



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Construction, Forestry, Maritime, Mining and Energy Union (AG2023/3792)

OCC WA PTY LTD AND CFMEU (WA) AND AWU (ARMADALE LINE UPGRADE) GREENFIELDS AGREEMENT 2023

Building, metal and civil construction industries

COMMISSIONER ALLISON

MELBOURNE, 30 OCTOBER 2023

Application for approval of the OCC WA Pty Ltd and CFMEU (WA) and AWU (Armadale Line Upgrade) Greenfields Agreement 2023

[1] An application has been made for approval of a greenfields agreement known as the *OCC WA Pty Ltd and CFMEU (WA) and AWU (Armadale Line Upgrade) Greenfields Agreement 2023* (the Agreement). The application was made by the Construction, Forestry, Maritime, Mining and Energy Union (CFMEU) pursuant to s.185 of the *Fair Work Act 2009* (Act).

[2] This is a greenfields agreement that meets the requirements of s.172(2)(b) of the Act. I am satisfied that each of the requirements of ss.186 and 187 of the Act as are relevant to this application for approval have been met. In accordance with s.187(5)(a) of the Act, I am satisfied that the CFMEU and the Australian Workers' Union (AWU) are entitled to represent the industrial interests of a majority of employees who will be covered by the Agreement in relation to work that is to be performed under it. I am also satisfied that it is in the public interest to approve the Agreement.

[3] I observe that the following clauses of the Agreement may be inconsistent with the National Employment Standards (NES):

- clause 12.3(j), relating to the casual conversion appears more restrictive than s.66F of the Act.
- clause 32.5, relating to compassionate leave does not provide an entitlement to compassionate leave in circumstances where a child is stillborn or there is a miscarriage, inconsistent with s.104 of the Act.

[4] However, noting clause 6.1(b) of the Agreement, I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[5] Pursuant to s.53(2)(b) of the Act I note the Agreement was made with the CFMEU and the AWU and that the Agreement covers these organisations.

[6] The Agreement was approved on 30 October 2023 and, in accordance with s.54, will operate from 6 November 2023. The nominal expiry date of the Agreement is 1 July 2026.



COMMISSIONER

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OCC WA PTY LTD
AND
CFMEU (WA) AND AWU
(ARMADALE LINE UPGRADE)
GREENFIELDS AGREEMENT
2023

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PART 1 – APPLICATION AND OPERATION

1. Title

- 1.1 This agreement will be cited as the *OCC WA Pty Ltd and CFMEU (WA) and AWU (Armadale Line Upgrade) Greenfields Agreement 2023 (the Agreement)*.

2. Definitions

- 2.1 In this Agreement:

Act means the *Fair Work Act 2009* (Cth) as in force from time to time;

All-Purpose means, in relation to allowances, that the allowance is payable for all purposes of the Agreement and is part of the gross weekly ordinary rates of pay and must be included when calculating all payments including, but not limited to, payments for overtime, Annual Leave (ANL), Personal Leave, Annual Leave loading, Public Holidays and payments on termination;

Award means the *Building and Construction General Onsite Award 2020* as in force from time to time;

AWU means the Australian Workers' Union;

CBUS means the Construction and Building Unions Superannuation scheme;

CFMEU means the Construction, Forestry, Maritime, Mining and Energy Union;

Continuous service includes absence due to: Annual Leave; Personal Leave; Parental Leave; illness or accident up to a maximum of 4 weeks after the expiration of Sick Leave; jury service; injury received during the course of employment and up to a maximum of 26 weeks for which the Employee received workers' compensation; where called up for military service for up to 3 months; Long Service Leave; and Rest and Recreation Leave;

Continuous shiftworker means an employee engaged to work in a system of consecutive shifts throughout the 24 hours of each of at least 6 consecutive days without interruption (except during breakdown or meal breaks or due to unavoidable causes beyond the control of the Employer) and who is regularly rostered to work those shifts. This definition is for the purposes of the National Employment Standards pursuant to section 87(1)(b)(ii) of the Act;

DIBP means the Department of Immigration and Border Protection, and its predecessor and successor (if any) agencies;

Employee means an employee of the Employer who is engaged in any of the occupations or callings specified in Appendix A – Wages & Classification Structure.

Employer means: OCC WA Pty Ltd; ABN: 69 645 252 124;

FWC means Fair Work Commission;

Ordinary Time Earnings means the base rate of pay the Employee usually receives for ordinary hours of work plus all allowances that the Employee normally receives such as, the Construction Allowance, shift loadings, First Aid Allowance, and All Purpose Leading Hand Allowance, but does not include the Fares & Travel Allowance;

Party or Parties to this Agreement means the Employer, its Employees and/or the CFMEU and AWU as a representative of its members as the context requires;

Project means the Metronet –Armadale Line Upgrade in the State of Western Australia.

Tradesperson means a person holding a trades qualification and engaged to perform the duties of a tradesperson including a Plasterer; Fixer; Tiler; Painter; Glazier; Signwriter; Carpenter; Roofer; Bricklayer; Stonemason; or Tradesperson (other).

UNION means the CFMEU or AWU.

VEVO means the DIBP Visa Entitlement Verification Online system; and

WCIM Act means the *Workers' Compensation and Injury Management Act 1981* (WA), (as amended from time to time)

3. **Coverage**

3.1 Subject to this clause and section 53 of the Act, this Agreement covers the:

- a) Employer;
- b) Employees;
- c) CFMEU; and
- d) AWU.

4. **Area and Scope**

4.1 This Agreement covers and applies to the Employer and its Employees, in the classifications listed in this Agreement, that are engaged to perform on site construction work and related work on the Project.

5. **Commencement and Nominal Expiry Date**

5.1 This Agreement will commence operation in accordance with section 54 of the Act.

5.2 The nominal expiry date of this Agreement is 1 July 2026.

6. **Operation & Severability**

6.1 **Operation**

- a) It is intended that this Agreement is comprehensive and will stand alone so that the Award and any other awards, orders, transitional instruments and state Industrial Laws, will not apply to Employees while this Agreement is in operation to the maximum extent permissible by law.
- b) This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between the Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

6.2 **Severability**

- a) It is the intention of those covered by this Agreement that the Agreement contains only permitted matters under the Act.
- b) The severance of any term of this Agreement, whether in whole or in part, that is of no effect by virtue of the operation of section 253 of the Act will not be taken to affect the binding force and effect of the remainder of the Agreement.
- c) To the extent it is possible, all terms should be interpreted in a manner that would make them permitted matters.

PART 2 - CONSULTATION, REPRESENTATION & DISPUTE RESOLUTION

7. Posting of Agreement

- 7.1 To ensure that the parties are aware of the terms of the Agreement, and to assist in the avoidance of a dispute, or in any resolution of a dispute, a copy of the Agreement will be retained by the Employer at all times for ready access by any Employee at the project site.
- 7.2 A copy of the Agreement must be provided to an Employee upon request and be provided to all new Employees prior to commencing employment.

8. Union Delegates and Union Matters

- 8.1 The Parties recognise the role that Employees' on-site representatives have in seeking to ensure industrial harmony on the Project. Further, the Parties recognise that the on-site representatives are a first point of contact for an Employee who has an employment related grievance or a grievance, query or concern arising under the terms of the Agreement.
- 8.2 A **Union Delegate** is an Employee representative or Union Delegate duly elected or appointed by Employees in an enterprise or workplace, or part of an enterprise or workplace.
- 8.3 A Union Delegate will, upon notification from the Union to the Employer, be recognised as the accredited representative of the Employees and, if an Employee seeks representation by the Union Delegate, that representative will be allowed all the necessary time during working hours to submit to the Employer employment related matters affecting the Employees they represent.
- 8.4 At all other times the Union Delegate will perform productive work within their range of qualifications and competence.
- 8.5 Further, the Union Delegate will be allowed reasonable time during working hours to attend to such matters affecting the Employees, including a right to attend appropriate meetings, Fair Work Commission conferences/hearings and the like.
- 8.6 Prior to the dismissal or transfer of an Union Delegate, one weeks' additional written notice shall be given to the Union Delegate.
- 8.7 **Union Delegate Facilities**

The Employer shall provide an agreed facility for the use of the Union Delegate to perform their duties and functions as the on-site representative of the Employees. The provision of the following facilities is to ensure that the Union Delegate is able to effectively perform their functions in a professional and timely manner. The facilities shall include:

- a) a telephone and computer;
- b) a table and chairs;
- c) a filing cabinet;
- d) air-conditioning/heating;
- e) access to stationary and other administrative facilities, including the use of printing, photocopying, internet and email facilities following consultation between the Employee Representative and Project Management; and
- f) a private lockable area.

