BSBSMB401

Establish legal and risk management requirements of small business

Learner Workbook

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Candidate Details

Assessment – BSBSMB401: Establish legal and risk management requirements of small business

Please complete the following activities and hand in to your trainer for marking. This forms part of your assessment for BSBSMB401: Establish legal and risk management requirements of small business

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Employer: DARKSTONE CONSTRUCTION

Declaration

I declare that no part of this assessment has been copied from another person's work with the exception of where I have listed or referenced documents or work and that no part of this assessment has been written for me by another person.

Signed: ______________________

Date: 27.02.2021

If activities have been completed as part of a small group or in pairs, details of the learners involved should be provided below;

This activity workbook has been completed by the following persons and we acknowledge that it was a fair team effort where everyone contributed equally to the work completed. We declare that no part of this assessment has been copied from another person's work with the exception of where we have listed or referenced documents or work and that no part of this assessment has been written for us by another person.

Learner 1: ______________________

Signed: ______________________

Learner 2: ______________________

Signed: ______________________

Learner 3: ______________________

Signed: ______________________

Competency Record to be completed by Assessor

Learner Name: ____

Date of Assessment: ____

The learner has been assessed as competent in the elements and performance criteria and the evidence has been presented as;

	Assessor Initials
Authentic	
Valid	
Reliable	
Current	
Sufficient	

Learner is deemed: COMPETENT NOT YET COMPETENT (Please circle)

If not yet competent, date for re-assessment: ____

Comments from Trainer / Assessor:

____
____
____
____
____

Assessor Signature: ____

Observation/Demonstration

Throughout this unit, you will be expected to show your competency of the elements through observations or demonstrations. Your instructor will have a list of demonstrations you must complete or tasks to be observed. The observations and demonstrations will be completed as well as the activities found in this workbook. An explanation of demonstrations and observations:

Demonstration is off-the-job

A demonstration will require:

- Performing a skill or task that is asked of you
- Undertaking a simulation exercise

Observation is on-the-job

The observation will usually require:

- Performing a work based skill or task
- Interaction with colleagues and/or customers

Your instructor will inform you of which one of the above they would like you to do. The demonstration/observation will cover one of the unit's elements.

The observation/demonstration will take place either in the workplace or the training environment, depending on the task to be undertaken and whether it is an observation or demonstration. Your instructor will ensure you are provided with the correct equipment and/or materials to complete the task. They will also inform you of how long you have to complete the task.

You should demonstrate that you can:

1. Identify and implement business legal requirements
2. Comply with legislation, codes and regulatory requirements
3. Negotiate and arrange contracts

You should also demonstrate the following skills:

- Reading
- Writing
- Oral Communication
- Numeracy
- Navigate the world of work
- Interact with others
- Get the work done

Activities

Activity 1A

<table>
<tr><td>Estimated Time</td><td>30 minutes</td></tr>
<tr><td>Objective</td><td>To provide you with an opportunity to identify and research possible options for the business legal structure using appropriate sources</td></tr>
<tr><td>Activity</td><td>1. Conduct your own research and document advantages and disadvantages in creating the types of legal structure detailed in this table.
<table>
<tr><th>Type</th><th>Advantages</th><th>Disadvantages</th></tr>
<tr><td>Cooperative</td><td>- Owned and controlled by members not investors.
- Shared benefit.
- Equal voting rights.
- Shared responsibility.
- All members active.
- Lower debt risks.
- No limit on number of members involved.
- Members can be under 18.</td><td>- Does not matter how much a member has invested, they have equal voting rights.
- Legal limits on the payment of share dividends.
- May not suit an investor-driven business.
- At least 5 shareholders.</td></tr>
<tr><td>Trust</td><td>- Limited liability.
- More privacy than a company.
- Flexibility in distributions among the beneficiaries of the trust which can result in tax benefits.
- Income usually taxed as an individual.
- Beneficiaries don’t own the trust assets which can provide protection from third party creditors.</td><td>- Complex structure.
- Expensive to establish and maintain.
- Can cause problems when borrowing.
- Powers restricted by trust deed.
- Can be problems when dissolving or altering a trust.
- Cannot distribute losses.
- Must distribute profit/income to the beneficiaries each financial year to avoid tax implications. Not ideal for businesses requiring working capital.
- Trustees can be personally liable for the trust’s debts unless the trustee is a company.</td></tr>
</table>
</td></tr>
</table>

	Association or not-for-profit legal structure	- Eligible for tax benefits. - Grant eligibility. - Ensures profits used for the intended purpose. - Limited personal liability.	- Does not operate for profit or personal gain. Profit must be used for its purposes. - Limits as to how much responsible persons can be paid for their work. - If the organisation dissolves or closes down, all remaining assets must go to another charity. - Can be costly and time consuming to form from a legal requirements perspective. - Public ownership which means shares and ownership can't be issued, transferred or sold. - Strict financial and operational requirements. - Must have a governing instrument and 3 members on the governing board. - Can be restrictions on where you can operate.

