level.

The partnership will also support long term sustainable employment outcomes for Aboriginal and Torres Strait Islander people and provide a clear pathway into a potential career in the construction industry.

#### **Cost Breakdown:**

A document supporting the allocation of costs below from AECG has been provided by John Holland in the supporting documentation accompanying this proposal.

<b>Description</b>	<b>\$ Amount</b>
STEM camps (\$15,000 per annum)	\$45,000
Scholarships (\$30,000 per annum)	\$90,000

Description	\$ Amount
Administration/communication (\$5,000 per annum)	\$15,000

**Total estimated cost: \$150,000**

## **7. Supporting disengaged CALD & Refugee youth from Western Sydney**

### **Scope:**

John Holland acknowledges the responsibility to support the communities in which it operates. For this undertaking, John Holland is seeking to provide benefits to the community where the incident occurred.

John Holland will partner with SydWest Multicultural Services (**SydWest**), a not-for-profit organisation supporting culturally diverse communities in Western Sydney. This will involve John Holland becoming a financial sponsor and employment partner of SydWest's Youth Transition program for the duration of this undertaking.

### **Target issue:**

It has been reported that:

- Western Sydney has higher refugee and culturally and linguistically diverse (**CALD**) populations posing barriers to employment and training for young people. Young people in Western Sydney experience significantly higher rates of unemployment – in some LGA's it is three times higher than Sydney average.
- COVID-19 has decreased employment outlook for young people in Western Sydney. Lockdowns have been shown to impact mental health and wellbeing due to loss of employment and social isolation.

Source: 'Our Place, Building CALD Capacity for Healthy Environments', Western Sydney University and the United Nations Regional Centre of Expertise in Education for Sustainability Development Greater Western Sydney  
[https://www.westernsydney.edu.au/\\_data/assets/pdf\\_file/0004/1056388/CALD\\_Report\\_V7.pdf](https://www.westernsydney.edu.au/_data/assets/pdf_file/0004/1056388/CALD_Report_V7.pdf)

Source: The Centre for Western Sydney  
<https://www.westernsydney.edu.au/cws/media/youth-unemployment>

Source: Mental health services in Australia – web report  
<https://www.aihw.gov.au/reports/mental-health-services/mental-health-services-in-australia/report-contents/mental-health-impact-of-covid-19>

### **Tangible outputs / deliverables:**

John Holland will sponsor the program by making a financial contribution of \$165,000 over three (3) years.

John Holland will support the existing program, with opportunities for John Holland employees to engage with the participants via volunteering, events, and the creation of employment pathways.

SydWest and John Holland will provide Comcare with a report at the end of each year outlining the engagement activities and benefits of the program.



**Audience / beneficiaries:**

The target group for the Youth Transition program is young people aged 15-24 in Western Sydney from migrant and refugee backgrounds.

**Delivery method:**

SydWest's Youth Transition program supports disengaged young people from migrant and refugee backgrounds to prepare for employment and to establish themselves in the labour market by improving their connection and access to employment services and programs. The program includes:

- Education and employment pathway workshops (e.g. apprenticeships and traineeship programs);
- Referrals to relevant agencies;
- Advocating;
- Information sessions on the Australian education system; and
- Employment training with TAFE NSW Western Sydney (resume writing, job search skills, job interview skills, employment related computer skills and career planning).

John Holland's financial contribution and members of its Social Inclusion team will support SydWest with these services and programs.

**Timeframes:**

<b>Stages</b>		<b>Commencement</b>	<b>Completion</b>
1	Partnership development and launch	Within 1 month of the acceptance of this undertaking	Within 3 months of the acceptance of this undertaking
2	First year financial sponsorship	Following stage 1	Within 12 months of acceptance of this undertaking
3	Engagement activities	Following stage 1	Within 12 months of acceptance of this undertaking
4	Program review	Following stages 2-3	Within 12 months of acceptance of this undertaking
5	Second year financial sponsorship	Following stage 4	Within 12 months following stage 4
6	Engagement activities	Following stage 4	Within 12 months following stage 4
7	Program review	Following stages 5-6	Within 12 months following stage 4
8	Third year financial sponsorship	Following stage 7	Within 12 months of stage 7
9	Engagement activities	Following stage 7	Within 12 months of stage 7
10	Program review	Following stages 8-9	Within 12 months of stage 7
<b>Overall:</b>		<b><i>Within 36 months of the acceptance of this undertaking</i></b>	

**Community outcome:**

The aim of the partnership is to support SydWest with its services and programs, in particular its Youth Transition program, for the duration of this undertaking. Success will be measured by program and training completion rates, and

employment outcomes achieved, which will be covered in the reports SydWest and John Holland provide to Comcare at the end of each year.