8.8 **Union Delegate Rights**

8.9 This clause outlines the rights for Union Delegates Representatives when assisting Employee(s).

8.10 Such representatives are entitled to the protections of Division 4 of Part 3-1 of the Act in relation to their involvement in lawful industrial activities. Where an Employee has been elected as a Union Delegate, the Employer will recognise the Union Delegate has the right to:

- a) be treated fairly and to perform their role as Union Delegate without any discrimination in their employment;
- b) represent an Employee where requested in relation to a grievance, dispute or a discussion with a member of the Union;
- c) paid time to attend industrial tribunals and/or courts where they have been requested to do so by an Employee (which may include themselves) whom they represent in a particular dispute in their workforce;
- d) paid time to assist and represent Employees who have requested them to represent them in respect of a dispute arising in their workplace;
- e) paid time to represent the interests of members in their workplace to the Union, the Employer and industrial tribunals and/or courts;
- f) reasonable paid time during normal working hours to consult and confer with Employees, Union members and officials; and
- g) paid time (including wages and applicable allowances) to attend Union endorsed training/forums which are directed to improving the skills and knowledge of the participant in the system of workplace relations.

8.11 **Industrial Relations Training**

- a) A Union Delegate recognised under this clause will be entitled to:
 - i) up to 5 days of paid leave in their first year as a Union Delegate; and
 - ii) up to 5 days of paid leave for each following year that they are a Union Delegate; to undertake training that will assist them in their role.
- b) The time of taking such leave will be agreed between the Union Delegate, Union and the Employer to minimise any adverse effect on the Employer's operations. The Employer will not unreasonably withhold its agreement under this clause.

9. **Dispute Settlement Procedure**

9.1 If a dispute relates to:

- a) a matter arising under the Agreement; or
- b) the NES (including sections 65(5) and 76(4) of the Act);

this term sets out procedures to settle the dispute.

9.2 An Employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

9.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Employee or Employees and relevant supervisors and/or management.

9.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to FWC.

9.5 The FWC may deal with the dispute in 2 stages:

- a) the FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- b) if the FWC is unable to resolve the dispute at the first stage, the FWC may then:
 - i) arbitrate the dispute; and
 - ii) make a determination that is binding on the parties.

Note: If FWC arbitrates the dispute, it may also use the powers that are available to it under the Act.

9.6 A decision that the FWC makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5-1 of the Act. Therefore, an appeal may be made against the decision. Any resolution of a dispute under this clause by the FWC must be consistent with legislative obligations and any other applicable Codes. It can't be inconsistent with legislative provisions and must not vary the terms and conditions contained in this Agreement, or change the intent and/or the benefits contained within this Agreement.

9.7 While the parties are trying to resolve the dispute using the procedures in this term:

- a) an Employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- b) an Employee must comply with a direction given by the Employer to perform other available work at the same workplace, or at another workplace, unless:
 - i) the work is not safe; or
 - ii) applicable occupational health and safety legislation would not permit the work to be performed; or
 - iii) the work is not appropriate for the Employee to perform; or
 - iv) there are other reasonable grounds for the Employee to refuse to comply with the direction.

9.8 The parties to the dispute agree to be bound by a decision made by the FWC in accordance with this term.

10. **Consultation**

10.1 This term applies if the Employer:

- a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the Employees; or
- b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees.

Major change

10.2 For a major change referred to in clause 10.1a):

- a) the Employer must notify the relevant Employees of the decision to introduce the major change; and
 - b) clauses 10.3 to 10.9 apply.
- 10.3 The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 10.4 If:
- a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - b) the Employee or Employees advise the Employer of the identity of the representative, the Employer must recognise the representative.
- 10.5 As soon as practicable after making its decision, the Employer must:
- a) discuss with the relevant Employees:
 - i) the introduction of the change; and
 - ii) the effect the change is likely to have on the Employees; and
 - iii) measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and
 - b) for the purposes of the discussion—provide, in writing, to the relevant Employees:
 - i) all relevant information about the change including the nature of the change proposed; and
 - ii) information about the expected effects of the change on the Employees; and
 - iii) any other matters likely to affect the Employees.
- 10.6 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 10.7 The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- 10.8 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in clause 10.2a) and 10.3 and 10.5 are taken not to apply.
- 10.9 In this term, a major change is *likely to have a significant effect on Employees* if it results in:
- a) the termination of the employment of Employees; or
 - b) major change to the composition, operation or size of the Employer’s workforce or to the skills required of Employees; or
 - c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - d) the alteration of hours of work; or
 - e) the need to retrain Employees; or
 - f) the need to relocate Employees to another workplace; or
 - g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

- 10.10 For a change referred to in clause 10.1b)
- a) the Employer must notify the relevant Employees of the proposed change; and
 - b) clauses 10.11 to 10.15 apply.
- 10.11 The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 10.12 If:
- a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - b) the Employee or Employees advise the Employer of the identity of the representative; the Employer must recognise the representative.
- 10.13 As soon as practicable after proposing to introduce the change, the Employer must:
- a) discuss with the relevant Employees the introduction of the change; and
 - b) for the purposes of the discussion—provide to the relevant Employees:
 - i) all relevant information about the change, including the nature of the change; and
 - ii) information about what the Employer reasonably believes will be the effects of the change on the Employees; and
 - iii) information about any other matters that the Employer reasonably believes are likely to affect the Employees; and
 - c) invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 10.14 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 10.15 The Employer must give prompt and genuine consideration to matters raised about the change by the relevant Employees.
- 10.16 In this clause relevant Employees means the Employees who may be affected by a change referred to in clause 10.1.

11. Flexibility

- 11.1 The Employer and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
- a) the flexibility agreement deals with 1 or more of the following matters:
 - i) arrangements about when work is performed;
 - ii) Compassionate Leave;
 - iii) Parental Leave;
 - iv) Community Service and Jury Service; and
 - b) the arrangement meets the genuine needs of the Employer and Employee in relation to 1 or more of the matters mentioned in clause 11.1a); and
 - c) the arrangement is genuinely agreed to by the Employer and Employee.

- 11.2 The Employer must ensure that the terms of the individual flexibility arrangement:
- a) are about permitted matters under section 172 of the Act; and
 - b) are not unlawful terms under section 194 of the Act; and
 - c) result in the Employee being better off overall than the Employee would be if no arrangement was made.
- 11.3 The Employer must ensure that the individual flexibility arrangement:
- a) is in writing; and
 - b) includes the name of the Employer and Employee; and
 - c) is signed by the Employer and Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
 - d) includes details of:
 - i) the terms of the Agreement that will be varied by the arrangement; and
 - ii) how the arrangement will vary the effect of the terms; and
 - iii) how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - e) states the day on which the arrangement commences.
- 11.4 The Employer must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 11.5 The Employer or Employee may terminate the individual flexibility arrangement:
- a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - b) if the Employer and Employee agree in writing — at any time.

PART 3 – EMPLOYMENT RELATIONSHIP & RELATED ARRANGEMENTS

12. Contract of Employment

12.1 Types of Employment

A tradesperson or labourer Employee will be engaged as a daily hire Employee or a casual. A plant operator Employee will be engaged as a weekly Employee or a casual.

12.2 Termination

a) **Tradespersons and Labourers**

For tradespersons and labourers, one day's notice of termination of employment will be given on either side or one day's pay will be paid or forfeited.

b) **Plant Operators**

Notice of termination for plant operators will be in accordance with the Act.

c) **Payment in lieu of notice**

Payment in lieu of notice will include all amounts the Employee would have been entitled to if they had worked until the end of the minimum period of notice and must be paid no later than the next pay period.

d) **Dismissal Without Notice**

Nothing in this clause will affect the right of the Employer to dismiss an Employee for serious or wilful misconduct justifying dismissal without notice and in such a case the Employee will be paid wages only up until the time of dismissal.

e) **Job Search Entitlement**

Where the Employer has given notice of termination to an Employee, the Employee will be allowed up to one day's time off without loss of pay for the purposes of seeking other employment. The time off will be taken at times that are convenient to the Employee after consultation with the Employer.

12.3 Casual Engagement

a) A casual Employee is an Employee engaged and paid in accordance with the provisions of this clause.

b) When a person is engaged for casual employment the Employee will be informed in writing that the Employee is to be employed as a casual, the job to be performed, the classification level, the actual or likely length of engagement including the number of hours to be worked per week and the relevant rate of pay.

c) A casual Employee will be entitled to all the applicable rates and conditions of employment prescribed in the Agreement except Annual Leave, Sick Leave, Carer's Leave, paid Compassionate Leave, Parental Leave (unless an eligible casual Employee), jury service and paid Public Holiday leave.

d) For the purposes of this clause 12.3 the hourly rate means the rate of pay prescribed in Appendix A for the Employee's classification plus any all-purpose allowance payable to the Employee (e.g. leading hand).