Activity 1B

Estimated Time	20 minutes
Objective	**To provide you with an opportunity to determine legislation and regulatory requirements affecting operations of the business under its chosen structure.**
Activity	**1. Report on your organisation or in accordance with directions from the instructor, the legislation and regulatory requirements affecting the operations of your business.** Operating in the building and construction industry, there are many legislative and regulatory requirements to consider, which include: - Industry and WHS codes of practice. *Work Health and Safety Act 2011*. - Compliance with *Queensland Building and Construction Commission (QBCC)* obligations such as licencing, on-site responsibilities, administrative obligations, complaints and disputes resolution. - Compliance with the *Queensland Building and Construction Commission Act 1991* in regard to things such as meeting the conditions of your contract. - Environmental legislation such as erosion and sediment control (ESC) on site. - Local government council restrictions. - Industrial Relations and Fair Work Acts. - Australian Tax law. - Workers Compensation and Insurances.

Activity 1C

<table>
<tr><td>Estimated Time</td><td>20 minutes</td></tr>
<tr><td>Objective</td><td>To provide you with an opportunity to develop and implement procedures to ensure full compliance with relevant legislation and regulatory requirements.</td></tr>
<tr><td>Activity</td><td>1. What methods are used to implement procedures to ensure full compliance with the relevant legislation and regulatory requirements governing your specific business operations?

You may make reference to your answers in Question 1B.
- Industry and WHS codes of practice. Work Health and Safety Act 2011.
o Safe work method statements compiled for each type of activity undertaken and kept on file.
o Site inductions for all employees.
o Daily pre-start meetings and weekly safety meetings.
o WHS representative appointed.
o Licence requirements to carry out specific works.
o Incident reporting.
o Daily on-site inspections.
- Compliance with Queensland Building and Construction Commission (QBCC) obligations such as licencing, on-site responsibilities, administrative obligations, complaints and disputes resolution.
o Process for notifiable incidents and incident reporting and roles and responsibilities clearly communicated to all employees and management.
o Lodge annual financial information with QBCC as per annual turnover category requirements. Utilising Xero accounting software to assist in managing finances and accountant appointed to provide guidance. Quarterly meetings with accountant.
o Aware of licencing requirements for concreting and steel fixing and ensure only work which licence covers is undertaken. Use QBCC website to determine licencing requirements.
o Understanding and complying with conditions of contract. Full review of each contract and negotiation of terms with contractor.
o Aware of advertising requirements in terms of inclusion of QBCC licence details.
- Environmental legislation such as erosion and sediment control (ESC) on site.
o Often site specific. Principal contractor on-site inductions provide specific environmental requirements. Appointed site supervisor monitors and controls and all employees made aware of their role to play.
- Local government council restrictions.
o Often site specific. Principal contractor on-site inductions provide specific requirements. Appointed site supervisor monitors and controls and all employees made aware of their role to play.
- Industrial Relations and Fair Work Acts.
o Employment contracts put in place when hiring new employees to set out terms and conditions. Utilising QBCC standard contracts.
o Minimum award rates checked.
o National Employment Standards (NES) checked and adhered to.</td></tr>
</table>

	- *Australian Tax law.* o Accountant appointed. Quarterly meetings. - *Workers Compensation and Insurances.* o Registered with WorkCover. o Return to work policy put in place for injured workers.

Activity 2A

Estimated Time	**30 minutes**
Objective	**To provide you with an opportunity to establish systems to ensure legal rights and responsibilities of the business are identified and the business is adequately protected, specifically in relation to work health and safety (WHS), business registration and environmental requirements**
Activity	- **Detail/report your company's systems to ensure the legal rights and responsibilities of the business are identified and the business is adequately protected.** - *Work Health and Safety (WHS):* o Written safe work method statements compiled for each type of activity undertaken and use of equipment, signed off by principal contractor and accessible on site. o Site inductions outlining policies and procedures completed by all employees. o Daily pre-start meetings and weekly safety meetings undertaken, minutes compiled and kept on file. o WHS representative appointed to monitor and represent employees, provide any training required, attend any required meetings by the principal contractor on site, and investigation of any hazards/incidents. o Licence requirements to carry out specific works. o Incident reporting as per QBCC requirements. Procedure in place for reporting of incidents as guided by QBCC. o Daily on-site inspections by the appointed site supervisor. o Registered with WorkCover. Return to work policy developed and put in place for any injured workers. - *Business Registration:* o Company registration completed and Member Constitution drawn up and signed by each party. o Utilising Xero accounting software to assist in managing finances. o Accountant appointed to provide guidance/reporting/auditing requirements. Directors have quarterly meetings with accountant. o Annual submission of statements to ASIC. o Queensland Building and Construction Commission (QBCC) licenced for concreting and steel fixing. Licence details to be displayed on all advertising. o Lodge annual financial information with QBCC as per annual turnover category requirements. o Employment contracts put in place when hiring new employees to set out terms and conditions. Utilising QBCC standard contracts.

	○ Roles and responsibilities for each of the company directors and employees documented. - *Environmental Requirements* ○ Usually site specific. Principal contractor conducts on-site inductions to provide specific environmental requirements including policies and procedures for the project. ○ Appointed Site Supervisor monitors and controls compliance. ○ Environmental licences and permits not generally required and usually obtained by Principal Contractor if required.

