

*Fair Work Act 2009*  
FAIR WORK COMMISSION

s. 156 – 4 yearly review of modern awards – Construction Awards

AM2016/23

**OUTLINE OF SUBMISSIONS FOR THE AUSTRALIAN WORKERS' UNION  
REGARDING ALLOWANCES AND TESTING WORK**

**BACKGROUND**

1. As part of the 4-yearly review of modern awards, a Full Bench of the Fair Work Commission (“**FWC**”) published a Decision in relation to Construction Awards on 26 September 2018<sup>1</sup> (“**Decision**”).
2. An outcome of the Decision is that interested parties have been provided with an opportunity to file additional material concerning some specific issues.
3. An outline of the submissions of The Australian Workers’ Union (“**AWU**”) concerning the following two issues arising in relation to the *Building and Construction General On-site Award 2010* (“**On-site Award**”) appears below:
  - the Full Bench’s proposal to delete an array of disability allowances and replace them with an enhanced industry allowance; and
  - whether reference should be added in the classification structure for construction workers performing testing duties falling within the On-site Award’s coverage prescribed in clause 4.10(b)(v).

**ALLOWANCES**

4. The AWU accepts the Full Bench appears to have made a final decision to delete a large number of disability allowances and replace them with an enhanced industry allowance. The AWU accepts there is some merit in this outcome in terms of simplifying the provisions of the On-site Award.

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<sup>1</sup> 4 yearly review of modern awards – Construction awards [2018] FWCFB 6019.

5. However, the Full Bench’s provisional views regarding the appropriate quantum for an enhanced industry allowance do not achieve the Full Bench’s own stated objectives of:
  - providing an “enhanced” industry allowance; and
  - delivering a “cost neutral outcome”.<sup>2</sup>
6. All employees to which the On-site Award currently *applies* are entitled to receive at least the following all-purpose payments:
  - an industry allowance of 3.7% of the weekly standard rate per week. This currently equates to \$30.98 per week; and
  - a special allowance of \$7.70 per week.
7. These two entitlements result in all employees receiving an additional all-purpose payment which is equivalent to around 4.6% of the weekly standard rate per week or \$38.68 per week.
8. Questions need to be asked of any calculator which suggests reducing a mandatory all-purpose payment of 4.6% of the weekly standard rate per week to 4% of the weekly standard rate per week (the proposed allowance for the residential building and construction sector) constitutes a “cost neutral outcome”.
9. The AWU is primarily concerned about members who perform work for employees in the civil construction industry.
10. The Full Bench’s proposal for an “enhanced” industry allowance for these employees is 5% of the weekly standard rate per week – an increase of around 0.4% of the weekly standard rate per week or \$3.35 per week.
11. The AWU submits this proposal is manifestly unfair and would result in a significant reduction to the current safety net of terms and conditions for the overwhelming majority of AWU members working in the civil construction industry.
12. The AWU relies on witness statements from the following union officials in support of its position that an enhanced industry allowance of only 5% of the weekly standard rate per week is manifestly deficient and unfair:

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<sup>2</sup> 4 *yearly review of modern awards – Construction awards* [2018] FWCFB 6019 at [368] and [369].

- Nicholas Blackford;
- Sean Burke;
- Anthony Callinan;
- Paul Cradden;
- Ronnie Hayden; and
- Kade Wakefield.

13. These officials specialise in the civil construction industry and spend large proportions of their working week observing the disabilities encountered by AWU members.

14. The evidence of these officials indicates the disabilities which justify the following allowances are regularly experienced by AWU members working in the civil construction industry - the current allowance rates are also identified below:

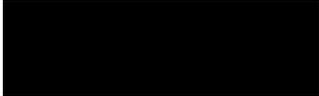
- Underground - clause 21.3 = \$0.44 per hour for less than 5 days
- Confined space - clause 22.2(d) = \$0.88 per hour
- Wet work - clause 22.2(g) = \$0.71 per hour
- Dirty work - clause 22.2(h) = \$0.71 per hour
- Hot work - clause 22.2(b) = \$0.71 per hour for between 46 and 54 degrees
- Cold work - clause 22.2(c) = \$0.71 per hour
- Explosive power tools - clause 22.2(f) = \$1.68 per day
- Fumes - clause 22.2(j)) = agreed amount
- Heavy blocks- clause 22.2(o) = \$0.71 per hour for 5.5kg to 9kg
- Bitumen work – clause 22.2(p) = \$0.88 per hour
- Live sewer work – clause 22.4(d) = \$0.64 per hour
- Compressed air – clause 22.4(g) = \$3.88 per hour for over 65 and up to 100kPa
- Height work – clause 22.2(q) = \$0.64 per hour
- Employee carrying fuels, oils and greases – clause 22.2(s) = \$11.72 per day
- Cutting stone – clause 22.2(h) = \$0.88 per hour
- Toxic substances – clause 22.2(i) = \$0.88 per hour
- Asbestos – clause 22.2(k) = \$0.88 per hour
- Asbestos eradication – clause 22.2(l) = \$2.38 per hour
- Sand blasting – clause 22.4(c) = \$0.09 per hour
- Scaffolding – clause 22.2(e) = \$5.14 for the first four hours
- Powdered lime dust – clause 22.4(b) = \$0.77 per hour