- e) A casual Employee for working ordinary hours will be paid 125% of the hourly rate as defined in 12.3(d).
- f) A casual Employee required to work overtime will be paid;
 - i) 175% of the hourly rate as defined in 12.3(d) where the relevant penalty rate for a daily or weekly hire Employee is time and a half;
 - ii) 225% of the hourly rate as defined in 12.3(d) where the relevant penalty rate for a daily or weekly hire Employee is double time.
- g) A casual Employee required to work on a Public Holiday will be paid 275% of the hourly rate as defined in 12.3(d).
- h) Termination of all casual employment will require one hour of notice on either side or the payment of one hour's pay in lieu of notice by the Employer.
- i) A casual Employee will be paid for a minimum of 8 hours on weekdays and 4 hours on Saturdays, Sundays and Public Holidays.
- j) A casual Employee who has been engaged by for a regular sequence of periods of employment during a period of twelve (12) weeks has the right to elect to have their contract of employment converted to full-time employment if the employment is to continue beyond the conversion process.

12.4 Probation

- a) Employees will be engaged on a probationary period of six (6) months. Subject to clause 12.2, during this period either party can terminate the employment by giving one week's notice for plant operators and one day's notice for tradespersons and labourers.

12.5 General Conditions

- a) The Employer may direct an Employee to carry out such duties and use such tools and equipment consistent with the classification structure as may be required provided that the Employee is competent to use such tools and equipment and provided that any such direction is consistent with the Employer's responsibility to provide a safe and healthy working environment and is not designed to promote de-skilling.
- b) An Employee is required to follow the lawful and reasonable instructions of the Employer in the performance of their duties. Where an Employee refuses to follow a lawful and reasonable instruction a result it may lead to disciplinary action, including the termination of the Employee's employment.

12.6 Eligibility for Payment of Wages and Allowances

- a) The Employer is not required to make payment for any day that the Employee cannot be usefully employed because of any strike or any breakdown in machinery or any stoppage of work by any cause which ceases operation for which the Employer cannot be reasonably held responsible, as long as the Employer has no alternative work available on the Site.
- b) Subject to the provisions of the *Work Health and Safety Act 2020* (WA), Employees will have no right to be paid for any time that they are not ready, willing and available to follow all lawful directions of the Employer or to carry out all duties that they are capable of performing.

12.7 Abandonment of Employment

- a) Subject to clause 12.7b), the absence of an Employee from work for a continuous period exceeding 3 working days without the consent of the Employer and without notification to the Employer will be prima facie evidence that the Employee has abandoned employment.
- b) Clause 12.7a) will not apply unless the Employer has taken reasonable steps to attempt to contact the Employee to establish why the Employee is absent without consent of the Employer and has provided written notice to the Employee setting out the attempts to contact the Employee.
- c) For the avoidance of doubt, an Employee's employment will only be terminated after the Employer provides written notification of the termination, which cannot be a day before the day the notice is given, in accordance with section 117(1) of the *Fair Work Act 2009* (Cth).
- d) Notwithstanding clause 12.7, an Employee who has abandoned employment prior to the end of the notice period, will be entitled to payment for all time worked up until the time of termination.

13. Redundancy

- 13.1 No Employee shall be made redundant whilst labour hire employees, engaged by the Employer, are performing work that is or has been performed by the Employees on a particular site or project.
- 13.2 If the Employer engages labour hire employees after making Employees redundant and the work is scheduled to be performed for more than four (4) weeks, then the Employer shall offer the work to the Employees made redundant within the last three (3) months.
- 13.3 Clause 41.3 of the Award is incorporated by reference into the Agreement, and as such, the following redundancy clause is an industry specific redundancy scheme. Accordingly, the provisions of Subdivision B – Redundancy Pay of Division 11 of the NES do not apply to the Employer and Employees covered by this Agreement. .
- 13.4 The Employer shall pay contributions to a Nominated Redundancy Fund on behalf of each Employee covered by this Agreement (other than apprentices – in respect of which, see clause 15.2(c)(ii)) on a weekly basis for each Completed Week of Service in accordance with the table below:

From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
\$72.15 per week	\$75.76 per week	\$79.55 per week	\$83.52 per week	\$87.70 per week

- 13.5 While an Employee who ceases employment with the Employer for any reason other than termination due to misconduct or refusal of duty shall ordinarily be due a redundancy payment, the liability of the Employer to pay redundancy payments to an Employee will be met by the making of the above contributions on behalf of each Employee, which are in substitution for (and not in addition to), and to be offset against, redundancy payments outlined in clause 41.3 of the Award.
- 13.6 The Nominated Redundancy Fund will be ReddiFund Ltd, unless an Employee nominates another fund by an application in writing to the Employer and it is an Approved Worker Entitlement Fund under the *Fringe Benefits Tax Assessment Act 1986* (Cth).
- 13.7 Any period of service as a casual shall not entitle the Employee to accrue severance under this clause.
- 13.8 A Completed Week of Service means any week where the Employee attends work for all rostered hours in that week.

- 13.9 For the purpose of this clause, a Completed Week of Service shall include time not worked due to annual leave, paid personal leave (including sick leave and carer's leave), compassionate leave, jury service, public holidays, RDOs and workers compensation up to a maximum of two (2) weeks.
- 13.10 For apprentices see clause 16.
- 13.11 In addition to the redundancy contributions prescribed in clause 13.2, the Employer will also pay an amount of \$10.00 (plus GST) per week per Employee to ReddiFund Ltd for the provision of Mutual Benefits Fund Benefits for the Employees who are covered by this Agreement.
- 13.12 For the purposes of this clause, "**Mutual Benefits Fund Benefits**" means indemnity cover including, but not limited to, journey to and from work, funeral expenses cover, ambulance cover and leisure travel insurance.

14. Employment security, staffing levels, mode of recruitment and replacement labour

- 14.1 The Employer recognises that in certain circumstances the use of contractors and labour hire may affect the job security of Employees covered by this Agreement.
- 14.2 **Use of labour hire**
- a) Where the Employer has made a definite decision that intends to engage labour hire companies to perform work covered by this Agreement, the Employer shall consult with the Employees and Union, in accordance with this clause.
 - b) Consultation will commence before any contracts are let and at least 28 days before the commencement of the work by the contractors/labour hire companies.
 - c) For the purpose of consultation, the Employer must inform the Employees and Union of:
 - i) the name of the proposed labour hire employer;
 - ii) the type of work to be proposed to be given to the labour hire employer;
 - iii) the number of persons and qualifications of those persons the proposed labour hire employer may engage to perform the work; and
 - iv) the likely duration of the works.
 - d) The Employer will consult with Employees and the Union over the following issues:
 - i) safety; and
 - ii) inductions and facilities for contractors and labour hire employees.

PART 4 – WAGES, ALLOWANCES & OTHER PAYMENTS

15. Wage Rates & Classification Structure

15.1 Classification Structure

- a) All Employees working under the Agreement will be classified according to the skill based classification structure set out in Appendix A – Wages & Classification Structure.
- b) The classification definitions contained at Schedule B of the Award are incorporated into the Agreement.

15.2 Wage Increases

- a) Wages and allowances under this Agreement will be increased over the life of the Agreement as follows:
 - i) 5% from 1st pay period commencing on or after 1 July 2023; and
 - ii) 5% from 1st pay period commencing on or after 1 July 2024; and
 - iii) 5% from 1st pay period commencing on or after 1 July 2025; and
 - iv) 5% from 1st pay period commencing on or after 1 July 2026.

15.3 Wages

Actual rates of pay are set out in Appendix A – Wages & Classification Structure.

15.4 Higher Duties

An Employee engaged for more than 4 hours during one day on duties carrying a higher rate than the Employee's ordinary classification will be paid the higher rate for the whole day. Otherwise the Employee will be paid the higher rate for the time worked if 4 hours or less.

16. Apprentices

16.1 Engagement of apprentices

- a) Time spent by an apprentice, in attending training and assessments specified in, or associated with, the training contract is to be regarded as time worked for the Employer for the purpose of calculating the apprentice's wage and determining leave entitlements.
- b) All fees charged by a Registered Training Organisation (**RTO**) and the cost of all prescribed textbooks for the apprenticeship, which are paid by an apprentice, shall be reimbursed by the Employer within six months of commencement of the apprenticeship or a stage of the apprenticeship, or within 3 months of the commencement of training provided by the RTO, whichever is the later, unless there is unsatisfactory progress.
- c) The Employer may meet its obligations under this clause by paying any fees and/or cost of textbooks directly to the RTO.