Activity 2B

Estimated Time	**25 minutes**
Objective	**To provide you with an opportunity to identify taxation principles and requirements relevant to the business, and follow procedures to ensure compliance, and identify and carefully maintain legal documents and maintain and update relevant records to ensure their ongoing security and accessibility.**
Activity	**1. Define a sole trader, an incorporated company and a trust.** A sole trader operates, controls and manages the business on their own and as a result is the simplest business structure. A sole trader uses their individual Tax File Number when lodging their tax return and is solely responsible for paying any tax the business is required to pay. An incorporated company on the other hand is its own individual legal entity. The company pays its own income tax which is separate from an individual's income tax. Tax for companies is regulated by ASIC. As a result, a company is a more complex structure and more costly to set-up and run. A trust is an obligation imposed on a person to hold property or income for the benefit of others (known as beneficiaries). Tax obligations depend on the type of trust, the trust deed and if the income of the trust is distributed to its beneficiaries. A trust has its own Tax File Number of ABN to lodge an annual tax return. **2. What legal documents may you have to maintain?** A sole trader is required to maintain documentation for all allowable business expenses, income and lodge an individual tax return. A company must have its own bank account and therefore must keep all income and expenditure financial records and lodge its own annual business tax return, regulated by ASIC. Often accounting software such as MYOB, Xero etc will be used to manage invoicing, payroll, sales recoding, and accounts payable. A company may also have member constitution documents, company registration, register of members and directors and meeting minutes, along with workplace health and safety documentation for example, safe work method statements and risk assessments. Depending on type of business there may also be franchise

	agreements or partnership agreements in place as well as employee contracts, contracts with sub-contractors etc. Financial records and employee records should be kept for seven years.

Activity 2C

Estimated Time	**20 minutes**
Objective	**To provide you with an opportunity to monitor provision of products and services of the business to protect legal rights and to comply with legal responsibilities and conduct investigations to identify areas of non-compliance with legal and regulatory requirements, and take corrective action where necessary**
Activity	**1. Suggest three options that could likely cause an error in compliance. For the areas identified, give your recommendations on ways to eliminate future occurrences.** 1. Carrying out sub-contract work for a builder and the key deliverables outlined in the contract are not fulfilled completely which is an offence under the *Queensland Building and Construction Commission Act 1991.* Recommended actions to be taken to eliminate future occurrences: o Go through each contract in detail and ensure all terms and requirements for quality and finish are clear and understood. Clarify any ambiguity with builder prior to signing contract. o Ensure the contract deliverables and associated standards are communicated clearly to the appointed Site Supervisor. o Site Supervisor responsible for regular site inspections to ensure conditions of contract met. o Daily pre-start meetings held with employees to advise on any issues/clarification on deliverables. o Site inspections and pre-start meetings documented. o Any issues/non-compliance rectified prior to handover. 2. Advertising signage contravenes QBCC licencing legislative requirements. Recommended actions to be taken to eliminate future occurrences: o Ensure all staff undertaking any advertising for the company understand the advertising requirements as per the QBCC website and what is included as 'advertising'. o Company name (must include licence name not just trading name) and QBCC licence number to be included in all advertising to comply with the Act and confirm to customers that the company has the right qualifications to do the work. o All advertising to be proofed and approved by brand guardian to ensure compliance. 3. A contract has been drafted and you have had a client sign the contract to commit to the job however the contract does not contain all of the information required under current QBCC legislation and as a result the client is disputing it. Recommended actions to be taken to eliminate future occurrences:

	○ Use a standard QBCC contract as basis to ensure the contract incorporates all of the information required under legislation or if developing your own contract, engage a solicitor to ensure it complies. ○ Ensure the contract includes the following as a minimum: *i.* The scope of work covered by the contract. *ii.* When the work is to be completed. *iii.* The amount to be paid for the work (or how the amount is to be calculated). *iv.* Details of any agreement between the parties about retentions and securities. *v.* The name and licence number of the building contractor. *vi.* The address of the site where the work is being carried out. ○ Keep up to date with any changes to the QBCC standard contract and always use the most current version.

Activity 3A

Estimated Time	**25 minutes**
Objective	**To provide you with an opportunity to seek legal advice on contractual rights and obligations, if required, to clarify business liabilities, investigate and assess potential products or services to determine procurement rights and ensure protection of business interests where applicable**
Activity	**1. In pairs, groups or individually list five contractual rights and obligations that could give cause to potential business liabilities.** 1. *Partnership agreements* – for example a joint venture with another business. A potential liability could be caused if the agreement is not fair to both parties such as allowing one party, but not the other, to terminate the contract. 2. *Lease agreements* – such as an agreement for another party to lease space from your business and the terms of the contract penalise one party, but not the other, for breaching or terminating the contract. 3. *Supply contracts* – for example, a contract to provide a service to another party which makes a misleading promise that specific work will be performed. 4. *Employment contracts* – entering into a contract with an employee which provides a false impression of entitlements offered under the contract or offers the employee terms that are below minimum legislative requirements. 5. *Tender contracts* – setting out contract payment terms and timelines and failing to adhere to the agreed timelines or requiring the contractor to undertake variation works that are not aligned with the scope of the contract.