15. These figures highlight that an increase to the industry allowance of around \$3.35 per week in compensation for the removal of just the allowances listed above would almost inevitably result in a reduction of current safety net conditions for the overwhelming majority of AWU members.
16. For example, an employee working in a tunnel falls behind after around 7.6 hours of work in a week even assuming they would not be entitled to any of the additional allowances identified above (which is unlikely). An employee who works 38 ordinary hours underground on a tunnelling project would currently receive around \$16.72 per week. The Full Bench's proposal of an additional industry allowance payment of \$3.35 per week would constitute a reduction of around 80%.
17. Similarly, an employee who is required to work in the rain falls behind after around 4.72 hours assuming they are not entitled to any other allowances (which is unlikely).
18. AWU members working in the civil construction industry do not spend significant amounts of their working time in offices performing paperwork whereby none of the listed allowances would apply. They perform various types of physical labour which regularly involve using heavy machinery and working in difficult conditions.
19. Given a payment of \$0.71 per hour is a relatively average figure for the allowances listed above – it would not be unreasonable to apply that figure to 38 hours of work per week on the basis that an employee is likely to be entitled to at least one allowance at all times. That calculation of 38 hours x \$0.71 per hour results in an increase to the industry allowance of \$26.98 per week or 3.2%. That calculation would generate an enhanced industry allowance of  $4.6\% + 3.2\% = 7.8\%$ .
20. In addition to the above submissions, the AWU supports and adopts the submissions and proposals filed by the Construction, Forestry, Maritime, Mining and Energy Union.

## **TESTING WORK**

21. The AWU's position remains that reference to testing work should be inserted into the Construction Worker Level 2 classification in the On-site Award.
22. It appears a simple inadvertent omission by the Australian Industrial Relations Commission as part of the monumental award modernisation process has evolved into an established position that the AWU now has to displace on a merit level – at least in relation to Coffey's business.

23. The AWU notes no party has offered any alternative explanation, aside from an inadvertent omission, regarding why the definition of “civil construction” in clause 4.10(b) of the On-site Award includes what appears to be a very deliberately worded inclusion of testing work on a construction site but the construction worker classifications fail to identify an appropriate classification for testing work.
24. The AWU continues to rely on its previously filed evidence and submissions to demonstrate that CW2 is the appropriate classification for testing work performed on a construction site. No employer representative has suggested this is not the appropriate classification at this point.
25. The AWU otherwise intends to await the views of employer representatives on this issue and deal with their positions via reply material.



STEPHEN CRAWFORD  
**SENIOR NATIONAL LEGAL OFFICER**

14 NOVEMBER 2018

*Fair Work Act 2009*  
FAIR WORK COMMISSION

s. 156 - 4 yearly review of modern awards

AM2016/23

**4 YEARLY REVIEW OF MODERN AWARDS – CONSTRUCTION  
AWARDS – CONSOLIDATION OF ALLOWANCES**

**WITNESS STATEMENT OF NICHOLAS BLACKFORD**

I, Nicholas Blackford, of [REDACTED] AWU  
Construction Organiser, STATE:

**Background**

1. I commenced employment with The Australian Workers' Union, Victoria Branch ("**AWU**") on 16 March 2016.
2. My duties with the AWU include representing members in the civil construction industry including those working for Downer, Boral, Fulton Hogan, Lend Lease etc.
3. I am very familiar with working conditions in the civil construction industry and spend a large proportion of my working week on civil construction sites.

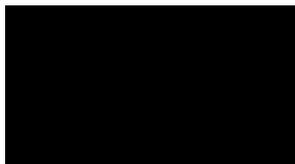
**Consolidation of allowances in the On-site Award**

4. I have been advised by the AWU National Office that the Fair Work Commission is proposing to delete the following allowances in the *Building and Construction General On-site Award 2010* ("**On-site Award**") and increase the industry allowance in recognition of their removal:
  - Special allowance (clause 21.1)
  - Industry allowance (clause 21.2)
  - Underground allowance (clause 21.3)
  - Plant room allowance (clause 21.4(e))
  - Refractory bricklaying allowance (clause 21.8)
  - Cofferdam worker (clause 21.9)