16.2 Apprentice Wages

- a) Actual Rates of Pay for apprentices are set out in Appendix C – Apprentice Wage Schedule.
- b) An adult apprentice (over 21 years of age) will not be paid a wage less than the wages payable to an Employee classified as a CW1(d) under the Agreement.
- c) Apprentices will be paid:

- i) An hourly rate of pay based upon a percentage of the base tradesperson rate in accordance with the following table:

3 year apprenticeship	Contribution
Adult Apprentice	Not less than CW1(d)
1 st year	55% of the full rate
2 nd year	75% of the full rate
3 rd year	90% of the full rate

- ii) a percentage of the Redundancy payment prescribed in clause 13.2as follows:

3 year apprenticeship	Contribution
Adult Apprentice	100% of the full rate
1 st year	55% of the full rate
2 nd year	75% of the full rate
3 rd year	90% of the full rate

Note: the Employer must also comply with the Fares & Travel Allowance Clause for each apprentice;

- iii) superannuation in accordance with clause 24 of this Agreement.
 iv) Apprentices will be paid a percentage of the Site Allowance based on the table at clause 16.2c)ii).
 v) Tool Allowance as per clause 17.

17. Tool Allowance

- 17.1 Where the Employer requires a Tradesperson to provide their own tools, they will be paid a weekly all-purpose tool allowance as per the table below:

	From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
Carpenter/Stonemason/Tile layer	\$34.07	\$35.77	\$37.56	\$39.44	\$41.41
Plasterer	\$28.17	\$29.01	\$29.88	\$31.38	\$32.95
Bricklayer	\$24.18	\$24.90	\$25.65	\$26.94	\$28.28
Metal	\$17.84	\$18.38	\$18.93	\$19.87	\$20.87
Painter	\$8.18	\$8.42	\$8.68	\$9.11	\$9.57

18. Fares & Travel Allowance

- 18.1 Employees will be paid a Fares and Travel Allowance for each day worked.
 18.2 Apprentices will be paid 100% of the allowances in this clause.
 18.3 Fares and Travel Allowance will also be paid each time an Employee is recalled after leaving the worksite to resume work on overtime or a call out.
 18.4 A daily Fares and Travel Allowance will be paid to all Employees as follows:

From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
\$21.22	\$22.28	\$23.40	\$24.56	\$25.79

- 18.5 Where an Employee agrees to the Employer's request to use the Employees own vehicle in the course of their employment the Employee will be paid an allowance for each kilometre travelled as follows:

From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
\$0.93	\$0.98	\$1.03	\$1.08	\$1.13

19. Piling Allowance and Site Allowance

19.1 A flat daily Piling Allowance will be paid to Employees directly engaged in piling operations whilst those operations are occurring as follows:

From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
\$25.97	\$27.27	\$28.63	\$30.06	\$31.57

A flat hourly site allowance will be paid to Employees as follows:

From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
\$4.00	\$4.20	\$4.41	\$4.63	\$4.86

The site allowance is only payable for the hours an Employee actually works. It is not payable during periods of Annual Leave, Personal Leave, Public holidays not worked, Community Service and Jury Service Leave and Long Service Leave.

20. First Aid Allowance

20.1 An Employee who is appointed by the Employer to perform first aid duties and holds a Senior First Aid certificate (or equivalent) or Industrial First Aid certificate (or equivalent) from St John Ambulance, the Australian Red Cross Society or similar body, will be paid a daily flat allowance as follows:

From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
\$5.10	\$5.36	\$5.62	\$5.90	\$6.20

21. All Purpose Leading Hand Allowance

21.1 For the purposes of this clause Leading Hand means an Employee who is given by the Employer the responsibility of directing and/or supervising the work of other persons, or in the case of only one person the specific responsibility of directing and/or supervising the work of that person

21.2 A person specifically appointed to be a leading hand will be paid, as a minimum, the weekly all-purpose allowance specified in the table below in addition to the Employees own rate of pay or the hourly rate of pay being paid to the highest classification being supervised by that Employee (whichever is the greater):

	From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
In charge of not more than 1 person	\$21.96	\$23.06	\$24.21	\$25.42	\$26.69
In charge of 2 and not more than 5 persons	\$48.49	\$50.91	\$53.46	\$56.13	\$58.94
In charge of 6 and not more than 10 persons	\$61.30	\$64.37	\$67.58	\$70.96	\$74.51
In charge of more than 10 persons	\$82.35	\$86.47	\$90.79	\$95.33	\$100.10

22. Meal Allowance

- 22.1 An Employee required to work overtime for more than two hours after working ordinary hours must be paid the following amount to meet the additional cost of a meal:

From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
\$21.22	\$22.28	\$23.40	\$24.56	\$25.79

23. Payment of Wages

- 23.1 All wages, allowances and other monies may be paid by electronic funds transfer (**EFT**) and Employee(s) may request EFT payments be split between up to 2 accounts.
- 23.2 Wages, allowances and other monies to be paid under this Agreement and pay slip details will be made available no later than close of business on Friday of each week (weekly).

24. Superannuation

- 24.1 The Employer must advise all Employees of their right to have payments made to a complying superannuation fund of their choice. The Employer will be bound by the Employee's election and the payment referred to in clause 24.3 must be made to that fund.
- 24.2 Where an Employee fails to make an election under clause 24.1, the default fund will be CBUS.
- 24.3 The level of contributions paid on behalf of each Employee will be the Superannuation Guarantee rate (as prescribed under the *Superannuation Guarantee (Administration Act) 1992* (Cth), as amended from time to time) applied to Ordinary Time Earnings.
- 24.4 **Additional Voluntary Salary Sacrifice into Superannuation**
- The Employer will allow Employees to make additional contributions to their superannuation fund by way of genuine salary sacrifice from pre-tax earnings.
 - Where an Employee wishes to have their pay salary sacrificed for additional superannuation, the Employer will comply with the Employee's request without unreasonable delay.
 - This clause will not impinge on any Employer provided benefits.
 - Any future wage, salary increase, accrual or entitlements including Superannuation Guarantee will be based on gross rates of pay.
 - All entitlements and benefits, as well as wage adjustments, contained in the Agreement will be calculated on the pre-salary sacrifice pay rate.
 - To avoid doubt, any salary sacrifice arrangement will not result in an increase to an Employee's overall entitlements above what they would have received prior to that arrangement

25. Insurances

- 25.1 The Employer will pay \$25 per week per Employee and will seek to provide the following, subject to premium cost:
- Accident and Sickness Income Protection;
 - Workers Compensation Top-Pay; and
 - Trauma insurance.
- 25.2 The 24 Hour Accident and Sickness Insurance fund will provide:

- a) 24 hour cover;
- b) weekly benefits of 85% of the Employees' Ordinary Wages to a maximum of \$1,500.00 per week;
- c) Superannuation Contributions up to a maximum of \$190.00 per week;
- d) a 21 day waiting period (28 days for sporting injury claims);
- e) a benefit period of 104 weeks maintained for persons up to the age of 70 years; and
- f) payment during the incapacity of the Employee arising from any one injury or illness of a total of 104 weeks from the date of the injury or illness whether the incapacity is in one continuous period or not.

25.3 The Workers Compensation Top-Up Payment fund will provide:

- a) Weekly payments - For the avoidance of doubt, this insurance is paid when the Employee is on rehabilitation or has returned to work on light duties or is otherwise not working to the Employee's pre-accident capacity.
- b) For the purposes of this sub-clause Top-Up Pay means a weekly payment to the Employee of an amount being the difference between the weekly:
 - Amount A payment received for the 1st to 13th weekly payments prescribed under clause 11(2) of Schedule 1 of the WCIM Act; and
 - Amount Aa payment received after the 13th weekly payment prescribed under clause 11(2) of Schedule 1 of the WCIM Act.
- c) Payment during the incapacity of the Employee arising from any one injury or illness for a total of 104 weeks from the date the Employee first receives weekly workers' compensation payment, whether the incapacity is in one continuous period or not.

25.4 The Trauma Insurance fund will provide:

- a) Financial compensation in the event of a work related accident resulting in death of the Employee or permanent and total disablement.
- b) Entitlements no less than a lump sum payment of \$300,000.00 in the event of the Employee's death or permanent and total disablement.

25.5 In the event the claims experience requires a review of the insurance plan, the adjustment will be to the plan and not the Employer's insurance premium.

25.6 In order to meet the requirements of Clause 24, the Employer will have the absolute discretion as to which fund entitlements are selected or adjusted.

26. **Inclement Weather**

26.1 Inclement weather means the existence of rain or abnormal climatic conditions (whether hail, extreme cold, high wind, severe dust storm, extreme high temperature or the like or any combination of these conditions) where it is not reasonable, or it is unsafe for Employees to continue working in those conditions.

26.2 The Employer, when requested by the Employees, must confer within a reasonable time (which does not exceed 60 minutes) for the purpose of determining whether or not the conditions referred to in this clause apply.

