

SUMMARY OF SUBMISSIONS

This table is a summary of submissions lodged for this award on or before 5.00pm on 25 May 2016.

| ITEM | PARTY | DOCUMENT | CLAUSE (exposure draft) | CLAUSE (current award) | SUMMARY OF ISSUE | THEIR REFERENCE | NOTES |
|------|-------|-----------------------------------|-------------------------------|------------------------------|---|--------------------|-------|
| 1. | AWU | Sub-18/04/16 | 3.3(a) | | Coverage Typographical error – delete “by the covered” in the opening sentence. | Para 3 | |
| 2. | MUA | Sub-14/04/16 | 5.2 | | Facilitative provisions <i>In response to FWC query:</i> Clause 9.2(a) is in relation to when breaks can be taken. Any decision to delay a break so it occurs after 5 hours from start of a shift should be by agreement between employer and majority of employees. | Para 1 | |
| | AWU | ReplySub-05/05/16 | | | Agrees with MUA | Para 1 | |
| 3. | MUA | Sub-14/04/16 | 6.3 | | Types of employment – Full time employment <i>In response to FWC query:</i> Supports removal of words “at least”. | Para 2 | |
| | AWU | Sub-18/04/16 | | | Supports removal words “at least”. | Para 4 – 5 | |
| | AWU | ReplySub-05/05/16 | | | Supports MUA submissions | Para 4 | |

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| 4. | MUA | Sub-14/04/16 | 6.5(a)(ii) | | Types of employment – casual employment <i>In response to FWC query:</i> Considers current provision clear and the introduction of concept of ‘former’ unnecessary. | Para 3 | |
| | AWU | Sub-18/04/16 | | | <i>In response to FWC query:</i> Concerned clause purports to exclude NES (s.117 FW Act) – if employee is engaged on full time or part time basis, but then deemed a casual employee if dismissed on first day or within 4 weeks, then they appear to have lost an entitlement to prescribed period of notice. Should be removed. | Para 6 | |
| | AWU | ReplySub-05/05/16 | | | Refer to their 18 April submission. | Para 6 | |
| 5. | AWU | Sub-18/04/16 | 6.5(b)(ii) | | Casual loading Clause excludes application of allowances for casual employees. Should be removed or otherwise replaced with same wording used in the Building modern award. | Para 7 | AWU understands matter being dealt with by Part-time and Casual employees Full Bench in AM2014/196 and AM2014/197 |

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| 6. | AWU | Sub-18/04/16 | 8.2(a)(ii) | | Hours of work – span of hours Concerned clause allows workers to agree to work any number more hours than 12 at ordinary rate of pay, and without regard to nature of clause being about “day workers”. Suggest use of clause similar to that in Manufacturing modern award. 14 hours is the dredging industry standard for extension of ordinary hours by agreement. | Para 8 – 13 | Proposed wording included. |
| 7. | AWU | Sub-18/04/16 | 9.2(a) | | Breaks – meal break <i>In response to FWC query:</i> Suggests subclause be added to clarify which parties can agree to change time of meal break | Para 14 | Proposed wording included for new 9.2(b). |
| 8. | AWU | Sub-18/04/16 | 9.2(c) and 9.2(e) | | Subclauses differ by method of calculation for compensation of denied meal break. AWU not able to provide explanation for difference in entitlement. If there is no reason to be found, submits that to simply clause, cl. 9.2(e) could be removed and incorporated into 9.2(c) | Para 17 | Proposed wording included. |
| 9. | AWU | Sub-18/04/16 | 9.2(d) | | Breaks – meal break Unclear how clause is to be observed. Suggests clause be replaced and directly refer to cl.9.2(a) and (c). | Para 15 | Proposed wording included. |

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| 10. | AWU | Sub-18/04/16 | 9.2(e) | | Clause requires words “an additional” to be added to read “...employees must be paid an additional one hour at ordinary time rates” | Para 18 | |
| 11. | MUA | Sub-14/04/16 | 9.3 | | Breaks <i>In response to FWC query:</i> Clause 9.2(c) and (e) are two exceptions to overriding requirement in cl. 9.3. Suggests cl.9.3 be amended | Para 4 | Proposed wording included. |
| | AWU | Sub-18/04/16 | | | <i>In response to FWC query:</i> Clause 9.2(c) and (e) operate as an exception to clause 9.3 | Para 4 | |
| | AWU | Sub-18/04/16 | | | Clause should be deleted. In conflict with cl. 9.2 and creates ambiguity. | Para 19 | |
| | AWU | ReplySub-05/05/16 | | | Prefers MUA wording over current ED wording, but would prefer clause was deleted entirely. | Para 7 | |
| 12. | FWO | Corro-2/3/15 | 10.3 | 14.3 | Weekly aggregated wage Unclear what is meant by “weekly aggregated wage”. Use of term in cl 14.3 differs from cl.14.1 and 14.2 which both provide “minimum weekly rates” in respect of different categories of employees. In absence of definition of “weekly aggregated wage”, may be unclear which entitlements have been “aggregated” (and as a result it may be unclear which, if any, entitlements remain separately payable). | Page 5 | Information based on common queries raised with FWO |