- Air-conditioning industry and refrigeration industry allowances (clause 21.11)
- Insulation (clause 22.2(a))
- Hot work (clause 22.2(b))
- Cold work (clause 22.2(c))
- Confined space (clause 22.2(d))
- Swing scaffold (clause 22.2(e))
- Explosive power tools (clause 22.2(f))
- Wet work (clause 22.2(g))
- Dirty work (clause 22.2(h))
- Toxic substances (clause 22.2(i))
- Fumes (clause 22.2(j))
- Asbestos (clause 22.2(k))
- Asbestos eradication (clause 22.2(l))
- Furnace work (clause 22.2(m))
- Acid work (clause 22.2(n))
- Heavy blocks (clause 22.2(o))
- Bitumen work (clause 22.2(p))
- Height work (clause 22.2(q))
- Suspended perimeter work platform (clause 22.2(r))
- Employee carrying fuels, oils and greases (clause 22.2(s))
- Pile driving (clause 22.2(t))
- Dual lift allowance (clause 22.2(u))
- Stonemasons (clause 22.2(v))
- Towers allowance (clause 22.3(a))
- Cleaning down brickwork (clause 22.3(b))
- Bagging (clause 22.3(c))
- Plaster or composition spray (clause 22.3(d))
- Slushing (clause 22.3(e))
- Dry polishing of tiles (clause 22.3(f))
- Cutting tiles (clause 22.3(g))
- Roof repairs (clause 22.3(i))
- Grindstone allowance (clause 22.3(k))
- Brewery cylinders (clause 22.3(l))
- Spray application – painters (clause 22.3(n))
- Pneumatic tool operation (clause 22.3(o))
- Bricklayer operating cutting machine (clause 22.3(p))
- Hydraulic hammer (clause 22.3(q))
- Waste disposal (clause 22.3(r))
- Pipe enamelling (clause 22.4(a))
- Powdered lime dust (clause 22.4(b))
- Sand blasting (clause 22.4(c))
- Live sewer work (clause 22.4(d))
- Timbering (clause 22.4(e))

- Special work (clause 22.4(f))
  - Compressed air work (clause 22.4(g))
  - Cutting stone (clause 22.4(h))
5. The industry allowance and special allowance are obviously applicable to all employees covered by the On-site Award.
6. I have been informed by the AWU National Office that the current value of the industry allowance and special allowance is approximately 4.6% of weekly standard rate per week (\$38.52 per week) and that the Commission is proposing a consolidated industry allowance of 5% of the weekly standard rate per week (\$41.87) to compensate employees in the civil construction industry for the loss of the various allowances listed above.
7. My view of this proposal is that a 0.4% increase to the industry allowance “compensating” the consolidated allowances is severely inadequate and is detrimental to the civil construction industry.
8. In relation to the allowances the Commission is proposing to delete, my experience has been that AWU members regularly perform work covered by the following allowances:
- Underground allowance (clause 21.3)
  - Hot work (clause 22.2(b))
  - Cold work (clause 22.2(c))
  - Confined space (clause 22.2(d))
  - Wet work (clause 22.2(g))
  - Dirty work (clause 22.2(h))
  - Toxic substances (clause 22.2(i))
  - Fumes (clause 22.2(j))
  - Asbestos (clause 22.2(k))
  - Asbestos eradication (clause 22.2(l))
  - Bitumen work (clause 22.2(p))
  - Employee carrying fuels, oils and greases (clause 22.2(s))
  - Powdered lime dust (clause 22.4(b))

SIGNED:

A solid black rectangular box used to redact the signature of Nicholas Blackford.

Nicholas Blackford

DATE: 14/11/18

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FAIR WORK COMMISSION

s. 156 - 4 yearly review of modern awards

AM2016/23

**4 YEARLY REVIEW OF MODERN AWARDS – CONSTRUCTION  
AWARDS – CONSOLIDATION OF ALLOWANCES**

**WITNESS STATEMENT**

I, Sean Burke, of [REDACTED] - Organiser

**Background**

1. I commenced employment with The Australian Workers' Union, NSW Branch ("AWU") on 14<sup>th</sup> January 2014.
2. My duties with the AWU are quite dynamic and include dealing with death and injuries through to Counselling.
3. My responsibilities include assisting AWU members working for the following employers in the civil construction industry: CPB, John Holland, KJ Scaffolding, Boral, Roadworx, Hanson. Holcim, Cleary Bros
4. I am very familiar with working conditions in the civil construction and have spent 32 years in the industry ranging from Bricklaying, Formwork, Steelfixing, Plant operation, Mobile plant from Front end loaders, cranes, excavators, trucks

**Consolidation of allowances in the On-site Award**

5. I have been advised by the AWU National Office that the Fair Work Commission is proposing to delete the following allowances in the *Building and Construction General On-site Award 2010* ("**On-site Award**") and increase the industry allowance in recognition of their removal:
  - Special allowance (clause 21.1)
  - Industry allowance (clause 21.2)
  - Underground allowance (clause 21.3)