- 26.3 The time of the cessation of work due to inclement weather and the resumption of work after a period of inclement weather has ended will be recorded by the Employer.
- 26.4 When inclement weather conditions exist an affected Employee is not required to commence or continue to work where it is unreasonable or unsafe to do so. In cases where emergency work is required or it is necessary to complete a concrete pour already commenced to a practical stage, work may occur or continue provided that such work does not give rise to a reasonable concern on the part of an Employee undertaking the work of an imminent risk to their health or safety.
- 26.5 Where a concrete pour is completed in accordance with clause 26.4, work will be paid at the rate of double time calculated to the next hour, and in the case of wet weather, the Employee will be provided with adequate wet weather gear. If an Employee's clothes become wet as a result of working in the rain during a concrete pour the Employee will, unless the Employee has a change of dry working clothes available, be allowed to go home for the remainder of the day without loss of pay.
- 26.6 Where an Employee is not able to perform any work at any location because of inclement weather, the Employee will receive payment at the ordinary time hourly rate for ordinary hours. Payment for time lost due to inclement weather is subject to a maximum of 32 hours pay in any four week period for each Employee. Payment is subject to adherence to the terms of this clause.
- 26.7 If an Employee commences employment during a four week period the Employee will be credited with:
- a) 32 hours where the Employee commences on any working day within the first week;
 - b) 24 hours where the Employee commences on any working day within the second week;
 - c) 16 hours where the Employee commences on any working day within the third week; and
 - d) 8 hours where the Employee commences on any working day within the fourth week in any four week period.
- 26.8 Inclement weather occurring during overtime will not be taken into account for the purposes of this clause and Employees will not be entitled to any payment for stoppages because of inclement weather that occurs outside of ordinary hours.
- 26.9 Employees on a portion of a site not affected by inclement weather must continue to work even though Employees working on other areas of the site may have stopped work because of inclement weather.
- 26.10 Subject to the availability of alternative work in an Employee's classification, the Employer may require Employees to transfer:
- a) from a location on a site where it is unreasonable and/or unsafe to work because of inclement weather, to another area on the same site, where it is reasonable and safe to work; and/or
 - b) from a site where it is unreasonable and/or unsafe to work because of inclement weather, to another site, where it is reasonable and safe to work, and where the employer, where necessary, provides transport.
- 26.11 Additional wet weather procedure
- a) Remaining on site
Where, because of wet weather, the Employees are prevented from working:
 - i. for more than an accumulated total of four hours of ordinary time in any one day; or

- ii. after the meal break, for more than an accumulated total of 50% of the normal afternoon work time; or
- iii. during the final two hours of the normal work day for more than an accumulated total of one hour;

the Employer will not be entitled to require the Employees to remain on site beyond the expiration of any of the above circumstances.

Where, by agreement between the Employer and the Employees, Employees remain on site beyond the periods specified above, any such additional wet time will be paid for but will not be debited against the Employees' hours. Wet time occurring during overtime will not be taken into account for the purposes of this subclause.

b) Rain at starting time

Where the Employees are in the sheds, because they have been rained off, or because it is at starting time, morning tea, or lunch time, and it is raining, they will not be required to go to work in a dry area or to be transferred to another site unless:

- i. the rain stops; or
- ii. a covered walkway has been provided; or
- iii. the sheds are under cover and the employees can get to the dry area without going through the rain; or
- iv. adequate protection is provided.

Protection must, where necessary, be provided for the employees' tools.

26.12 Rail Occupations

- a) Where rail shutdown work or other emergency rail work is planned or has commenced prior to the onset of a period of inclement weather, Employees if required, shall commence and/or complete such work without delay to a practical stage. Employees will be paid for this work at the rate of double time (calculated to the next hour) and in the case of wet weather, will be provided with adequate wet weather gear.
- b) If time is lost on the Project due to Inclement Weather during a rail shutdown or other emergency rail work, Employees may be required to work additional hours as requested or determined by the Employer to meet operational requirements.

PART 5 – HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK & WEEKEND WORK

27. Ordinary Hours of Work

- 27.1 Except as provided in clause 30 – Shift Work, the ordinary hours of work will be 8 hours per day Monday to Friday with the notional weekly hours based on a 36 hour week in accordance with clause 29.1.
- 27.2 Ordinary daily hours may be worked between the hours of 6.00 am and 6.00 pm. On a particular project the spread of ordinary daily hours can be varied to 5.00 am to 5.00 pm with the agreement of a majority of Employees who will be affected by the change.
- 27.3 The Employer has the right to alter start and finish times within the spread of ordinary daily hours. Prior to altering start and finish times the Employer will consult with the affected Employees and:
- a) Provide notice to affected Employees of the change to start and finish times by no later than the finish time on the previous day;
 - b) Provide an opportunity to affected Employees to advise of individual personal or family circumstances relevant to change to start and finish times and will consider any such advice from affected Employees;
 - c) Have regard to its obligations to provide a safe and healthy workplace; and
 - d) Have regard to the intention of avoiding excessive overtime.
- Note: Subject to this clause and clauses 28 (Overtime), the Employer may also alter start and finish times outside of the ordinary spread of daily hours for reasons such as setting up for concrete pours, deliveries and emergency work provided such work is paid for at the appropriate overtime rate of pay.
- 27.4 Any dispute about the exercise of the Employer’s right to alter start and finish times will be resolved in accordance with clause 9 – Dispute Settlement Procedure.
- 27.5 On each day worked an Employee will be entitled to a paid morning smoko break, being not less than 10 minutes in duration, to be taken as agreed between 9.00 am and 11.00 am.
- 27.6 On each day worked an Employee will be entitled to an unpaid meal/rest break, being not less than 30 minutes in duration, to be taken as agreed no later than 6 hours after work starts.
- 27.7 It is recognised that project operations will be enhanced by staggering meal/rest breaks to enable work to continue or facilitate the efficient movement of people or materials.
- 27.8 Subject to clause 27.6, the parties agree that meal/rest breaks taken by the Employees may be staggered between the hours of 10.00 am and 2.00 pm. No overtime rates will be payable provided the meal/rest break is taken within this time.
- 27.9 The Employer must not combine the morning smoko break with the meal/rest break such that they are taken consecutively.
- 27.10 Subject to clause 27.8 if the meal/rest break is taken later than 6 hours after commencement of work for the day then overtime rates will be payable as per clause 28.2 for all time after 6 hours from commencement of work until such time as a meal/rest break is provided or, work ceases for that particular day.
- 27.11 The Employer will provide sufficient facilities for washing and 7 minutes will be allowed before any break and before finishing time to enable Employees to wash and to put away gear.

28. **Overtime**

- 28.1 The Parties recognise that construction activities on the Project may present unique operational requirements that might necessitate operations to continue without interruption, and that from time to time, the Employer will be required to engage in works under short term occupation or shut down works. As such, the Employer may require any Employee to work reasonable overtime at any stage and it is acknowledged that additional hours may be necessary during peak construction times, to perform out of hours work, or leading up to and during rail occupations in order to meet the needs of the Employer's contractual requirements for the completion of work on the Project.
- 28.2 All work performed outside of the ordinary hours of any day, Monday to Friday inclusive will be paid for at the rate of time and one half for the first 2 hours and double time thereafter.
- 28.3 For the purposes of this clause, ordinary hours will mean the hours of work fixed by the Employer in accordance with clause 27.
- 28.4 Where an Employee is required to work overtime for more than two hours, the Employee must be allowed to take, without deduction of pay, a crib time of 20 minutes in duration immediately after such finishing time and thereafter, after four hours of continuous work (also without deduction of pay), a crib time of 30 minutes in duration. In the event of an Employee remaining at work after the usual finishing time without taking the crib time of 20 minutes and continuing to work for a period of more than two hours, the Employee will be regarded as having worked 20 minutes more than the time worked and be paid accordingly.
- 28.5 **Saturdays, Sundays & Public Holidays**
- a) Overtime work on Saturday will be paid for at the rate of time and a half for the first 2 hours and double time after that, provided that all overtime worked after 12 noon on Saturday will be paid for at the rate of double time.
 - b) All time worked on Sundays will be paid for at the rate of double time.
 - c) All time worked on a Public Holiday will be paid for at the rate of double time and one half.
 - d) An Employee required to work overtime on a Saturday, Sunday or Public Holiday will be afforded at least 4 hours work or paid for 4 hours as though worked.
 - e) If work proceeds beyond the 4 hours minimum then Employees will be paid for all time worked.
 - f) An Employee working overtime on a Saturday will be entitled to a paid morning smoko break being not less than 10 minutes in duration to be taken as agreed no later than 3 hours after work starts.
 - g) An Employee working overtime on a Sunday or Public Holiday will be entitled to a paid morning smoko break being not less than 10 minutes in duration to be taken at a time as agreed.
 - h) An Employee working overtime on a Saturday, Sunday or Public Holiday will be entitled to a paid meal/rest break being not less than 20 minutes in duration as agreed which is to be taken after 4 hours work at an agreed time.
 - i) If total worked hours for the day are to be more than 8 hours there will be an additional 20 minute rest break to be paid at the rate of double time to be taken at the end of 8 hours.