Activity 3B

Estimated Time	30 minutes
Objective	**To provide you with an opportunity to seek legal advice on contractual rights and obligations, if required, to clarify business liabilities, Investigate and assess potential products or services to determine procurement rights and ensure protection of business interests where applicable.**
Activity	**1. List five products or services to determine procurement rights and ensure protection of the business interests where applicable.** 1. *Providing concreting services:* o *The right materials, with the right amounts, delivered at the right place and right price* - Job site details and plans for works have been provided and agreed to in the contract to determine quantity of materials and resourcing required to complete the works. Job site has been visited to highlight any issues prior to signing contract. Process in place and agreed to with client for contract variations. A formal quote has been issued and accepted and purchase order has been supplied detailing the service required, timeframes, job site location and contracted price for the works. o *At the right time* - The scope of the job is clearly communicated and agreed to in a written contract which outlines agreed timeframes. The job has been scoped adequately to ensure timeframes can be met and contingencies in place. o *The right service by the right supplier* - The quality of the service and end product delivered meets the client's expectations and contracted obligations. The job is within the expertise and experience of the company and available resourcing. 2. *Purchase of building materials:* o *The right materials, with the right amounts, delivered at the right place, at the right time and right price* – Potential suppliers briefed on specific materials required, delivery address and delivery timeframe, and quotes requested. Price/product/freight method negotiated, and most suitable supplier appointed who has the product in stock. Quote accepted and purchase order issued detailing the product required, quantity, delivery date, delivery address and agreed price. o *The right service by the right supplier* – The supplier has been researched to ensure their product is suitable for the intended purpose, the quality of the product meets expectations, they have the ability to delivery on required quantity and timeframe and location minimises shipping costs. 3. *Appointing sub-contractor for building works:* o *The right service by the right supplier, at the right price* – Expressions of Interest for the job requested. Official tender documents drafted and released to interested contractors which details the works required, job site details, plans, timeframes and any other requirements. Tenders submitted, proposals and quotes compared, and suppliers researched. Most suitable contractor selected to be appointed the contract for the job.

	○ *The right materials, with the right amounts, delivered at the right place, at the right time* – All agreed terms, timeframes for delivery and scope of job agreed in written contract. Purchase order issued for works. Invoices paid upon verified completion of each stage of works as per agreed terms in contract. 4. *Purchasing of tools or equipment for the business:* ○ *The right materials, with the right amounts, delivered at the right place, at the right time and right price* – Potential suppliers for particular tool researched as to whether they have the right type of product for the intended purchase in stock and at a competitive price. After sales service and support, warranty etc. considered along with location of supplier to ensure delivery available, freight method/price suitable and delivery time frame. Product ordered via email to supplier, order form completed or online order place through website. Receipt for purchase received. ○ *The right service by the right supplier* – The supplier has been researched to ensure their product is suitable for the intended purpose, the quality of the product meets expectations, they have the ability to delivery on required quantity and timeframe and location minimises shipping costs. 5. *Delivery of concrete to a job site:* ○ *The right materials, with the right amounts, delivered at the right place and right price* – Contact preferred suppliers and determine delivery availability and price. Compare prices and place order with preferred company. Ensure written receipt of order to ensure communication trail in instance of failed supply which causes delays on site. Invoice for service received and paid after delivery on agreed payment terms (e.g. 30 day account). ○ *The right service by the right supplier* - The quality of the service and end product delivered meets the client's expectations and promised obligations. Records of any issues documented and future preferred suppliers based on performance.

Activity 3C

Estimated Time	**30 minutes**
Objective	**To provide you with an opportunity to negotiate and secure contractual procurement rights for goods and services including contracts with relevant people, as required, in accordance with the business plan**
Activity	**1. Create a five point plan on negotiating for securing contractual procurement rights for goods and services contracts.** 1. Develop the BRIEF for potential suppliers including details such as, the required product or service specifications, quantities, expected quality, required outcomes, timelines, after sale support etc. 2. RESEARCH potential companies prior to initiating the negotiating process and determine suitability and the correct person (decision-

	maker) to negotiate with. Ensure accurate assessments of the costs associated with providing the goods or services have been considered. 3. PRESENT the brief to the potential supplier(s) and provide an opportunity for the supplier(s) to quote on the supply of the goods or services. 4. REVIEW the proposals against the initial brief, desired outcomes and available budget/timeline. 5. NEGOTIATE with the supplier if required to reach the desired outcome. Ensure you are negotiating with the correct decision-maker and that you take into consideration the needs and requirements of the supplier to reach a fair agreement.

Activity 3D

Estimated Time	**25 minutes**
Objective	**To provide you with an opportunity to identify options for leasing/ownership of business premises and complete contractual arrangements in accordance with the business plan**
Activity	**1. What would be your choice, to either lease or purchase premises for a small business in your capital city, and why?** For a small business in Toowoomba, I would choose to lease to: • Avoid tying up capital unnecessarily which could otherwise be used to grow to grow the business. • Maximise flexibility to grow or move as the small business develops. If the business is new, this can give you time to establish your business and identify any long-term premise and location requirements. • Minimise risk of financial loss if business is terminated. • Minimise up front expenditure of owning a property such as maintenance and repairs, insurances etc.

	There is additionally a large choice of commercial leasing space available at current. This means there are some great lease deals and incentives available from landlords. If you did decide to buy a premise instead of leasing and you need to relocate or the business shuts down, the ability to re-lease this premise in a market already flooded with available rentals could be difficult.