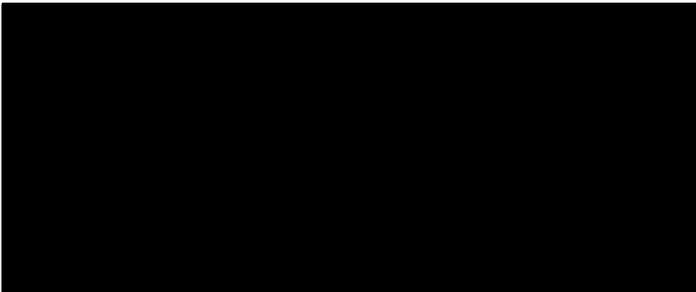
- Plant room allowance (clause 21.4(e))
- Refractory bricklaying allowance (clause 21.8)
- Cofferdam worker (clause 21.9)
- Air-conditioning industry and refrigeration industry allowances (clause 21.11)
- Insulation (clause 22.2(a))
- Hot work (clause 22.2(b))
- Cold work (clause 22.2(c))
- Confined space (clause 22.2(d))
- Swing scaffold (clause 22.2(e))
- Explosive power tools (clause 22.2(f))
- Wet work (clause 22.2(g))
- Dirty work (clause 22.2(h))
- Toxic substances (clause 22.2(i))
- Fumes (clause 22.2(j))
- Asbestos (clause 22.2(k))
- Asbestos eradication (clause 22.2(l))
- Furnace work (clause 22.2(m))
- Acid work (clause 22.2(n))
- Heavy blocks (clause 22.2(o))
- Bitumen work (clause 22.2(p))
- Height work (clause 22.2(q))
- Suspended perimeter work platform (clause 22.2(r))
- Employee carrying fuels, oils and greases (clause 22.2(s))
- Pile driving (clause 22.2(t))
- Dual lift allowance (clause 22.2(u))
- Stonemasons (clause 22.2(v))
- Towers allowance (clause 22.3(a))
- Cleaning down brickwork (clause 22.3(b))
- Bagging (clause 22.3(c))
- Plaster or composition spray (clause 22.3(d))
- Slushing (clause 22.3(e))
- Dry polishing of tiles (clause 22.3(f))
- Cutting tiles (clause 22.3(g))
- Roof repairs (clause 22.3(i))
- Grindstone allowance (clause 22.3(k))
- Brewery cylinders (clause 22.3(l))
- Spray application – painters (clause 22.3(n))
- Pneumatic tool operation (clause 22.3(o))
- Bricklayer operating cutting machine (clause 22.3(p))
- Hydraulic hammer (clause 22.3(q))
- Waste disposal (clause 22.3(r))
- Pipe enamelling (clause 22.4(a))
- Powdered lime dust (clause 22.4(b))

- Sand blasting (clause 22.4(c))
- Live sewer work (clause 22.4(d))
- Timbering (clause 22.4(e))
- Special work (clause 22.4(f))
- Compressed air work (clause 22.4(g))
- Cutting stone (clause 22.4(h))

6. The industry allowance and special allowance are obviously applicable to all employees covered by the On-site Award.
7. I have been informed by the AWU National Office that the current value of the industry allowance and special allowance is approximately 4.6% of weekly standard rate per week (\$38.52 per week) and that the Commission is proposing a consolidated industry allowance of 5% of the weekly standard rate per week (\$41.87) to compensate employees in the civil construction industry for the loss of the various allowances listed above.
8. In my view the dollar value of the proposal is completely inadequate, AWU members perform multiple rolls covered by these allowances on a daily basis. To remove the long list of allowances and increase the industry allowance to only 5% of the weekly standard rate completely devalues the work performed.
9. In relation to the allowances the Commission is proposing to delete, my experience has been that AWU members regularly perform work covered by the following allowances:
  - Underground
  - Plant room
  - Hot
  - Cold
  - Scaffolding
  - Explosive power tools
  - Height work
  - Fumes
  - Pneumatic tools
  - Hydraulic hammer
  - Waste disposal
  - Live sewer work

10. Several of these allowances can be applicable for an employee during a single pay period. I agree the allowances should be simplified however there needs to be a fair reflection in the new industry allowance value – I would suggest 15-20% instead of 5%.