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| | MUA | Sub-14/04/16 | | | <i>In response to FWC query:</i> New definition of aggregate rate be inserted into Sched D of ED. | Para 5 | Proposed wording included. |
| | AWU | Sub-18/04/16 | | | Definition should be included to clarify how final wage is calculated. Query why there is no minimum wage for positions “Trailer master” and “Chief engineer” | Para 20 | |
| 13. | AWU | Sub-18/04/16 | 10.4 | | Higher Duties The word “work” be used rather than “duties” to reflect that not all duties must be performed, rather work of that higher position, on that occasion. Same amendment made to Asphalt Industry modern award during review of group 1A and 1B awards. | Para 21 | |
| 14. | AWU | Sub-18/04/16 | 11.2(b) | | Dual certificate allowance should also be expressed as hourly rate. This reflects that allowance will form component of ordinary rate. | Para 25 | Proposed wording included. |
| 15. | MUA | Sub-14/04/16 | 11.2(h)(ii) | | Additional allowances—cooks <i>In response to FWC query:</i> Allowance should be paid weekly. | Para 6 | |
| | AWU | Sub-18/04/16 | | | On one construction appears appropriate that payment be on each occasion. Second construction is that payment should be weekly. | Para 26 | |
| | AWU | ReplySub-05/05/16 | | | Supports MUA submissions | Para 4 | |

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| 16 | MUA | Sub-14/04/16 | 11.2(j)(i) | | Vessels proceeding from port to port <i>In response to FWC query:</i> Reference to “Navigations Act” should be updated. | Para 7 | |
| 17. | MUA | Sub-14/04/16 | 11.2(j)(ii) | | Reference to the <i>Seamen’s Compensation Act 1974</i> should be updated to <i>Seafarers Rehabilitation and Compensation Act 1992</i> | Para 7 | |
| | AWU | ReplySub-05/05/16 | | | Supports MUA submissions | Para 4 | |
| 18. | MUA | Sub-14/04/16 | 11.3(b)(iv) | | Protective and industrial clothing allowances <i>In response to FWC query:</i> Pre reform award requirement to reimburse did not apply where employer supplied protective clothing and equipment. ED should maintain position and delete clause reference to cl.11.3(b)(ii) and insert cl.11.3(b)(iii) | Para 8 | |
| | AWU | ReplySub-05/05/16 | | | Supports MUA submissions | Para 4 | |
| 19. | MUA | Sub-14/04/16 | 13.3 | | Shiftwork penalties <i>In response to FWC query:</i> Does not consider necessary to convert rates to penalties based on an employee’s ordinary hourly rate | Para 9 | |
| | AWU | Sub-18/04/16 | | | Shiftwork loading should be based on the “ordinary rate” in order to capture the all-purpose allowance. | Para 28 | |
| | AWU | ReplySub-05/05/16 | | | | Para 8 | |

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| 20. | AWU | Sub-18/04/16 | 13.3(a) | | Shiftwork penalties Wording of clause confusing. Proposes alternative wording | Para 27 | Proposed wording included. |
| 21. | AWU | Sub-10/12/15 | 14 | 23 | Annual leave loading Seeks insertion of annual leave loading provision | Paras 3–13 | |
| | AWU | Sub-18/04/16 | | | | Para 29 | |
| 22. | MUA | Sub-14/04/16 | 14 | | Annual leave <i>In response to FWC query:</i> The hours of work for shiftworker are set out in cl 8.2(b) and consist of 12 hour shifts for 7 days for a week followed by 12 hour shifts for 6 days for a week. This work pattern should be used for the purpose of the NES. | Para 10 | |
| | AWU | ReplySub-05/05/16 | | | Agree with MUA. As long as employee weekly hours amount to 38 hours when averaged over a specified period, the pattern set out under award is consistent with the NES | Para 9 | |
| 23. | AWU | Sub-18/04/16 | A.4 | | Casual employees Seeks insertion of a definition of “ordinary hourly rate” to be included to ensure all-purpose allowance is included when calculating casual wages. Submits same clause as set out at cl. A.1.1 could be used again at A.4 | | AWU understands matter being dealt with by the Full Bench dealing with Part-time and Casuals in AM2014/196 and AM2014/197 |

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| 24. | MUA | Sub-14/04/16 | C.3.3(c) | | Coverage <i>In response to FWC query:</i> Not aware of a training program that should not be covered by Schedule. | Para 11 | |
| 25. | AWU | Sub-18/04/16 | Sched E | | Definitions For consistency, suggest defining terms “not fully operational” instead of “laid up”. Would require replacing terms used in cl. 11.2(b)(i), 11.2(e) and in column 1 of the table in clause B.1.1. | Para 22 – 24 | Proposed wording included |

List of abbreviations (in alphabetical order)

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| AWU | The Australian Workers’ Union |
| ED | Exposure Draft |
| FWO | Fair Work Ombudsman |
| MA | Modern Award |
| MUA | The Maritime Union of Australia |