Activity 4A

Estimated Time	**20 minutes**
Objective	**To provide you with an opportunity to identify potential internal and external risks to the business**
Activity	**1. Give examples of internal and external risks that may affect your organisation.** Internal Risks: • Theft of equipment, tools or materials by employees. • Union strike on job site, shutting down work for a period of time. • Staff movements, retaining quality employees. • Equipment breakdown or failure. • Safety issue/incident on job site. • Availability of building materials. External Risks: • Extreme weather/natural disasters. • Theft of tools, equipment or materials.

	• Economic impacts, limited investment in new infrastructure. • Political environment. • Labour shortages. • Development approvals. • New competitor enters the market.

Activity 4B

Estimated Time	**30 minutes**
Objective	**To provide you with an opportunity to assess the probability and impact of identified risks**
Activity	**1. For each risk you identified in Activity 4A, assess its probability and impact.** Impact and Probability of Risks:

RISK	PROBABILITY	IMPACT
Theft of equipment, tools or materials by employees.	Possible	Moderate financial and business impact. Could cause short-term delays and additional cost to the business to replace.
Union strike on job site, shutting down work for a period of time.	Possible	Moderate financial and business impact. Could cause short-term delays and therefore impact the business financially. Also impact to

		employees who don't have work while strike is occurring.
Staff movements, retaining quality employees.	Likely	Likely to occur frequently due to most employees being employed on a casual basis. Minor financial and business impact. Could cause short-term resourcing issues if key staff move on.
Equipment breakdown or failure.	Possible	Moderate financial and business impact. Could cause short-term delays and unplanned financial impacts to the business.
Injury to employee on jobsite.	Minor injuries – Likely Major/Catastrophic – Unlikely.	Minor – minimal financial, health and business impacts. Major/Catastrophic – Severe health impacts (hospitalisation, permanent disability or even death) and serious business impacts such as long-term investigations, licences revoked, tarnished reputation.
Availability of building materials.	Unlikely.	Moderate business impacts. Could cause short-term delays.

RISK	PROBABILITY	IMPACT
Extreme weather / natural disasters.	Possible	Moderate to major financial and business impacts. May disrupt business and possibly not covered by insurance. Could cause delays of several days to several weeks.
Theft of tools, equipment or materials.	Possible	Moderate financial and business impact. Could cause short-term delays and unexpected financial impacts.
Economic impacts, limited investment in new infrastructure.	Unlikely	Could have moderate to major financial and business impacts if there is limited construction work available as a result. In current market this looks unlikely to occur with many large infrastructure projects on the horizon.
Development approvals	Possible	Moderate financial and business impacts possible if development approvals are knocked back.

	New competitor enters the market.	Possible	Minor to major financial and business impacts.

Activity 4C

Estimated Time	25 minutes
Objective	**To provide you with an opportunity to prioritise risks for treatment**
Activity	**1. Create probability-impact matrix and determine which risk has the highest priority.**

	Minor (0.2)	Moderate (0.4)	Major (0.6)	Catastrophic (0.8)
Highly likely (0.9)	0.18	0.36	0.54	0.72
Unlikely (0.7)	0.14	0.28	0.42	0.56
Possible (0.5)	0.10	0.20	0.30	0.40
Likely (0.3)	0.60	0.12	0.18	0.24

RISK	PI
Theft of equipment, tools or materials.	0.20
Union strike on job site, shutting down work for a period of time.	0.20
Staff movements, retaining quality employees.	0.60
Equipment breakdown or failure.	0.20
Injury to employee on job site.	Minor injuries 0.60 Serious 0.56
Availability of building materials.	0.28
Extreme weather / natural disaster.	0.30
Economic impacts, limited investment in new infrastructure.	0.28
Development approvals.	0.20
New competitor enters the market.	0.20 - 0.30

Highest priority risks are:

- Injuries to employees on the job.
- Staff movements, retaining quality employees.
- Impacts of extreme weather events / natural disasters.

Activity 4D

Estimated Time	25 minutes

Objective	To provide you with an opportunity to develop actions to mitigate risks including identifying insurance requirements and adequate cover
Activity	1. **You are about to take out an insurance policy. Thinking about the likely risks to your business, suggest the approach and cover you would likely use to insure against the following risks.** First of all, when deciding what insurance cover is necessary, it is best to get advice from an expert in your particular industry and look at insurance companies that specialise in your type of business and work. Consider package deals which may offer the best value. Being a concrete construction company, the highest priority risk is injury to people – employees and the public. Public and Products Liability to cover legal liability for personal injury or property damage to others is a must. Workcover workers' compensation insurance is also a legal requirement for employees. Being a business owner, it is also important to ensure you have Income Protection Insurance. Damage, breakdown or theft to building materials, tools, equipment or vehicles is likely and can have a significant impact on the business, therefore insurance should cover this along with loss of revenue and costs obtained as a result. This includes Motor Vehicle Comprehensive, Material Damage and Tools of Trade Insurance to cover accidental damage, burglary, fire and lightening, flood and malicious damage. As we are operating as a sub-contractor on construction sites, full Contract Works cover is generally not required as this is covered by the principal contractor.