11. As an example, I've had to perform roles standing in human excrement up to my crutch while operating a jack hammer. 5% as a combined allowance does not compensate for this



Sean Burke

DATE: 12<sup>th</sup> November 2018

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FAIR WORK COMMISSION

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AM2016/23

**4 YEARLY REVIEW OF MODERN AWARDS – CONSTRUCTION  
AWARDS – CONSOLIDATION OF ALLOWANCES**

**WITNESS STATEMENT OF ANTHONY CALLINAN**

I, Anthony Callinan, of [REDACTED] Assistant Branch  
Secretary of The Australian Workers Union, NSW Branch STATE:

**Background**

1. I commenced employment with The Australian Workers' Union, New South Wales Branch (“**AWU**”) in 2014.
2. My duties with the AWU include acting as Construction Team Leader for the AWU and servicing members in the civil construction industry.
3. My responsibilities include assisting AWU members working for the following employers in the civil construction industry:
  - a. Lend Lease
  - b. CPB
  - c. Laing O'Rourke
  - d. Boral
  - e. Fulton Hogan
4. I am very familiar with working conditions in the civil construction industry and have negotiated many Enterprise Agreements on behalf of AWU members employed in the civil construction industry.
5. I spend a large proportion of my working week solely dedicated to issues relating to the civil construction sites where our members and potential members are employed.

## Consolidation of allowances in the On-site Award

6. I have been advised by the AWU National Office that the Fair Work Commission is proposing to delete the following allowances in the *Building and Construction General On-site Award 2010* (“**On-site Award**”) and increase the industry allowance in recognition of their removal:

- Special allowance (clause 21.1)
- Industry allowance (clause 21.2)
- Underground allowance (clause 21.3)
- Plant room allowance (clause 21.4(e))
- Refractory bricklaying allowance (clause 21.8)
- Cofferdam worker (clause 21.9)
- Air-conditioning industry and refrigeration industry allowances (clause 21.11)
- Insulation (clause 22.2(a))
- Hot work (clause 22.2(b))
- Cold work (clause 22.2(c))
- Confined space (clause 22.2(d))
- Swing scaffold (clause 22.2(e))
- Explosive power tools (clause 22.2(f))
- Wet work (clause 22.2(g))
- Dirty work (clause 22.2(h))
- Toxic substances (clause 22.2(i))
- Fumes (clause 22.2(j))
- Asbestos (clause 22.2(k))
- Asbestos eradication (clause 22.2(l))
- Furnace work (clause 22.2(m))
- Acid work (clause 22.2(n))
- Heavy blocks (clause 22.2(o))
- Bitumen work (clause 22.2(p))
- Height work (clause 22.2(q))
- Suspended perimeter work platform (clause 22.2(r))
- Employee carrying fuels, oils and greases (clause 22.2(s))
- Pile driving (clause 22.2(t))
- Dual lift allowance (clause 22.2(u))
- Stonemasons (clause 22.2(v))
- Towers allowance (clause 22.3(a))
- Cleaning down brickwork (clause 22.3(b))
- Bagging (clause 22.3(c))
- Plaster or composition spray (clause 22.3(d))
- Slushing (clause 22.3(e))
- Dry polishing of tiles (clause 22.3(f))
- Cutting tiles (clause 22.3(g))

- Roof repairs (clause 22.3(i))
- Grindstone allowance (clause 22.3(k))
- Brewery cylinders (clause 22.3(l))
- Spray application – painters (clause 22.3(n))
- Pneumatic tool operation (clause 22.3(o))
- Bricklayer operating cutting machine (clause 22.3(p))
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- Waste disposal (clause 22.3(r))
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- Powdered lime dust (clause 22.4(b))
- Sand blasting (clause 22.4(c))
- Live sewer work (clause 22.4(d))
- Timbering (clause 22.4(e))
- Special work (clause 22.4(f))
- Compressed air work (clause 22.4(g))
- Cutting stone (clause 22.4(h))

7. The industry allowance and special allowance are obviously applicable to all employees covered by the On-site Award.
8. I have been informed by the AWU National Office that the current value of the industry allowance and special allowance is approximately 4.6% of weekly standard rate per week (\$38.52 per week) and that the Commission is proposing a consolidated industry allowance of 5% of the weekly standard rate per week (\$41.87) to compensate employees in the civil construction industry for the loss of the various allowances listed above.
9. My view of this proposal is that the amount proposed is insufficient compensation for the removal of the extensive list of other allowances and will result in workers in the industry being substantially financially disadvantaged.
10. In relation to the allowances the Commission is proposing to delete, my experience has been that AWU members regularly perform work covered by the following allowances:
  - Underground allowance (clause 21.3) when working in Tunnels
  - Confined space (clause 22.2(d))
  - Explosive power tools (clause 22.2(f))
  - Wet work (clause 22.2(g))
  - Dirty work (clause 22.2(h))
  - Toxic substances (clause 22.2(i))
  - Asbestos (clause 22.2(k))
  - Asbestos eradication (clause 22.2(l))
  - Bitumen work (clause 22.2(p))

- Height work (clause 22.2(q))
- Employee carrying fuels, oils and greases (clause 22.2(s))
- Hydraulic hammer (clause 22.3(q))
- Sand blasting (clause 22.4(c))
- Live sewer work (clause 22.4(d))

11. Whilst some of the proposed allowances may only be applicable for a small proportion of the working hours for some employees, other employees would receive some of these allowances for the majority of hours worked.