- j) In the case of overtime work being cancelled by the Employer at the end of the 4 hour minimum or any time after that, Employees will, in addition to payment for all time worked, be paid for a 30 minute meal/rest break as though worked.

28.6 Rest Period after Overtime

- a) Where it is necessary to work extended overtime, it is agreed that no Employee will resume or continue to work without having had 10 consecutive hours off duty between the termination of the overtime on one day or shift and the commencement of the Employee's ordinary work on the next day or shift whether for ordinary time or overtime.
- b) Where an Employee is taking a break in compliance with clause 28.6(a) they will be paid from the normal commencement of their ordinary work or their shift notwithstanding that they are off duty.
- c) In the event that an Employee agrees to a request from site management to resume or continue to work without having had 10 consecutive hours off duty, the Employee will be paid at double time until the Employee is released from duty for such period.

28.7 Recalls

- a) When an Employee is recalled to work after leaving the job:
 - i) The Employee will be paid for at least 3 hours at overtime rates;
 - ii) Time reasonably spent in getting to and from work will be counted as time worked.
- b) The Employer may require the recalled Employee to carry out additional duties beyond the initial reason for the recall.

29. Work Cycles and Rostered Days Off

- 29.1 The Employer and Employees can agree in writing on a system that provides for an Employee to accrue 2 RDOs over a 4 calendar week work cycle. This will be done by the Employee working an average of 40 regularly rostered hours per week, being paid 36 hours at the applicable Hourly Rate of Pay and accruing 4 hours towards an RDO at the applicable Hourly Rate of Pay. This enables an Employee to accrue 2 RDOs per 4 week work cycle.
- 29.2 RDOs shall be taken at a time mutually agreed between the Employee and the Employer and Employees will be encouraged to take RDO's regularly to ensure that they are able to balance personal needs and wellbeing with the Employer's operational needs.
- 29.3 An Employee may be directed by the Employer to take RDOs accrued in excess of 5 days.
- 29.4 Any accrued but untaken RDOs at the time of an Employee's termination of employment with the Employer will be paid out at the applicable Hourly Rate of Pay (in lieu of being taken).

30. Shift Work

- 30.1 Except as varied by this Clause, all other aspects of Part 5 of the Agreement shall apply to the working of shift work.
- 30.2 The Employer has the right to direct Employees to work shift work as required and the Employees shall work the shift work as directed. Shift work will be worked and paid for in accordance with this subclause.
- 30.3 Shift work is deemed to be any arrangement where the majority of the Ordinary Hours are worked outside of the spread of Ordinary Hours defined at clause 27 – Ordinary Hours of Work of this Agreement and when Employees are working as such.

- 30.4 Ordinary Hours for shift Employees will comprise thirty-six (36) hours per week averaged over a defined work cycle and will not commence before 5.00pm on Sunday night. Such Ordinary Hours are the specified hours under each shift Employee's terms of employment by reference to which annual leave and personal/carer's leave accrue.
- 30.5 Prior to the commencement of shift work, the Employer shall seek the agreement of the Employees involved. Failing agreement, the Employer will provide to the Employees concerned one (1) week's notice of the commencement of shift work and the starting and finishing times of Ordinary Hours of the shifts.
- 30.6 Where less than five (5) consecutive shifts are worked then Employees shall be paid at overtime rates in lieu of the shift loading prescribed at subclause (7) of this clause. The consecutive nature of shifts will not be deemed to be broken if work is not carried out on a Saturday, Sunday, RDO or on any public holiday.
- 30.7 A shift Employee shall receive a flat loading of twenty-five (25) percent of their Ordinary Hourly Rate for each hour worked.
- Meal Break – Shift Work**
- 30.8 Employees working night shift shall be entitled to stop work for a half-hour without deduction of pay for the purpose of taking a meal break.
- 30.9 The Employer may stagger the times for Employees to take meal breaks to meet operational requirements.
- Rest Periods – Shift Work**
- 30.10 The Employer shall structure the Project Working Hours for Employees working night shift to include one (1) half-hour rest break to be taken without deduction of pay by Employees working on night shift.

PART 6 – LEAVE & PUBLIC HOLIDAYS

31. Annual Leave

- 31.1 An Employee is entitled to accrue a period of 4 weeks Annual Leave for each 12 months continuous service with the Employer (less the period of Annual Leave), which is equivalent to 2.769 hours pay for each completed period of 36 ordinary hours.
- 31.2 An Employee working as a continuous shiftworker will be entitled to accrue an additional week of Annual Leave for each 12 months continuous service with the Employer, which is equivalent to 0.692 hours pay for each completed week as a continuous shiftworker.
- 31.3 An Employee's entitlement to Annual Leave accrues progressively during a year of service according to the Employee's ordinary hours of work, and accumulates from year to year.
- 31.4 Before going on leave the Employee will be paid:
- a) The Employee's base rate of pay and any all-purpose allowances that they would ordinarily receive;

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- b) a loading of 17.5% on the amounts provided in clause 31.4a).
- 31.5 When an Employee is on Annual Leave the Employer must continue to pay:
- a) Redundancy contributions pursuant to clause 13 – Redundancy;
 - b) Superannuation contributions pursuant to clause 24 – Superannuation; and
 - c) Long Service Leave contributions.
- 31.6 For the avoidance of doubt when an Employee is on Annual Leave the Employee will continue to accrue:
- a) Rostered Days Off;
 - b) Annual Leave; and
 - c) Personal Leave.
- 31.7 Annual leave will be given and taken as agreed between the Employer and the Employee.
- 31.8 A request by an Employee to take Annual Leave will not be unreasonably refused by the Employer.
- 31.9 If a Public Holiday is observed on an ordinary working day during the leave, the leave is increased by 1 day for each such holiday.
- 31.10 On termination an Employee will be paid out any untaken leave in full (whether proportionate or accrued), together with the leave loading prescribed in clause 31.4b).
- 31.11 **Christmas/New Year Close Down**
- a) The Employer may require all or most Employees to take their Annual Leave at the same time where it is reasonable so that the Employer can close a workplace or part of a workplace or reduce the number of Employees in a workplace for a Christmas/New Year Close Down.
 - b) The Employer must give 2 months of notice to each Employee of a close-down of the kind described in clause 31.11 a).

- c) When the workplace is closed in accordance with the requirements of this clause, Employees must take Annual Leave to which they are entitled or take unpaid leave.
- d) If an Employee is employed for less than 1 year, any leave they take will be proportionate to their length of service and if such leave is not equal to the leave given to other Employees, they will not be entitled to work or pay whilst other Employees are on leave in accordance with this clause.
- e) If an employee requests then all monies that will become due to an Employee during the Christmas/New Year close down must be paid in advance on the last pay day prior to the Christmas/New Year close down.

31.12 **Casuals Excluded**

The provisions of this clause will not apply to casual Employees.

32. **Personal Leave**

32.1 Personal Leave is leave consisting of:

a) **Cumulative Personal Leave**

10 days paid leave per year (cumulative) for use by an Employee (other than a casual) as:

- i) **Sick Leave;** or
- ii) **Carer's Leave;**

and in addition;

b) **Unpaid Carer's Leave**

Up to 2 days unpaid Carer's Leave for each occasion; and

32.2 **Sick Leave**

- a) An Employee (other than a casual) will be entitled to use Cumulative Personal Leave as Sick Leave for absences on account of personal illness or injury (except where the Employee is receiving workers compensation).
- b) An Employee will as far as practicable inform the Employer of the Employee's inability to attend for duty in advance, and, as far as practicable, state the nature of the injury or illness and the estimated duration of the Employee's absence.
- c) Proof of entitlement will, if required, be supplied by the Employee to the Employer. Proof will be in the form of a certificate from a Medical Practitioner or a statutory declaration where it is not reasonably practical to supply a certificate from a Medical Practitioner.

32.3 **Paid Carer's leave**

- a) An Employee (other than a casual) will be entitled to use Cumulative Personal Leave each year as Carer's Leave to provide care and support for an immediate family or household member (Carer's Leave) because of:
 - i) a personal illness, or injury; or
 - ii) an unexpected emergency;
- b) Where requested by the Employer in advance, the Employee will establish by production of a medical certificate or statutory declaration, the nature of the illness or emergency and that the illness or emergency is such as to require care.