Skills and Knowledge Activity

Estimated Time	60 Minutes
Objective	To provide you with an opportunity to demonstrate your knowledge of the foundation skills, knowledge evidence and performance evidence.
Activity	**Complete the following individually and attach your completed work to your workbook.** The answers to the following questions will enable you to demonstrate your knowledge of: ➢ Reading ➢ Writing ➢ Oral Communication ➢ Numeracy ➢ Navigate the world of work ➢ Interact with others ➢ Get the work done

	➢ Outline business registration and licensing requirements ➢ Identify commonwealth, state/territory and local government legislative requirements relating to business operation ➢ Explain creation and termination of relevant legal contracts ➢ Summarise relevant cultural differences and legal implications ➢ Describe legal rights and obligations of alternative ownership structures ➢ Outline necessary record keeping to meet minimum legal and taxation requirements ➢ Summarise relevant consumer legislation and industry codes of practice ➢ Outline the key steps in the risk management process ➢ Explain relevant insurance requirements and products **1. What texts may you have to read to assess the legal and risk management requirements of the business?** • The *Queensland Building and Construction Commission (QBCC)* website is an essential source of information for businesses operating in the construction industry. It outlines risk management, licencing and legal requirements and provides standard documents such as contract templates and links to the relevant Acts. • The *National Construction Code.* • *Work Health and Safety Act 2011.* • Fair Work Commission website. Building and Construction Award. • ASIC website. **2. What reports and workplace documentation may you have to write?** • Safe work method statements and risk assessments. • Incident notifications. • Employee inductions. • Keep up-to-date financial records (purchase orders, invoices, payroll). • Employee timesheets. • Project variations. • Tender submissions. **3. What skills are needed to communicate effectively during communications?** • Leadership and management skills. • Negotiation skills. • Strong written and oral communication skills. **4. What information might you need to determine insurance costs?** • Asset register. • Probability Impact Matrix to determine highest risks. • Quotes from industry-relevant insurance companies or an insurance broker. **5. What are organisational policies which may apply to your ethical behaviour?** • Diversity management policies. • Equal opportunity and anti-discrimination. • Ethical code of conduct. • Marketing in accordance with consumer legislation. • Duty of care. • Social responsibility.

6. **Why may you need to seek legal advice?**
    - Reviewing contracts.
    - Company set-up, member constitution and share distribution.
    - Dispute resolution.
    - Workplace injury claims.
    - Property damage claims.
7. **What sort of information may you need to store securely?**
    - Financial records.
    - Employee records.
    - Executed project contracts.
8. **What are the benefits of being on the Australian Business Register (ABR)?**
    - Business information can be verified.
    - Get informed of legislative changes.
    - Maximise economic benefits for your region.
    - Register business name and domain names.
    - Claim GST and fuel tax credits.
9. **What local, state/territory, commonwealth and international legislation, regulations and codes of practice may affect business operations?**
    - The *National Construction Code*
    - *Work Health and Safety Act 2011*
    - *Building and Construction General On-site Award*
    - *The Fair Work Act 2009*
    - *Corporations Act 2001*
    - *Privacy Act*
    - *Competition and Consumer Act 2010*
10. **What elements must be present for a legally enforceable contract?**
    - An offer by one party and acceptance by the other.
    - Parties must intend to create a legal relationship with enforceable terms.
    - Valuable consideration.
    - Certainty around key terms.
    - Both parties must be competent to make a legally binding agreement.
    - Matters agreed must be for a lawful purpose.
11. **How can you manage diversity and cultural differences within a workplace?**
    - Starts with embracing diversity in the recruitment process. Growth and productivity in the workplace are driven by diversity.
    - Creating inclusive policies and practices and ensuring all employees understand and adhere to.
    - Developing an employee culture of understanding and respecting differences which disseminates from the top down.
    - Clear and effective communication and translation if needed.
12. **What alternative ownership structures exist?**
    - Partnership
    - Sole Trader
    - Trust
    - Not-for-profit
13. **What records will you need to keep in order to meet taxation regulation?**
    - Tax invoices.

	• Wage and salary records. • Receipts of all purchases made for the business. • GST documents. • Records of business assets. • Tax returns and activity statements. • Super contributions. Must be kept for at least five years. **14. What is the purpose of the Australian Competition and Consumer Commission?** • To regulate the market for the benefit of all Australians. They do this by enforcing the *Competition and Consumer Act 2010* and a range of additional legislation, which promotes healthy competition, fair trading and regulates national infrastructure. **15. How would you assess risks within an organisation?** • Firstly, go through and determine all of the internal and external risks for the company. • For each of these risks assess the likelihood of the risk occurring based on existing data and the impact of the risk. • Create a Probability-Impact Matrix to prioritise the risks. • Take action to mitigate risks accordingly. This may be seeking insurance coverage, implementing a particular policy or procedure to minimise risk, employee training and inductions etc. **16. What insurance requirements may your organisation have?** • Public and Products Liability to cover legal liability for personal injury or property damage to others. • Workcover workers' compensation insurance is also a legal requirement for employees. • Being a business owner, it is also important to have Income Protection Insurance. • Motor Vehicle Comprehensive. • Material Damage and Tools of Trade Insurance to cover accidental damage, burglary, fire and lightening, flood and malicious damage.