12. For example, a worker engaged in tunnel excavation would receive the underground allowance for almost all hours worked and a worker who specialised in Asbestos removal would be entitled to the Asbestos and/or Asbestos eradication allowance for the majority of their working hours.

SIGNED:

A large black rectangular redaction box covering the signature of Anthony Callinan.

ANTHONY CALLINAN

DATE:

14-11-18

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**4 YEARLY REVIEW OF MODERN AWARDS – CONSTRUCTION  
AWARDS – CONSOLIDATION OF ALLOWANCES**

**WITNESS STATEMENT OF PAUL CRADDEN**

I, Paul Cradden, of [REDACTED] Civil  
Construction Organiser, STATE:

**Background**

1. I commenced employment with The Australian Workers' Union, Queensland Branch ("**AWU**") in January 2015.
2. My duties with the AWU include assisting AWU members working for the following employers in the civil construction industry: John Holland, Lend Lease, Fulton Hogan, Seymour Whyte, Shamrock Civil, Bilby and JF Hull.
3. My role is focused solely on the civil construction industry. I spend around five hours per day on civil construction sites.

**Consolidation of allowances in the On-site Award**

4. I have been advised by the AWU National Office that the Fair Work Commission is proposing to delete the following allowances in the *Building and Construction General On-site Award 2010* ("**On-site Award**") and increase the industry allowance in recognition of their removal:
  - Special allowance (clause 21.1)
  - Industry allowance (clause 21.2)
  - Underground allowance (clause 21.3)
  - Plant room allowance (clause 21.4(e))
  - Refractory bricklaying allowance (clause 21.8)
  - Cofferdam worker (clause 21.9)

- Air-conditioning industry and refrigeration industry allowances (clause 21.11)
- Insulation (clause 22.2(a))
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- Acid work (clause 22.2(n))
- Heavy blocks (clause 22.2(o))
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- Suspended perimeter work platform (clause 22.2(r))
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- Pile driving (clause 22.2(t))
- Dual lift allowance (clause 22.2(u))
- Stonemasons (clause 22.2(v))
- Towers allowance (clause 22.3(a))
- Cleaning down brickwork (clause 22.3(b))
- Bagging (clause 22.3(c))
- Plaster or composition spray (clause 22.3(d))
- Slushing (clause 22.3(e))
- Dry polishing of tiles (clause 22.3(f))
- Cutting tiles (clause 22.3(g))
- Roof repairs (clause 22.3(i))
- Grindstone allowance (clause 22.3(k))
- Brewery cylinders (clause 22.3(l))
- Spray application – painters (clause 22.3(n))
- Pneumatic tool operation (clause 22.3(o))
- Bricklayer operating cutting machine (clause 22.3(p))
- Hydraulic hammer (clause 22.3(q))
- Waste disposal (clause 22.3(r))
- Pipe enamelling (clause 22.4(a))
- Powdered lime dust (clause 22.4(b))
- Sand blasting (clause 22.4(c))
- Live sewer work (clause 22.4(d))
- Timbering (clause 22.4(e))

- Special work (clause 22.4(f))
  - Compressed air work (clause 22.4(g))
  - Cutting stone (clause 22.4(h))
5. The industry allowance and special allowance are applicable to all employees covered by the On-site Award.
6. I have been informed by the AWU National Office that the current value of the industry allowance and special allowance is approximately 4.6% of weekly standard rate per week (\$38.52 per week) and that the Commission is proposing a consolidated industry allowance of 5% of the weekly standard rate per week (\$41.87) to compensate employees in the civil construction industry for the loss of the various allowances listed above.
7. I think there is merit in having a consolidated allowance but the proposal to only increase the industry allowance by around 0.4% of the weekly standard rate per week appears deficient compared to the current conditions.
8. In relation to the allowances the Commission is proposing to delete, my experience has been that AWU members regularly perform work covered by the following allowances:
- Hot work
  - Wet work
  - Cold work
  - Confined space
  - Underground
  - Swing scaffold – this is only occasionally
  - Explosive power tools
  - Dirty work
  - Fumes
  - Heavy blocks
  - Bitumen
  - Employee carrying fuels, oils and greases
  - Pneumatic tool operation
  - Live sewer work
  - Compressed air
  - Cutting stone



*Fair Work Act 2009*  
FAIR WORK COMMISSION

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**4 YEARLY REVIEW OF MODERN AWARDS – CONSTRUCTION  
AWARDS – CONSOLIDATION OF ALLOWANCES**

**WITNESS STATEMENT OF RONNIE HAYDEN**

I, Ronnie Hayden, of [REDACTED] Lead  
Organiser, STATE:

**Background**

1. I commenced employment with The Australian Workers' Union, Victorian Branch ("**AWU**") on 30 November 2009.
2. My duties with the AWU include organising members working in the civil construction industry.
3. I assist AWU members working for the following employers: John Holland, Lendlease, CPB, Laing O Rourke, BMD, Winslow, Decmil and Fulton Hogan.
4. I am very familiar with working conditions in the civil construction industry and spend a large proportion of my working week on civil construction sites.

