

From: Adam Dansie [mailto:Adam.Dansie@lgnsw.org.au]
Sent: Tuesday, 26 April 2016 8:03 PM
To: Chambers - Johns C
Cc: 'mrizzo@asu.asn.au'; AMOD; Casey Young (cyoung@usu.org.au); Tony Goode (Tony_Goode@lgaq.asn.au); Ross Nassif; 'Geoff Pawsey'; 'Scott Roffey' (SRoffey@walga.asn.au); Carla Loney (CLoney@walga.asn.au); David Jan (david.jan@lgant.asn.au); Andrew Haste (andrew.haste@lga.sa.gov.au); 'Rodwell, Peter'; 'Ruchi.Bhatt@aigroup.com.au'; Lillian Tiddy
Subject: AM2014/234 - Local Government Industry Award 2010 [MA000112] - Exposure Draft of the Local Government Industry Award 2015

Re: AM2014/234 - Local Government Industry Award 2010 [MA000112]

Dear Commissioner

I refer to matter AM2014/234 concerning the 4yr Review of the *Local Government Industry Award 2010* and also to the Fair Work Commission's Directions on 12 April 2016 that "*The parties consult and jointly file a summary of the status of each matter as per the attached schedule.*"

In response to the Commission's Directions, please find attached a draft schedule summarising the status of each matter raised by the parties.

I apologise for the delay in providing this information. I have only just returned from two and half weeks leave and have not had an opportunity to consult with other parties that have indicated an interest in the *Local Government Industry Award*. Nevertheless, the attached draft schedule may assist with the conference that is to be held on 27 April 2016. The Local Government and Shires Association of New South Wales will attend the conference and will be representing the combined State and Northern Territory Local Government Associations (LGAs).

Regards

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Local Government NSW Employment Law Seminar
Swissotel, 68 Market St, Sydney – 6 May 2016
<http://www.lgnsw.org.au/events-training/employment-law-seminar>

Schedule 1 – Exposure Draft: *Local Government Industry Award 2015*

Interested unions	Latest date of exposure draft	Last action taken by parties	Next action to be taken by the parties	Summary of outstanding issues
ASU	18 December 2015	Submissions of 14 April 2016	File submission in reply to AiG submissions (by 5 May 2016)	The ASU maintain that reference to accident make-up pay needs to be maintained in the Annualised Salaries Clause (see cl 10.5(d)(ix) of the exposure draft).
AiG	18 December 2015	Submissions of 26 April 2016		<p><u>(26 April 2016 submission)</u></p> <p>AiG’s submission of 26 April 2016 generally agrees with the LGAs submission of 14 April 2016.</p>
		Submission of 14 April 2016		<p><u>(14 April 2016 submission)</u></p> <ol style="list-style-type: none"> 1. AiG submit it necessary to delete clause 3.3(e) of exposure draft to give effect to the decision of the Full Bench on 23 December 2015 (PR575440). 2. AiG seek the deletion of cl 6.5(c)(ii) of the exposure draft. 3. AiG seek to amend cl 8.1(a) to read that “<i>The ordinary hours of work are to be an average of up to 38 per week</i>”.

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				<p>9. AiG submit that the reference to accident make-up pay in clause 10.5(d)(ix) of the exposure draft should be removed.</p> <p>10. AiG submit that in relation to clause 10.6 of the exposure draft the addition of the words "... a position at a higher level ..." are unnecessary and not consistent with clause 18.1 of the current award.</p> <p>11. AiG point out a drafting error with clause 11.2(c)(v) of the exposure draft which refers to "clause (e)(iv)" instead of clause 11.2(c)(iv).</p> <p>12. AiG submit that clause 11.2(d)(i) should be reformatted to reflect the wording found in clause 15.4A of the current Award. The wording proposed by AiG is as follows:</p> <p><i>(i) An employee will be paid a camping allowance of \$23.15 per night where required to camp at the site of any work:</i></p> <ul style="list-style-type: none">• <i>By direction of the employer; or</i>• <i>Because no reasonable transport facilities are available to enable the employee to proceed to and from home each day</i> <p>13. AiG point out a drafting error with</p>
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				<p>clause 11.3(b)(i) of the exposure draft which refers to “clause (e)(iv)” instead of clause 11.2(c)(iv).</p> <p>14. AiG submit that the words ‘...by the employer’ should be inserted clause 11.3(b)(i) to reflect the current provision at clause 15.3(a).</p> <p>15. In relation to clause 14.4(a) of the exposure draft AiG submit that the use of the words “where possible” in relation to 10 consecutive hours off duty, is not the same as the wording used in the current award which is “wherever reasonably practicable”. AiG seek to retain the wording of the current award.</p> <p>16. AiG submit that the word “time” in the second bullet point of clause 14.4(b)(i) of the exposure draft is superfluous and should be removed.</p> <p>17. AiG seek the removal of the words “other than shiftworkers” which is found in the headings of each of the tables in Schedule B of the exposure draft.</p> <p>18. AiG believes that the definition of shiftworker in Schedule I is not necessary.</p>
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LGAs	18 December 2015	Submissions of 14 April 2016	File submission in reply to AiG and ASU submissions (by 5 May 2016)	<p>1. Clause 6.5(c)(ii) – Penalties and overtime</p> <p>The LGAs believe that the example of Alexa in the exposure draft at clause 6.5(c)(ii) accurately represent the methodology to be adopted in calculating the penalty rates due to a casual employee.</p> <p>2. Clause 10.5(d)(ix) – Annual salary not to disadvantage employee</p> <p>The LGAs submit that the reference in clause 10.5(d)(ix) of the exposure draft to accident make-up pay should be removed.</p> <p>3. Clause 10.6(b) – Higher duties</p> <p>In response to a question at clause 10.6(b) of the Exposure Draft, the LGAs confirm that an employee on extended higher duties would only be entitled to payment at their base rate of pay rather than the minimum hourly rate applicable to the higher level position.</p> <p>4. Clause 11.4(b)(ii) – Excess travelling time and fares</p>

				<p>In response to a question at clause 11.4(b)(ii) of the Exposure Draft, the LGAs submit that the “appropriate rate of pay” for the purposes of clause 11.4(b)(ii) of the Exposure Draft can include penalties.</p> <p>5. Clause 18.3 – Observed public holidays</p> <p>In response to a question at clause 18.3 of the Exposure Draft, the LGAs submit that clause 18.3 has the ability to apply to each State and Territory, as the applicable public holiday legislation provides for the ability to declare additional public holidays.</p> <p>6. Clause 18.5 – Public holidays occurring on a rostered day off</p> <p>In response to a question at clause 18.5 of the Exposure Draft, the LGAs submission explains how clause 18.5 interacts with clause 8.2(d)</p>
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