



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Workpac Construction Pty Ltd
(AG2021/5601)

CONSTRUCTION SERVICES AGREEMENT 2021

Building, metal and civil construction industries

DEPUTY PRESIDENT SAUNDERS

NEWCASTLE, 3 AUGUST 2021

Application for approval of an enterprise agreement – material incorporated by reference in the agreement – BOOT – undertakings accepted – enterprise agreement approved.

Introduction and background

[1] On 14 June 2021, WorkPac Construction Pty Ltd (**WorkPac**), a labour hire provider to the building and construction industry, applied for approval of the Construction Services Agreement 2021 (**Enterprise Agreement**), which covers employees of WorkPac who are principally engaged in construction work within any state or territory of Australia and whose classifications and pay rates are contained in the Enterprise Agreement.

[2] The CFMMEU accepts that it is not, and was not at any time, a bargaining representative for the Enterprise Agreement. I exercised my discretion under s 590 of the *Fair Work Act 2009* (Cth) (**Act**) to permit the CFMMEU to be heard in relation to WorkPac's application for approval of the Enterprise Agreement.

[3] The CFMMEU filed and served submissions dated 24 June 2021, 16 July 2021 and 19 July 2021. In addition to its Form F16, Form F17 and other material filed with its application for approval of the Enterprise Agreement, WorkPac filed and served submissions dated 28 June 2021, 13 July 2021 and 15 July 2021, together with a witness statement made by Mr Paul Douglas, Industrial Relations Advisor for WorkPac, on 13 July 2021, and consolidated undertakings dated 2 August 2021 (**Undertakings**). I have read and had regard to all of that material.

[4] At the hearing on 20 July 2021, Mr Douglas was not required for cross examination. His witness statement was tendered without objection.

Undertakings

[5] WorkPac has provided Undertakings to address a number of concerns raised by the Commission and the CFMMEU (**Annexure A to this decision**).

Incorporated material

[6] The CFMMEU raised a number of concerns, many of which it accepts have been appropriately addressed by the Undertakings. The CFMMEU's principal remaining concern is that the Fair Work Commission (*Commission*) could not be satisfied that WorkPac has taken all reasonable steps to ensure that during the access period for the Enterprise Agreement, employees who will be covered by the Enterprise Agreement were given a copy of, or had access to, material incorporated by reference in clause 6.14.4 of the Enterprise Agreement (s 180(2) of the Act).

[7] Clause 6.14.4 of the Enterprise Agreement provides:

“The FTM(s) bound by this Agreement will be required to adhere to the Company's and/or Client's site alcohol and other drugs procedures, which may include pre-employment, random and for cause testing on site. Random testing for the purposes of this Clause will be done in paid work time.”

[8] The CFMMEU contends that WorkPac's, and its client's, site alcohol and other drugs procedures are incorporated by reference in the Enterprise Agreement. Given there is no evidence that WorkPac provided employees with, or gave them access to, such material during the access period, it is contended that WorkPac did not comply with s 180(2) of the Act.

[9] The relevant test is whether the term in the Enterprise Agreement establishes an entitlement or obligation which operates by reference to documents external to the Enterprise Agreement.¹ Clause 6.14.4 of the Enterprise Agreement does not meet this test. It provides that relevant employees “will be required to adhere to” various “site alcohol and other drugs procedures” [emphasis added]. It does not state that employees are required to, or must, comply with the procedures. No obligation to comply with the unspecified alcohol and other drugs procedures is imposed by the Enterprise Agreement. The clause speaks to a future requirement. It does not specify how the requirement will be imposed. For example, it may be imposed by a lawful and reasonable direction by WorkPac, by a provision in a contract of employment, or alternatively as a condition of entry onto a particular work site. Clause 6.14.4 is “advisory” or “informational” in nature, in that it informs employees of requirements that will in the future be imposed on them. It follows that the alcohol and other drugs procedures are not incorporated by reference in the Enterprise Agreement. Accordingly, there has been no failure on the part of WorkPac to comply with s 180(2) of the Act.

BOOT

[10] I must be satisfied that the Enterprise Agreement passes the BOOT before I can approve it.² Section 193(1) of the Act provides that an enterprise agreement passes the BOOT if the Commission is satisfied, as at the test time, that each award covered employee, and each prospective award covered employee, for the enterprise agreement would be better off overall if the enterprise agreement applied to the employee than if the relevant modern award applied

¹ *CFMMEU v Sparta Mining Services Pty Ltd* [2016] FWCFB 7057 at [16]; *BGC Contracting Pty Ltd* [2018] FWC 1466 at [58]-[64]

² s.186(2)(d) of the Act

to the employee. The “test time” is when the application for approval of the enterprise agreement is made.³

[11] In *Armacell Australia Pty and Others* the application of the BOOT was explained by the Full Bench in the following manner:⁴

“The BOOT, as the name implies, requires an overall assessment to be made. This requires identification of terms which are more beneficial for an employee, terms which are less beneficial and an overall assessment of whether an employee would be better off under the agreement.”