**Consolidation of allowances in the On-site Award**

5. I have been advised by the AWU National Office that the Fair Work Commission is proposing to delete the following allowances in the *Building and Construction General On-site Award 2010* ("**On-site Award**") and increase the industry allowance in recognition of their removal:
  - Special allowance (clause 21.1)
  - Industry allowance (clause 21.2)
  - Underground allowance (clause 21.3)
  - Plant room allowance (clause 21.4(e))

- Refractory bricklaying allowance (clause 21.8)
- Cofferdam worker (clause 21.9)
- Air-conditioning industry and refrigeration industry allowances (clause 21.11)
- Insulation (clause 22.2(a))
- Hot work (clause 22.2(b))
- Cold work (clause 22.2(c))
- Confined space (clause 22.2(d))
- Swing scaffold (clause 22.2(e))
- Explosive power tools (clause 22.2(f))
- Wet work (clause 22.2(g))
- Dirty work (clause 22.2(h))
- Toxic substances (clause 22.2(i))
- Fumes (clause 22.2(j))
- Asbestos (clause 22.2(k))
- Asbestos eradication (clause 22.2(l))
- Furnace work (clause 22.2(m))
- Acid work (clause 22.2(n))
- Heavy blocks (clause 22.2(o))
- Bitumen work (clause 22.2(p))
- Height work (clause 22.2(q))
- Suspended perimeter work platform (clause 22.2(r))
- Employee carrying fuels, oils and greases (clause 22.2(s))
- Pile driving (clause 22.2(t))
- Dual lift allowance (clause 22.2(u))
- Stonemasons (clause 22.2(v))
- Towers allowance (clause 22.3(a))
- Cleaning down brickwork (clause 22.3(b))
- Bagging (clause 22.3(c))
- Plaster or composition spray (clause 22.3(d))
- Slushing (clause 22.3(e))
- Dry polishing of tiles (clause 22.3(f))
- Cutting tiles (clause 22.3(g))
- Roof repairs (clause 22.3(i))
- Grindstone allowance (clause 22.3(k))
- Brewery cylinders (clause 22.3(l))
- Spray application – painters (clause 22.3(n))
- Pneumatic tool operation (clause 22.3(o))
- Bricklayer operating cutting machine (clause 22.3(p))
- Hydraulic hammer (clause 22.3(q))
- Waste disposal (clause 22.3(r))
- Pipe enamelling (clause 22.4(a))
- Powdered lime dust (clause 22.4(b))
- Sand blasting (clause 22.4(c))

- Live sewer work (clause 22.4(d))
  - Timbering (clause 22.4(e))
  - Special work (clause 22.4(f))
  - Compressed air work (clause 22.4(g))
  - Cutting stone (clause 22.4(h))
6. The industry allowance and special allowance are currently applicable to all employees covered by the On-site Award.
7. I have been informed by the AWU National Office that the current value of the industry allowance and special allowance is 4.6% of weekly standard rate per week and that the Commission is proposing a consolidated industry allowance of 5% of the weekly standard rate per week to compensate employees in the civil construction industry for the loss of the various allowances listed above.
8. This proposal would have a significant negative effect on not only members of the AWU but also all employees working in the civil construction industry.
9. Employees paid under the On-site Award are highly likely to lose money if this change is adopted and the On-site Award is very important as a benchmark in enterprise agreement negotiations,
10. In relation to the allowances the Commission is proposing to delete, my experience has been that AWU members regularly perform work covered by the following allowances:
- Confined space
  - Wet work
  - Dirty work
  - Bitumen work
  - Underground allowance
11. Within the foreseeable future in Victoria there will be a significant number of tunnel projects commencing.
12. Under the current On-site Award, employees working in tunnels would be entitled to an additional allowance of 1.8% of the weekly standard rate per week and this would be paid for all hours.
13. This means all employees working underground would be negatively affected by the proposed changes.