#### **Cost Breakdown:**

A document supporting the allocation of costs below from SydWest has been provided by John Holland in the supporting documentation accompanying this proposal.

<b>Description</b>	<b>\$ Amount</b>
Sponsorship (\$45,000 per annum)	\$135,000
Administration and events (\$10,000 per annum)	\$30,000

**Total estimated cost: \$165,000**

**Total estimated cost of community benefits \$315,000**

**TOTAL ESTIMATED VALUE OF THE UNDERTAKINGS \$1,221,840**

#### **2.6 A commitment to establish and maintain (or maintain if a system already exists) a WHSMS**

John Holland is committed to ensuring its existing WHSMS complies with the principles of AS/NZS ISO 45001:2018 *Occupational health and safety management systems – Requirements with guidance for use*.

John Holland acknowledges that the WHSMS will be maintained in accordance with the standard.

#### **2.7 A commitment to ensure the WHSMS is audited by third-party auditors**

John Holland commits to ensuring the WHSMS will be audited by accredited third-party auditors to meet the requirements of AS/NZS ISO 45001:2018 *Occupational Health and Safety Management Systems – Requirements with guidance for use*, in accordance with established timeframes as set out below.

John Holland acknowledges that the third-party auditors selected to perform WHSMS audits must be certified by a certification body accredited by JAS-ANZ to AS/NZS ISO/IEC 17024:2013 *Conformity Assessment - General requirements for bodies operating certification of persons*.

John Holland acknowledges that details of the auditors' qualifications against the stated requirements will be provided with audit reports submitted to Comcare.

John Holland acknowledges that an initial third-party audit will be undertaken in the first December following the date of acceptance of the enforceable undertaking and in the same month each year thereafter for the duration of the enforceable undertaking.

2.8 A commitment to provide a copy of each finalised WHSMS audit report to Comcare

John Holland acknowledges that audit reports received from the auditor will be sent to Comcare, by the end of the next month following completion of each of the audits, along with a letter certifying that the report has not been altered from the copy provided to the person by the auditor.

John Holland acknowledges that on sending the auditor's written report, Comcare will also be advised of the intended actions in addressing each of the report's recommendations.

2.9 A commitment to implement the recommendations from these audits (unless otherwise negotiated with Comcare)

John Holland commits to fully implementing the intended actions arising from the audit within a reasonable timeframe from receiving the audit report and in accordance with the action plan agreed between John Holland and the WHSMS auditor.

## 2.10 Minimum spend

John Holland commits to a minimum spend of **\$1,221,840** for this undertaking.

Item	Cost
Undertakings to benefit workers and industry	\$906,840
Undertakings to benefit community	\$315,000
Auditing in accordance with term 2.7	Resourced internally
Comcare's costs for monitoring compliance	To be advised
Comcare's costs in accordance with term 3.3	To be advised

**\$1,221,840**

### 3. OTHER ENFORCEABLE TERMS

### 3.1 Term

The deliverables proposed by the undertaking must be met within 36 months from the date of acceptance by Comcare.

This undertaking will conclude when Comcare confirms in writing that all terms have been fully met (within the agreed term of the undertaking), and all undertakings are completely discharged.

### 3.2 Reporting

John Holland must:

- i. provide a formal report to Comcare, on a quarterly basis, on the development and/or implementation of any measures it has committed to develop and/or implement in accordance with this undertaking;
- ii. provide all documents and information requested by Comcare from time to time for the purpose of enabling Comcare to monitor compliance with this undertaking in accordance with, or otherwise in addition to, an agreed Monitoring Plan;
- iii. develop and provide to Comcare, within one calendar month of the formal acceptance of this undertaking, procedures which will ensure that John Holland, its board and senior management, and any workers or other persons affected by this undertaking (including any affected person/s or their family) are regularly informed on the implementation of measures described in or effected in accordance with this undertaking.