[12] The BOOT is not applied as a line by line analysis. It is a global test requiring consideration of advantages and disadvantages to award covered employees and prospective award covered employees.⁵ An enterprise agreement may pass the test even if some award benefits have been reduced, as long as overall, those reductions are more than offset by the benefits of the enterprise agreement.⁶

[13] Ultimately the application of the BOOT is a matter that involves the exercise of discretion, and it involves a degree of subjectivity or value judgement.⁷

[14] It is clear from the references to “each ... employee” in section 193(1) of the Act that every employee to whom the enterprise agreement will apply, if approved, must be better off overall than if the relevant modern award applied to the employee. It is not enough that a majority or most of the employees to whom the enterprise agreement will apply, if approved, will be better off overall than if the relevant modern award applied.⁸

[15] Section 193(7) of the Act is a facultative provision which permits the Commission to be satisfied, in particular circumstances, that all employees in a class of employees will be better off if the agreement applied to that class than if the relevant modern award applied to that class. Section 193(7) provides as follows:

“For the purposes of determining whether an enterprise agreement passes the better off overall test, if a class of employees to which a particular employee belongs would be better off if the agreement applied to that class than if the relevant modern award applied to that class, the FWC is entitled to assume, in the absence of evidence to the contrary, that the employee would be better off overall if the agreement applied to the employee.”

[16] Section 193(7) was explained in the Explanatory Memorandum to the *Fair Work Bill 2008* as follows:

³ s.193(6) of the Act

⁴ [2010] FWAFB 9985 at [41]

⁵ *SDA v Beechworth Bakery Employee Co Pty Ltd* [2017] FWCFB 1664 at [12]

⁶ *Re Australia Western Railroad Pty Ltd T/A ARG – A QR Company* [2011] FWAA 8555 at [8]; *NTEIU v University of New South Wales* [2011] FWAFB 5163 at [47]

⁷ *TWU v Jarman Ace Pty Ltd* [2014] FWCFB 7097 at [28]

⁸ *Loaded Rates Agreements* [2018] FWCFB 3610 at [100]

“818. Although the better off overall test requires FWA to be satisfied that each award covered employee and each prospective award covered employee will be better off overall, it is intended that FWA will generally be able to apply the better off overall test to classes of employees. In the context of the approval of enterprise agreements, the better off overall test does not require FWA to enquire into each employee’s individual circumstances.”

[17] The selection of a class for the purpose of s 193(7) of the Act will only be of utility if the enterprise agreement affects the members of the class in the same way such that there is likely to be a common BOOT outcome.⁹

[18] It is also important to recognise that the BOOT is hypothetical, because it requires an assessment of whether each employee, and each “prospective award covered employee”, *would* be better off overall if the enterprise agreement applied to him or her than if the relevant award did.¹⁰

[19] The Enterprise Agreement incorporates the BC Award. In the event of inconsistency between the Enterprise Agreement and the BC Award, the provisions of the Enterprise Agreement prevail.¹¹ These terms of the Enterprise Agreement limit the circumstances in which an employee may not be better off overall under the Enterprise Agreement compared to the BC Award. The focus of the inquiry from a BOOT perspective is on inconsistencies between the Enterprise Agreement and the BC Award. The Undertakings given by WorkPac have resolved the issues raised in relation to such inconsistencies.

[20] Under the Enterprise Agreement, an employee may either be paid (i) a base rate of pay and various penalties or loadings or (ii) a flat rate of pay, which is a loaded rate in the sense that it is paid in lieu of a range of other penalties and loadings. As one would expect, the flat rates of pay are much higher than the base rates of pay. The margins between the base rates of pay under the Enterprise Agreement and the pay rates under the BC Award are small. The tightest margin between such rates is 1.43%. Although this margin is small, the fact that the terms of the BC Award are incorporated into the Enterprise Agreement and the Undertakings address most of the substantive differences between the Enterprise Agreement and the Award, I am satisfied that that each employee and prospective employee of WorkPac who is covered by the Enterprise Agreement and paid a base rate of pay would be better off overall if the Enterprise Agreement applied to them than if the Award applied to them. As for the employees who are paid a flat (loaded) rate of pay under the Enterprise Agreement, modelling undertaken by the Commission and the parties, considered together with the Undertakings, demonstrates that such employees and prospective employees would be better off overall if the Enterprise Agreement applied to them than if the Award applied to them.