SIGNED:



Ronnie Hayden

DATE: 13/11/2018

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**4 YEARLY REVIEW OF MODERN AWARDS – CONSTRUCTION  
AWARDS – CONSOLIDATION OF ALLOWANCES**

**WITNESS STATEMENT OF KADE WAKEFIELD**

I, Kade Wakefield, of [REDACTED] Lead  
Organiser, STATE:

**Background**

1. I commenced employment with The Australian Workers' Union Victorian Branch ("**AWU**") on 13 August 2018. Prior to this I worked for the Tasmanian Branch and also had a previous stint with the Victorian Branch.
2. My duties with the AWU include organising members covered by the *Building and Construction General On-site Award 2010* ("**On-site Award**").
3. My responsibilities include assisting AWU members working for the following employers in the civil construction industry: Lendlease, Ventia, Downer, Boral, Fulton Hogan, Toxfree, Veolia, VicRoads.
4. I spend a substantive part of my working week on civil construction sites, as a result I have intimate knowledge of the working conditions in the civil construction industry.

**Consolidation of allowances in the On-site Award**

5. I have been advised by the AWU National Office that the Fair Work Commission is proposing to delete the following allowances in the *Building and Construction General On-site Award 2010* ("**On-site Award**") and increase the industry allowance in recognition of their removal:

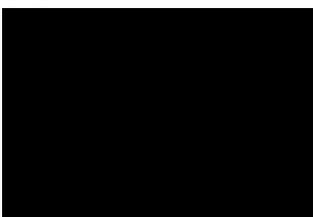
- Special allowance (clause 21.1)

- Industry allowance (clause 21.2)
- Underground allowance (clause 21.3)
- Plant room allowance (clause 21.4(e))
- Refractory bricklaying allowance (clause 21.8)
- Cofferdam worker (clause 21.9)
- Air-conditioning industry and refrigeration industry allowances (clause 21.11)
- Insulation (clause 22.2(a))
- Hot work (clause 22.2(b))
- Cold work (clause 22.2(c))
- Confined space (clause 22.2(d))
- Swing scaffold (clause 22.2(e))
- Explosive power tools (clause 22.2(f))
- Wet work (clause 22.2(g))
- Dirty work (clause 22.2(h))
- Toxic substances (clause 22.2(i))
- Fumes (clause 22.2(j))
- Asbestos (clause 22.2(k))
- Asbestos eradication (clause 22.2(l))
- Furnace work (clause 22.2(m))
- Acid work (clause 22.2(n))
- Heavy blocks (clause 22.2(o))
- Bitumen work (clause 22.2(p))
- Height work (clause 22.2(q))
- Suspended perimeter work platform (clause 22.2(r))
- Employee carrying fuels, oils and greases (clause 22.2(s))
- Pile driving (clause 22.2(t))
- Dual lift allowance (clause 22.2(u))
- Stonemasons (clause 22.2(v))
- Towers allowance (clause 22.3(a))
- Cleaning down brickwork (clause 22.3(b))
- Bagging (clause 22.3(c))
- Plaster or composition spray (clause 22.3(d))
- Slushing (clause 22.3(e))
- Dry polishing of tiles (clause 22.3(f))
- Cutting tiles (clause 22.3(g))
- Roof repairs (clause 22.3(i))
- Grindstone allowance (clause 22.3(k))
- Brewery cylinders (clause 22.3(l))
- Spray application – painters (clause 22.3(n))
- Pneumatic tool operation (clause 22.3(o))
- Bricklayer operating cutting machine (clause 22.3(p))
- Hydraulic hammer (clause 22.3(q))
- Waste disposal (clause 22.3(r))

- Pipe enamelling (clause 22.4(a))
- Powdered lime dust (clause 22.4(b))
- Sand blasting (clause 22.4(c))
- Live sewer work (clause 22.4(d))
- Timbering (clause 22.4(e))
- Special work (clause 22.4(f))
- Compressed air work (clause 22.4(g))
- Cutting stone (clause 22.4(h))

6. The industry allowance and special allowance are obviously applicable to all employees covered by the On-site Award.
7. I have been informed by the AWU National Office that the current value of the industry allowance and special allowance is approximately 4.6% of weekly standard rate per week (\$38.52 per week) and that the Commission is proposing a consolidated industry allowance of 5% of the weekly standard rate per week (\$41.87) to compensate employees in the civil construction industry for the loss of the various allowances listed above.
8. The proposed changes would have a substantial negative impact on both members of the AWU and other workers paid under the On-site Award. A significant proportion of the enterprise agreements that we negotiate are tethered to the award. The removal of these allowances will more than likely have a negative flow on effect to Enterprise Agreements and has the potential to cause significant loss to our members.
9. In relation to the allowances the Commission is proposing to delete, my experience has been that AWU members regularly perform work covered by the following allowances:
  - Underground allowance (clause 21.3)
  - Confined space (clause 22.2(d))
  - Live sewer work (clause 22.4(d))
  - Bitumen work (clause 22.2(p))
  - Wet work (clause 22.2(g))
  - Dirty work (clause 22.2(h))

SIGNED:



Kade Wakefield

DATE: 14/11/2018