- c) The Employee will, wherever practicable, give the Employer notice prior to the absence of the intention to take Carer's Leave, the name of the person requiring care and their relationship to the Employee, the reason for taking such leave and the estimated length of absence. If it is not practicable for the Employee to give prior notice of absence, the Employee will notify the Employer by telephone of such absence at the first opportunity on the day of absence.

32.4 Unpaid Carer's leave

- a) An Employee (including a casual Employee) is entitled to take up to 2 days unpaid Carer's Leave on each occasion an immediate family or household member requires care or support because of:
 - i) a personal illness, or injury; or
 - ii) an unexpected emergency;
- b) An Employee may be entitled to further unpaid Carer's Leave upon agreement with the Employer.

32.5 Compassionate Leave

- a) An Employee (including a casual Employee) is entitled to take up to 2 days Compassionate Leave for each occasion when a member of the Employee's immediate family or a member of the Employee's household:
 - i) contracts or develops a personal illness that poses a serious threat to his or her life; or
 - ii) sustains a personal injury that poses a serious threat to his or her life; or
 - iii) dies.
- b) However, the Employee is entitled to paid compassionate Leave only if the Employee gives his or her Employer any evidence that the Employer reasonably requires of the serious illness, injury or death.
- c) A casual Employee is entitled to unpaid compassionate leave in accordance with the NES.

32.6 Accrual

- a) Subject to clause 32.6b), Cumulative Personal Leave accrues as follows:
 - i) One day per month at the beginning of each of the first 10 months of employment; and
 - ii) 10 days at the beginning of each subsequent year.
- b) If an Employee is terminated by the Employer and is re-engaged by the same Employer within a period of 6 months:
 - i) The Employee's unclaimed balance of Cumulative Personal Leave will continue from the date of re-engagement; and
 - ii) The Employee's next year of service will accumulate after a total of 12 months has been served with that Employer (excluding the period of interruption in service).
- c) The balance of any year's unused Cumulative Personal Leave accumulates and may be taken in subsequent years.
- d) Unpaid Carer's Leave and Compassionate Leave accrue on each occasion mentioned in clauses 32.4a) and 32.5a) respectively.

32.7 **Payment**

- a) When an Employee takes paid Personal Leave or Compassionate Leave (other than a casual) the Employer must continue to pay:
 - i) The Employee's base rate of pay and any all-purpose allowances that they would ordinarily receive;
- PLUS**
- ii) Redundancy contributions pursuant to clause 13 – Redundancy of the Agreement;
 - iii) Superannuation contributions pursuant to clause 24 – Superannuation; and
 - iv) Long Service Leave contributions.
- b) For the avoidance of doubt when an Employee is on paid Personal Leave the Employee will continue to accrue:
 - i) Rostered Days Off;
 - ii) Annual Leave; and
 - iii) Personal Leave.

32.8 **Definition of Immediate Family**

The term “immediate family” includes:

- a) Spouse (including a former spouse, a de facto spouse and a former de facto spouse) of the Employee. For the purposes of this Agreement a de facto spouse includes a person of the same sex to the Employee who lives with the Employee as his or her partner on a bona fide domestic basis; and
- b) Child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent, grandparent, grandchild or sibling, of the Employee or the Employee's spouse (including a former spouse, a de facto spouse and a former de facto spouse).

33. **Parental Leave**

33.1 An Employee is entitled to:

- a) unpaid maternity, paternity and adoption leave in connection with the birth or adoption of a child in accordance with the provisions of the Act; and
 - i) paid Parental Leave in accordance with the provisions of the *Paid Parental Leave Act 2010* (Cth) (**PPL Act**) as amended from time to time.

33.2 An Employee may use accrued Annual Leave for the purposes of Parental Leave.

33.3 The provisions of clause 24 – Superannuation, clause 31 – Annual Leave, clause 32 – Personal Leave, clause 35 – Public Holidays, clause 32.5 – Compassionate Leave and clause 13 – Redundancy do not accrue during unpaid Parental Leave.

33.4 In accordance with section 22 of the Act, unpaid leave does not count as continuous service, however, it does not break service.

34. **Family Violence Leave**

34.1 This clause applies to all Employees, including casuals.

34.2 In this clause:

- a) family and domestic violence means violent, threatening or other abusive behaviour by a family member of an Employee that seeks to coerce or control the Employee and that causes them harm or to be fearful.
- b) family member means:
 - i. a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee; or
 - ii. a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or
 - iii. a person related to the Employee according to Aboriginal or Torres Strait Islander kinship rules.

34.3 An Employee is entitled to 10 days' paid leave to deal with family and domestic violence, as follows:

- a) the leave is available in full at the start of each 12-month period of the Employee's employment; and
- b) the leave does not accumulate from year to year; and
- c) is available in full to casual Employees.

34.4 Additionally, an Employee may take unpaid leave to deal with family and domestic violence if the Employee:

- a) is experiencing family and domestic violence; and
- b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside their ordinary hours of work.

34.5 The time an Employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the Employee's continuity of service.

34.6 An Employee must give their Employer notice of the taking of leave. The notice:

- a) must be given to the Employer as soon as practicable (which may be a time after the leave has started); and
- b) must advise the Employer of the period, or expected period, of the leave.

34.7 An Employee who has given their Employer notice of the taking of must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 34.2(a).

35. **Public Holidays**

35.1 An Employee, other than a casual Employee will be entitled to the following holidays without deduction of Ordinary pay:

- | | |
|---------------------|-------------------------------------|
| ▪ New Year's Day; | ▪ Labour Day; |
| ▪ Australia Day; | ▪ Western Australia Day; |
| ▪ Good Friday; | ▪ Christmas Day; |
| ▪ Easter Monday; | ▪ Boxing Day; and |
| ▪ ANZAC Day; | ▪ any day or part day proclaimed by |
| ▪ Queen's Birthday; | the Governor to be a public or bank |

holiday under the *Public and Bank Holidays Act 1972 (WA)*

- 35.2 Where Christmas Day is a Saturday or Sunday, a holiday in lieu thereof will be observed on 27 December.
- 35.3 Where Boxing Day is a Saturday or Sunday, a holiday in lieu thereof will be observed on 28 December.
- 35.4 When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof will be observed on the next Monday.
- 35.5 Where substitution occurs work on the Saturday or Sunday will be paid at-applicable overtime rates and the Employee will be entitled to the benefit of the substitute Public Holiday.
- 35.6 **Payment**
- a) Payment for Public Holidays will include;
 - i) The Employee's base rate of pay and any all-purpose allowances that they would ordinarily receive;
 - b) For the avoidance of doubt when an Employee is on a Public Holiday the Employee will continue to accrue:
 - i) Rostered Days Off;
 - ii) Annual Leave; and
 - iii) Personal Leave.

36. **Community Service and Jury Service**

- 36.1 Community service leave will be in accordance with the NES.
- 36.2 The Employer will comply with the provisions of the *Juries Act 1957 (WA)*.
- 36.3 An Employee will notify the Employer as soon as possible of the date upon which they are required to attend for jury service and will provide the Employer proof of their attendance and the duration of such attendance.

37. **Long Service Leave**

- 37.1 Long Service Leave benefits will be as provided by the *Construction Industry Portable Paid Long Service Leave Act 1985* as amended from time to time.

PART 7 – GENERAL EMPLOYMENT & AGREEMENT ARRANGEMENTS

38. Clothing Issue & Safety Footwear & Equipment

38.1 Mandatory Equipment

- a) All Employees engaged to work on site will be supplied with appropriate safety footwear and safety helmets before commencing work on a project.
- b) These items must be worn at all times as instructed during the site induction process. Damaged helmets will be replaced on demand.

38.2 Work Clothing

- a) The following items must be supplied to each daily or weekly hire Employee by the Employer upon the completion of 14 calendar days:
 - i) 3 long sleeve shirts with a collar that must be replaced on a fair wear and tear basis;
 - ii) 3 long pants that must be replaced on a fair wear and tear basis; and
 - iii) 1 bluey jacket per year (for all Employees engaged on the Employer's projects between 1 April and 30 September).
- b) Clothing must be fitted by size and gender.
- c) The Employer must also make available to each Employee, when requested by them, sunscreen lotion and sun brims to fit over safety helmets.
- d) The Employer must not agree with Employees to pay cash in lieu of supplying clothing and footwear in accordance with this clause.

38.3 Personal Protective Equipment

The Employer will be required to provide the following personal protective equipment (SAA approved) for use, when necessary, by Employees during the performance of their required duties:

- a) safety helmets;
- b) ear/hearing protection;
- c) gloves;
- d) skin protective cream/sun screen (30+ rating); and
- e) UV-rated safety glasses or, at an Employee's request UV-rated clip-ons suitable to overlay prescription glasses;
- f) high quality safety boots that must be replaced on a fair wear and tear basis; and
- g) any other PPE required to perform work safely.