[21] Having regard to all the circumstances, I am satisfied that each employee and prospective employee of WorkPac who is covered by the Enterprise Agreement would be better off overall if the Enterprise Agreement applied to them than if the Award applied to them.

⁹ *Loaded Rates Agreements* [2018] FWCFB 3610 at [115(2)]

¹⁰ *SDA v Aldi Foods Pty Ltd* [2016] FCAFC 161 at [33] per Jessup J, who was in the minority but no issue was taken by the majority with this part of Jessup J’s reasons.

¹¹ Enterprise Agreement at clause 1.4.2

Reasonable steps to explain

[22] Section 180(5) of the Act requires an employer to take all reasonable steps to ensure that the terms of the enterprise agreement, and the effect of those terms, are explained to the relevant employees. Further, the explanation must be provided in an appropriate manner taking into account the particular circumstances and needs of the relevant employees.

[23] The purpose of the requirement in s 180(5) is to ensure that employees are as fully informed as is practicable about the terms and effect of the terms of a proposed enterprise agreement before voting on it.¹²

[24] There is no legislative or other requirement that in every case an employer must explain to its employees the differences between the terms of a proposed enterprise agreement and an existing enterprise agreement or underlying award. Whether such an explanation is required for an employer to satisfy its obligation under s 180(5) of the Act to take all reasonable steps to ensure that the terms of the proposed enterprise agreement, and the effect of those terms, are explained to relevant employees, will depend on the circumstances.¹³ The focus of the enquiry is on the steps actually taken to comply and to consider whether the steps taken were reasonable in the circumstances and whether these were all the reasonable steps that should have been taken in the circumstances.¹⁴ This directs attention to the content of the explanation given to employees.¹⁵

[25] Mr Douglas gave evidence in his witness statement of the steps taken to explain the terms of the Enterprise Agreement, and their effect, to the employees covered by the Enterprise Agreement. He was not challenged on that evidence. I accept it. On the basis of Mr Douglas's evidence, I accept that WorkPac took all reasonable steps to ensure that the terms of the Enterprise Agreement, and the effect of those terms, were explained to the relevant employees, and the explanation was provided in an appropriate manner taking into account the particular circumstances and needs of the employees. Alternatively, in the event that there was some deficiency in the explanation provided to the employees, I accept, as does the CFMMEU, that the Undertakings given by WorkPac would resolve any such deficiency.

Undertakings

[26] In accordance with s 190(3) of the Act, I may only accept the Undertakings if I am satisfied that the effect of accepting the Undertakings is not likely to:

- (a) cause financial detriment to any employee covered by the Enterprise Agreement; or
- (b) result in substantial changes to the Enterprise Agreement.

[27] The Undertakings have been provided to address various issues identified by the Commission and the CFMMEU. The purpose of the Undertakings is to provide additional protection and/or benefits to employees. I am satisfied that accepting the Undertakings would

¹² *CFMMEU v LS Precast Pty Ltd* [2019] FWCFB 1431 at [52]

¹³ *Ibid* at [53]; *Diamond Offshore General Company v Baldwin & Ors* [2018] FWCFB 6907 at [28]-[37]

¹⁴ *CFMMEU v LS Precast Pty Ltd* [2019] FWCFB 1431 at [53]

¹⁵ *Ibid*; *One Key Workforce Pty Ltd v CFMEU* [2018] FCAFC 77 at [112]

not be likely to cause financial detriment to any employee covered by the Enterprise Agreement.

[28] As to whether the effect of accepting the Undertakings would be likely to result in substantial changes to the Enterprise Agreement, it is necessary to consider the number and breadth of the Undertakings.¹⁶

[29] WorkPac has provided Undertakings to the Commission. They have been provided to address concerns raised about the BOOT, differences between the Enterprise Agreement and the BC Award, and the explanation provided to employees. Having carefully considered each of the Undertakings individually and collectively, I am satisfied that the effect of accepting them would not be likely to result in substantial changes to the Enterprise Agreement.

[30] In accordance with section 190(2) of the Act, I am satisfied that the Undertakings will meet the concerns I have identified above in relation to whether the Enterprise Agreement meets the requirements set out in sections 186 and 187 of the Act.

[31] No adverse comments in relation to the Undertakings were received from the CFMMEU or any of the employee bargaining representatives covered by the Enterprise Agreement.

[32] Pursuant to subsection 190 of the Act, I accept the Undertakings.

Satisfaction of other requirements

[33] Subject to the Undertakings, I am satisfied that each of the requirements of ss 186, 187, 188 and 190 as are relevant to this application for approval have been met.