Major Activity

Estimated Time	**60-120 Minutes**
Objective	**To provide you with an opportunity to demonstrate your knowledge of the entire unit.**
Activity	**This is a major activity – your instructor will let you know whether you will complete it during class or in your own time.** **Attach your completed answers to the workbook.** You must individually, answer the following questions in full to show your competency of each element: 1. Identify and implement business legal requirements 2. Comply with legislation, codes and regulatory requirements 3. Negotiate and arrange contracts 4. Identify and treat business risks

1. **Which business legal structure do you believe is the most appropriate? Note the positive and negative aspects of your chosen structure in relation to your business needs.**

A propriety limited company is the most appropriate structure. There are three separate company directors involved in the running of the business and by choosing this structure, the company is a separate entity from the persons running it. This means limited personal liability and organised control of the company by means of a member constitution, shareholder agreement and regulated legislative requirements. This structure also allows for future company growth with the flexibility for the shareholders to sell their share in the business if down the track they wish to do so.

Being a registered company also indicates that the business operates on a large scale and is capable of undertaking substantial projects. There are additionally tax benefits for companies compared to that of sole traders.

While under this structure, the directors' personal assets cannot be called on to satisfy outstanding debts, if a company director breaches their duties or provides a personal guarantee, their personal assets can still be exposed. Directors are furthermore responsible for ensuring the company complies with all legislative requirements as set out in the corporations law for example, maintaining accurate financial records, notifying ASIC as required, payment of ASIC fees and lodging an annual company tax return. Therefore, it is vital all directors are aware of their responsibilities.

2. **What kind of permissions do you need to secure and maintain for your business?**

The Privacy Act does not currently apply to our company as we are a small business and do not fall within the exceptions. We do not collect data and do not need to manage 'opt in' data collection permissions. The only permissions that we need to maintain for the business relate to ensuring the systems that we use e.g. xero accounting software, website, social media accounts etc are secure and in the collection of employee records. These systems are only accessible at this stage by the Directors of the company.

3. **Pick three elements of general reporting on Section 1.3 of the Learner Guide and explain them in the context of your company, describing what you need to do in order to satisfy this requirement.**

    1. *Keep a record of all directors and members.*
    A register of each of the directors and shareholders in the company is to be documented. Within our company this is recorded in the member constitution and shareholder agreement documents which have been signed and executed by all parties.

    2. *Keep proper financial records.*
    Ensure accurate files are kept to document all of the company's income and expenditure for a minimum of five years. This includes tax invoices, payroll records, receipts of all purchases made for the business, asset registers, tax returns and activity statements. For our company we

utilise Xero online accounting software to manage all financial aspects of the business in one place and keep accurate records.

3. *Prepare and have audited and lodge financial statements and reports after the end of every financial year.*
   Ensure accurate financial records are continually documented (as per point 2) and a registered company auditor has been appointed. Lodge annual reports with ASIC as required under the Corporations Act 2001. For a QBCC licenced concreting company, financial information must also be lodged with the QBCC based on whichever of the four annual turnover categories the company falls into.

4. What measures do you have in place regarding WHS policies and procedures? Explain why they are effective. If your company has not yet been opened or established, write about what you may need to implement and why.

Our company currently has in place a number of Work Health and Safety policies and procedures to ensure compliance with the Work Health and Safety Act 2011.

These measures include:
- Safe work method statements compiled for each type of activity undertaken and kept on file.
- Site inductions conducted and documented for all employees.
- Daily pre-start meetings are held on the jobsite along with weekly safety meetings to discuss any issues and policy or procedure updates.
- WHS representative appointed to monitor compliance.
- Incident reporting procedure in place. QBCC and Workplace Health and Safety to be notified if a notifiable incident occurs on site and full report completed.
- Adequately licenced to carry out specific works where necessary.
- Site supervisor undertakes daily site inspections and liaises with principal contractor onsite.

Each of these measures ensure actions are monitored regularly, and corrective actions are taken swiftly if necessary. All employees are made aware of and understand their obligations and have clearly been communicated the expectations, policies and procedures in regard to Work Health and Safety. Incidents are reported on and reviews conducted to ensure continuous improvement. A company culture where safety is taken seriously is established.

5. Which description in section 2.2 of the Learner Guide applies to your business? Explain how this works in relation to your business.

The 'Company' description applies to our concrete construction company. It is set up as a separate legal entity that pays its own income tax and has a separate bank account. The company is registered under the Corporations Act 2001 and has three directors and shareholders. All income that the business earns as a company, belongs to the company.

	6. What kind of records do you keep in relation to finance? Explain why each system you use is appropriate for your needs. Financial records are kept for the company including, tax invoices, payroll records, receipts of all purchases made for the business, asset registers, tax returns and activity statements. For our company we utilise Xero online accounting software to manage all financial aspects of the business in one place and keep all of these accurate records together. An accountant has been appointed and meetings held with the accountant quarterly (or more regularly if required) to provide guidance and advice and ensure all financial obligations met. **7. What legislation may affect any contracts associated with the running of your business?** *Queensland Building and Construction Commission (QBCC)* legislation along with the *Competition and Consumer Act 2010* and *Fair Trading Act* may affect contracts associated with the running of a concrete construction business. *The Fair Work Act 2009, Anti-Discrimination Act, Workers Compensation Act* and *Building and Construction General On-site Award* may also affect employment contracts. **8. What measures could you put in place to detect incidences of non-compliance?** Utilise QBCC standard contracts and ensure you have obtained legal advice if the standard contracts are amended, or you decide to develop your own contract. **9. What can you do to ensure legal co-operation with contractual rights and obligations?** Keep abreast of any legislative changes through the QBCC and always ensure to use the most current version of the QBCC contracts. Seek legal advice whenever needed or to clarify requirements. Maintain accurate records in regard to work completed under a contract and ensure employees are aware of and understand their responsibilities and legal obligations. Conduct regular reviews to identify any potential areas of non-compliance. Develop, implement and communicate policies and procedures to minimise risk of non-compliance. Undertake further training with team if necessary. **10. What systems can you implement to ensure you are sourcing the right item, from the right supplier at the right time?**