39. Tool Storage

39.1 The Employer will provide where reasonably necessary and practicable a suitable and secure waterproof lock-up solely for the purpose of storing Employees' tools.

39.2 Where an Employee is absent from work because of illness or accident and has advised the Employer, the Employer will ensure as reasonably practicable that the Employee's tools are securely stored during their absence.

40. **No Extra Claims**

- 40.1 This Agreement is intended to deal comprehensively with all the matters which pertain to the employment relationship between the Employer and its Employees. The parties acknowledge and agree that the Agreement is in full and final settlement of all matters, claims and demands however described whether or not any matter, claim or demand is specifically addressed within the Agreement.
- 40.2 The parties must not, prior to the nominal expiry of this Agreement, pursue any further claims about any matter which pertains to the employment relationship. The parties further undertake to not, prior to the nominal expiry of this Agreement, initiate any campaigns of industrial action intended to secure new and improved rates and conditions during the term of this Agreement.

41. **Signatories**

Signed for and on behalf of **OCC WA Pty Ltd:**

Name (Print): Luke Livingston

Address: 91 Munster Terrace
North Melbourne, Victoria 3051

Position: *MANAGING DIRECTOR*
(Basis of authority to sign)

Signature: 

Date: *10.10.2023*

Signed for and on behalf of the **CFMEU** as Bargaining Representative for Employees:

Name (Print): Michael (Mick) Buchan
Address: Trades Hall, 74 Beaufort Street
Perth, Western Australia 6000
Position: State Secretary
(Basis of authority to sign)

Signature: 

Date: 10 October 2023

Signed for and on behalf of the **AWU** as Bargaining Representative for Employees:

Name (Print): Brad Gandy
Address: Level 3, 25 Barrack Street
Perth, Western Australia 6000
Position: State Secretary
(Basis of authority to sign)

Signature: 

Date: 17 October 2023

APPENDIX A – WAGES & CLASSIFICATION STRUCTURE

CLASSIFICATION	Hourly Rate				
	From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
NON-TRADES					
CW1(a): Upon commencement in the industry	\$30.66	\$32.19	\$33.80	\$35.49	\$37.27
CW1(b): After three (3) months in the industry	\$31.74	\$33.33	\$34.99	\$36.74	\$38.57
CW1(c): After twelve (12) months in the industry	\$32.46	\$34.08	\$35.79	\$37.58	\$39.46
CW1(d): Upon fulfilling the substantive requirements of Construction Worker Level One	\$33.33	\$35.00	\$36.75	\$38.58	\$40.51
CW2	\$34.63	\$36.36	\$38.18	\$40.09	\$42.09
CW3	\$36.07	\$37.87	\$39.77	\$41.76	\$43.84
CW4	\$37.15	\$39.01	\$40.96	\$43.01	\$45.16
CW5	\$38.23	\$40.14	\$42.15	\$44.26	\$46.47
CW6	\$39.32	\$41.29	\$43.35	\$45.52	\$47.79

Note 1: Classification Definitions can be found at Appendix B

CLASSIFICATION	Hourly Rate					
	From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026	
TRADES						
Tradesperson	\$36.60	\$38.43	\$40.35	\$42.37	\$44.49	
Marker/Setter Out	\$38.43	\$40.35	\$42.37	\$44.49	\$46.71	
Special Class Tradesperson	\$38.43	\$40.35	\$42.37	\$44.49	\$46.71	
CRANES						
Mobile Crane Driver (Hiab)	CW1	\$33.33	\$35.00	\$36.75	\$38.58	\$40.51
Mobile Crane operator - mobile cranes with lifting capacity up to and including 15 tonnes	CW4	\$37.15	\$39.01	\$40.96	\$43.01	\$45.16
Mobile Crane Operator - mobile crane with a lifting capacity in excess of 15 tonnes and up to and including 100 tonnes	CW5	\$38.23	\$40.14	\$42.15	\$44.26	\$46.47
Mobile Crane Operator - mobile crane with a lifting capacity in excess of 100 tonnes and up to and including 180 tonnes	CW6	\$39.32	\$41.29	\$43.35	\$45.52	\$47.79
Mobile crane operator- mobile crane with a lifting capacity in excess of 180 tonnes and up to and including 260 tonnes	CW7	\$40.40	\$42.42	\$44.54	\$46.77	\$49.11
Tower crane operator	CW7	\$40.40	\$42.42	\$44.54	\$46.77	\$49.11
Operates a crane with lifting capacity in excess of 260 tonnes	CW8	\$41.48	\$43.55	\$45.73	\$48.02	\$50.42

APPENDIX B – CLASSIFICATION DEFINITIONS

CW1 – Tasks Undertaken;

General construction labouring and cleaning duties

Assists employees at higher classification levels, including tradesmen

Uses hand held grinding machines

Fencer

Landscape Labourer

Chainperson

Concrete Pump Line Hand

On site vehicle operator – flat tray truck

Surveyor's assistant

NDT Technical Assistant

Painter Brush Hand

General hand – duties including but not limited to unloading, handling, receiving, dispatching, sorting, stacking, checking, documenting and recording of goods, materials and components, wherever performed. This may also involve (without limitation) the use of forklifts, hand trolleys or heavy mechanical equipment.

Operates hand controlled roller

Concrete Workers

CW2 – Tasks undertaken

Power Driven Saw Operator

Undertakes spotter's duties and traffic control for mobile equipment

On site concrete batching plant operator

Onsite vehicle operator – concrete agitator truck

Sheetmetal Worker (2nd Class)

Forklift operator

Steel-fixer (includes tack welding steel reinforcement)

Concrete finisher

Concrete Tester

Hoist or winch operator

On site vehicle operator - Articulated truck

Scaffolder

Storeperson

Traffic Controller

CW3 - Tasks Undertaken

Crawler tractor with power operated attachments (up to and including 2000 kg shipping mass) operator
Pneumatic tyred tractor with power operated attachments (up to and including 15 kw net engine power) operator
Roller vibrating (under 4 tonnes) operator
Roller under 8 tonnes operator
Trenching machine (small Ditch-Witch type)
Mobile Line Pump Operator
Mobile Hydraulic Platform Operator
Rigger
Dogger
Drainer
Mobile Concrete Line Pump
Concrete Finisher (Powered)
NDT Technician Level 2 (as defined by AS 3998-19)

CW4 - Tasks Undertaken;

Concrete Boom Pump Operator
Crawler tractor with powered operated attachments (above 2000 kg mass up to and 15000 kg mass) operator
Dumper, rear and bottom, (above 2 cubic metres, up to and including 30 cubic metres struck capacity) operator
Grader (below 35 kw net engine power) operator
Pile Driver
Forklift (telescopic boom) operator
Trenching machine (bigger than a Ditch Witch) operator
Loader, front end up to 2.25 cubic metres, operator
Skid Steer (up to 65hp) operator
Excavator (up to and including 0.5 cubic metres struck capacity) operator
Pneumatic tyred tractor with power operated attachments (above 15kw up to and including 150kw net engine power) operator
Roller (8 tonnes and above) operator
Scraper (up to 10 cubic metres struck capacity) operator
Crawler loader (up to and including 15000kg mass) operator
Grader (35kw up to and including 96kw net engine power) operator

CW5 – Tasks Undertaken;

Crawler loader (above 15000kg mass, up to and including 60000kg mass) operator
Crawler tractor with powered attachments (above 15000 kg) operator
Dumper, rear and bottom (above 30 cubic metres, up to and including 120 cubic metres struck capacity) operator
Excavator (above 0.5 cubic metres capacity) operator
Pneumatic tyred loader (over 105 kw up to and including 500 kw net engine power) operator
Pneumatic tyred tractor with power operated attachments (above 110 brake power) operator
Scraper (10 cubic metres struck capacity and above) operator
Forklift (48kw and above to 220kw) operator
Trenching machine (larger than CW4) operator
Loader, front end (48kw and above to 370kw) operator
Skid Steer (48kw and above) operator
Grader (96kw above to 148kw net engine power) operator

CW6 – Tasks Undertaken;

Tractor (from 370kw up to 450kw)
Dumper, rear and bottom (from 100 cubic metres struck capacity), operator
Loader, front end (from 370kw up to 450kw), operator

APPENDIX C – APPRENTICE WAGE SCHEDULE

Note: An adult apprentice (over 21 years of age) will not be paid a wage less than the wages payable to an Employee classified as a CW1 under the Agreement.

Apprentice	From 1/07/2022	From 1/07/2023	From 1/07/2024	From 1/07/2025	From 1/07/2026
1st Year	\$20.13	\$21.14	\$22.19	\$23.30	\$24.47
2nd Year	\$27.45	\$28.82	\$30.26	\$31.78	\$33.37
3rd Year	\$32.94	\$34.59	\$36.32	\$38.13	\$40.04