[34] The Enterprise Agreement is approved and, in accordance with s 54 of the Act, will operate from 10 August 2021. The nominal expiry date of the Enterprise Agreement is 2 August 2025.



DEPUTY PRESIDENT

Appearances:

Mr S Maxwell, Senior National Industrial Officer, on behalf of the CFMMEU

Mr D Williams, Solicitor of MinterEllison, on behalf of the Applicant

Hearing details:

2021.

Newcastle:

¹⁶ *ALDI Foods Pty Ltd v TWU* [2012] FWCFB 9298 at [54]

July 20.

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Attachment A

IN THE FAIR WORK COMMISSION

FWC Matter No.: AG2021/5601

Applicant: WorkPac Construction Pty Ltd

Undertaking –section 190

WorkPac Construction Pty Ltd (**Company**) gives the following undertakings with respect to the *Construction Services Agreement 2021 (Agreement)*:

Clause 1.5 – Definitions

1. For the avoidance of doubt, the definition of 'Construction work' shall apply consistently with the definitions in clause 4.3 of the *Building and Construction General On Site Award 2020 (Award)*, as varied from time to time.

Clause 6.2 – Skills, Competence & Training

2. For the avoidance of doubt, the Company will apply clause A.5 of Schedule 1 of the Award.

Clause 6.16.3 – Clothing and Personal Protective Equipment

3. The Company will not require an FTM to reimburse the Company for any Company-provided items that are not returned.

Clause 7 – Dispute Resolution Procedure

4. For the avoidance of doubt, the Company will apply clause 39.10 of the Award.

Clause 10 – Allowances

5. For the avoidance of doubt, the Company will apply the following clauses of the Award:
 - a. 19.5 – mobile cranes adjustment formula;
 - b. 21.3 – compensation for clothes and tools;
 - c. 23.3 – multistorey allowance;
 - d. 23.4 – laser operation allowance;
 - e. 23.7 – air-conditioning industry and refrigeration industry allowances;
 - f. 23.10(b) – computing qualities;
 - g. 26.2, 26.3 and 26.4 – travelling time entitlements, although the payment under clause 26.4(i) of the Award will be at the equivalent Base Rate of pay for the equivalent classification under the Agreement.

Clause 11 – Superannuation

6. For the avoidance of doubt, the Company will apply the following clauses of the Award:
 - a. 28.3 – Voluntary employee contributions; and
 - b. 28.5(b) – absence from work due to work-related injury or illness.

Clause 12 – Redundancy

7. For Base Rate FTMs who are redundant within the meaning of clause 41.2 of the Award and eligible for a redundancy payment under that clause but who are not eligible for a severance payment pursuant to clause 12 of the Agreement, the Company will:

- a. calculate the number of hours worked by the FTM for the duration of their employment multiplied by the ordinary hourly rate which would have been payable to the FTM if employed under the Award (**Component A**);
- b. calculate the amount which is 105% of the amount which would have been payable to the FTM under clause 41.3 of the Award as a redundancy/severance benefit (**Component B**);
- c. calculate the number of hours worked by the FTM for the duration of their employment multiplied by the ordinary hourly rate actually paid to the FTM while employed under the Agreement, including any above-Agreement payment (**Component C**); and
- d. pay the FTM a severance payment of X (where X is a positive number) calculated in accordance with the formula $A + B - C = X$ in the next pay cycle.

Clause 14.2 – Overtime – Base Rate FTMs

8. For the avoidance of doubt, the Company will apply clauses 29.2 and 29.3 of the Award.

Clause 14.4 – Shift Work

9. Where an FTM is employed in the 'civil construction sector' (as defined in the Award), the definition of "shift work" shall be applied as if it read 'any system of work in which operations are being continued by the employment of a group of employees upon work on which another group had been engaged previously'.
10. The definition of "night shift" shall be applied as if it read 'any shift starting at or after 8:00pm and before 6:00am'.
11. The definition of "early morning shift" will be deleted.
12. Where a Base Rate Employee of the Company is employed in the 'general building and construction and metal and engineering construction sectors' (as defined in the Award), the Company will apply the shift loadings payable for work in that sector under clause 17.1 of the Award for the ordinary hours on each shift rather than the shift loadings payable under clause 14.4 of the Agreement.