A formal procurement policy and process could be implemented to effectively plan the purchase and delivery of goods and services, analyse the market to find the right supplier at the right price, ensure quality control on the goods purchased and the payment process.

This could include a tender process whereby you put a call out for expressions of interest for a particular job and then release an official tender to those interested. The tender submissions are reviewed and evaluated to source the best outcome for the job. A contract or service agreement would then be negotiated and executed to outline the agreed terms.

A purchase order system should also be utilised which specifies the product/services required, required date, delivery address and freight method and once the job is completed to the agreed terms, payment made. Our company utilises the Xero online system to manage purchase orders, invoices and payments.

The person conducting negotiations should also be well equipped and trained in this area, including:

- Briefing the supplier in a way which forces them to use their expertise in finding the optimum solution for your needs
- Implementing service agreements for long-term benefits.
- Understanding of legal rights and compliance.
- Evaluating a supplier's past performance and additional after sale support and services on a regular basis.

11. Through the general running of your business, who can you expect to have contracts with? How does each person or company fit into your business plan?

We can expect to have contracts with principal building contractors (our company being the sub-contractor). There may also be instances where we are contracting a sub-contractor to complete works or we are completing works directly for a client in which case we would have a contract with the client. These types of contracts form the basis for generating income for the business and it is imperative that these contracts protect the business financially and ensure on-time payment for works completed.

We also have contracts with our employees. Our employees are integral to the running of the business and meeting our obligations for the provision of services. The success of our company and point of difference in the service that we offer compared to competitors is our extensive experience and high level of quality finish in the commercial and high-end residential markets. Therefore, attracting and retaining quality employees is integral to being able to deliver on our company's promises.

If we were to lease premises or take out a business loan from a financial lender, we would additionally have contracts in place for these as well as service agreements in place with long-term suppliers. These types of supplier service agreements could be implemented to guarantee the delivery of the product/service at a certain rate of pricing and within a certain time frame to help control expenditure.

12. Is renting or buying more ideal for your business needs? Explain why and how you made this decision and detail the options that are available to you in this endeavour.

For a small business in Toowoomba, we have identified that renting is more ideal for our current business needs.

If looking for premises, we would choose to lease in order to:

- Avoid tying up capital unnecessarily which could otherwise be used to grow to grow the business.
- Maximise flexibility to grow or move as the small business develops. If the business is new, this can give you time to establish your business and identify any long-term premise and location requirements.
- Minimise risk of financial loss if business is terminated.
- Minimise up front expenditure of owning a property such as maintenance and repairs, insurances etc.

There is additionally a large choice of commercial leasing space available at current. This means there are some great lease deals and incentives available from landlords. If you did decide to buy a premise instead of leasing and you need to relocate or the business shuts down, the ability to re-lease this premise in a market already flooded with available rentals could be difficult.

13. What is the difference between internal and external threats?

Internal threats result from within an organisation and arise out of the organisation's normal processes. These can include threats such as, theft by employees, management and leadership issues, staff movements, supply chain failures, cash flow issues, union strikes and so on.

External threats on the other hand come from outside the business and are often more unpredictable and difficult or impossible to prevent. For example, fire damage, natural disasters and extreme weather events, an unstable political environment, theft or malicious damage, or competitor activity.

14. What are likely or certain risks within your business?

Injuries to employees on the job is a high risk with our type of business due to the physical nature of the work. The risk of equipment, tools and building materials being stolen, damaged or breaking down is also likely along with the impacts of the weather.

15. How can you prioritise risks?

Firstly, go through and determine all of the internal and external risks for the company. For each of these risks assess the likelihood of the risk occurring based on existing data and the impact of the risk. From this, create a

	Probability-Impact Matrix and assign scores accordingly. This will then give you an indication of the priority of each risk and those that you should be most focused on minimising/eliminating. Ensure to continually monitor and review for changes in priority and new risks to be aware of. **16. What compulsory insurance must you obtain in order to run your business? What extra or voluntary insurance could you also get, and why?** Workcover workers' compensation insurance is a legal requirement for employees along with compulsory third party insurance on motor vehicles. Public and Products Liability to cover legal liability for personal injury or property damage to others is also essential for our business. If we were going to be a principal contractor on a project, Contract Works insurance to cover loss or damage to buildings and other structures while under construction would additionally be required. Other insurance which is important to consider to protect the business and business owners includes: • Income Protection Insurance to protect the income of the business owners. • Motor Vehicle Comprehensive to minimise financial risk to the business. • Material Damage and Tools of Trade Insurance to cover accidental damage, burglary, fire and lightening, flood and malicious damage. These assets are costly to replace and the likelihood of damage or breakdown occurring is high.