### 3.3 Costs

John Holland agrees and undertakes to bear, reimburse, and/or indemnify Comcare for any costs, fees or expenses incurred by Comcare as a result or in respect of its investigation into the incident or the negotiation of the proposed undertaking, as agreed between Comcare and the proposer of the undertaking.

### 3.4 Variation

If John Holland proposes to vary this undertaking, then:

- i. John Holland will submit its request to vary this undertaking in writing to Comcare, giving reasons for the request
- ii. upon receipt of the request, Comcare, in its absolute discretion, may decide whether or not to allow a variation to this undertaking
- iii. Comcare's written approval of any request to vary this undertaking, including but not limited to a letter or an instrument of variation, constitutes a variation to this undertaking.

### 3.5 Enforceability

John Holland acknowledges that this undertaking is enforceable at law and that it may be subject to penalties if it does not comply with this undertaking.

Without limiting the generality of this clause, Comcare may, in its absolute discretion, deem any finding by Comcare's auditor that John Holland has failed to give full effect to any provisions of this undertaking to be a breach of this undertaking.

Without limiting any other power, right, authority, or privilege it may enjoy, Comcare may, in proceedings arising from any breach of this undertaking, among other things:

- i. apply for the imposition of a penalty.

- ii. apply for an order directing compliance with the undertaking.
- iii. apply for an order discharging this undertaking and pursue or recommence the proceedings.
- iv. apply for an order directing John Holland to pay the costs of the proceedings to the Commonwealth.
- v. apply for an order directing John Holland to pay Comcare's reasonable costs in monitoring compliance with this undertaking in the future, to the Commonwealth.
- vi. apply for any further order it considers appropriate.
- vii. if John Holland fails to comply, or withdraws this undertaking then Comcare may apply for an order discharging this undertaking and:
  - a. may pursue or recommence the proceedings, or
  - b. in any such proceedings John Holland cannot object to Comcare tendering this undertaking.

Any act or omission by John Holland which is inconsistent with or in contravention of this undertaking is and may be deemed by Comcare to be a breach of this undertaking.

John Holland acknowledges that it will bear the costs of the proceedings incurred as at the undertaking date or any other action taken by Comcare in accordance with or pursuant to this clause.

### 3.6 Acknowledgements

John Holland acknowledges that:

- i. Comcare's acceptance of this undertaking does not affect Comcare's:
  - a. power to investigate or pursue civil or criminal proceedings in respect of similar or related incidents or injuries; or
  - b. authorities, powers, and obligations in respect of any conduct of John Holland which is not the conduct which gave rise to the incident.
- ii. This undertaking in no way derogates from the rights and remedies available to any other person or entity other than John Holland and Comcare arising from any conduct described in this undertaking or arising from future conduct.
- iii. This undertaking has no operative force until accepted in writing by Comcare.

Comcare acknowledges that:

- i. neither Comcare, an inspector nor the Commonwealth Director of Public Prosecutions may bring or continue a proceeding against John Holland (or its officers, directors, or employees) for an offence against the WHS Act or the WHS Regulations in connection with matters relating to the alleged contravention to which this undertaking relates.

## 5 Section 3: Offer of undertaking

As a duly authorised person of	(insert person)	John Holland
I offer this undertaking and commit	(insert person)	John Holland
to the terms herein, to be completed within 36 months from the date of acceptance by Comcare		

Signed:



Joseph Barr

*Person OR Duly authorised person*

*Print name*

Position: Director, John Holland

Dated at: Sydney

this 4th day of April, 2022

## 6 Section 4: Comcare's acceptance of undertaking

*The duration of an enforceable undertaking is determined by the content of the agreed terms. An enforceable undertaking commences and is enforceable once accepted by Comcare. The enforceable undertaking will be concluded on written advice from Comcare when all requirements of the undertaking have been satisfactorily executed.*

I accept this undertaking as an enforceable undertaking under section 216 of the *Work Health and Safety Act 2011*.

Signed:



JUSTIN NAPIER

*Person OR Duly authorised person*

*Print name*

Position: GM NO 4

Dated at:

this 7 day of April, 2022