Clause 15 – Hours of Work – Flat Rate FTM

13. Notwithstanding clauses 9.1.1(b) and 15, an FTM will not be engaged on a flat rate in circumstances where the FTM is engaged to work less than 38 hours per week, averaged over a 4 week period. For the avoidance of doubt, an FTM engaged by the Company to work less than 38 hours per week, averaged over a 4 week period will be engaged as a Base Rate Employee pursuant to clause 14 of the Agreement.
14. The flat rates of pay in Annexure C of the Agreement will only apply to Flat Rate Employees engaged in the 'civil construction sector' (as defined in the Award).
15. A Flat Rate FTM will not be engaged in the 'civil construction sector' (as defined in the Award), an 'afternoon & night' or 'non-rotating night' shifts unless they are performing shift work within the scope of clause 17.2 of the Award, or, alternatively, they are paid at least as much as a Base Rate FTM would be paid for the same work.

Clause 19.1 – Meal Breaks

16. Clause 19.1.4 will be applied as if it read "Where an FTM is required to work overtime for at least 1.5 hours after working their ordinary hours, the FTM shall be eligible to receive a meal allowance, as per clause 10.2. This clause does not apply where the Company has arranged for provision of reasonable board and lodging, or where the FTM is in receipt of a distant job allowance, and is provided with a suitable meal."
17. Base Rate FTMs engaged as operators will be entitled to be paid the meal allowance in clause 10.2 for each meal after the completion of each 4 hours from the commencement of overtime.

Clause 19.2 – Rest Breaks

18. For the avoidance of doubt, the Company will apply clauses 18.4 to 18.7 of the Award.

Clause 21 – Public Holidays

19. For the avoidance of doubt, the Company will apply Schedule H of the Award.

Clause 23 – Inclement Weather

20. For the avoidance of doubt, the Company will apply clauses 24.5 and 24.6 of the Award.

Annexure B – Ordinary Hourly Rate – Base Rate Trainees

21. The table as it relates to Trainees will be applied as if it read:


Trainee	On lodgement	
	1st Year	2nd Year
CERT III	\$19.80	\$22.00
CERT IV	\$20.52	\$23.50

Annexure C – Flat Rate Trainee Rates

22. The table as it relates to Trainees will be applied as if it read:

			45 Hour Week			50 Hour Week		55 Hour Week		60 Hour Week		65 Hour Week		70 Hour Week	
			Mon-Fri	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun
CERT III	Year 1	Day	\$22.67	\$23.33	\$26.63	\$23.96	\$25.94	\$25.38	\$26.28	\$26.24	\$26.57	\$27.27	\$27.57	\$27.30	\$28.15
		Afternoon & Night	\$25.61	\$26.08	\$28.28	\$27.01	\$28.12	\$28.16	\$28.53	\$29.11	\$29.11	\$29.92	\$29.92	\$30.61	\$30.61
		Non Rotating	\$28.12	\$28.39	\$29.93	\$29.27	\$29.90	\$30.21	\$30.42	\$30.99	\$30.99	\$31.65	\$31.65	\$32.22	\$32.22
	2nd & Subsequent Years	Day	\$25.18	\$25.92	\$29.58	\$26.63	\$28.83	\$28.20	\$29.20	\$29.15	\$29.52	\$30.30	\$30.63	\$30.33	\$31.28
		Afternoon & Night	\$28.46	\$28.97	\$31.42	\$30.01	\$31.25	\$31.28	\$31.70	\$32.34	\$32.34	\$33.24	\$33.24	\$34.01	\$34.01
		Non Rotating	\$31.25	\$31.54	\$33.25	\$32.52	\$33.23	\$33.56	\$33.80	\$34.43	\$34.43	\$35.17	\$35.17	\$35.80	\$35.80
CERT IV	Year 1	Day	\$23.49	\$24.17	\$27.59	\$24.83	\$26.89	\$26.31	\$27.24	\$27.19	\$27.53	\$28.26	\$28.57	\$28.29	\$29.17
		Afternoon & Night	\$26.54	\$27.02	\$29.30	\$27.99	\$29.14	\$29.18	\$29.57	\$30.17	\$30.17	\$31.00	\$31.00	\$31.72	\$31.72
		Non Rotating	\$29.14	\$29.42	\$31.01	\$30.33	\$30.99	\$31.31	\$31.53	\$32.12	\$32.12	\$32.80	\$32.80	\$33.39	\$33.39
	2nd & Subsequent Years	Day	\$26.90	\$27.68	\$31.60	\$28.44	\$30.79	\$30.13	\$31.20	\$31.14	\$31.53	\$32.36	\$32.72	\$32.40	\$33.41
		Afternoon & Night	\$30.40	\$30.95	\$33.56	\$32.06	\$33.38	\$33.42	\$33.87	\$34.55	\$34.55	\$35.51	\$35.51	\$36.33	\$36.33
		Non Rotating	\$33.38	\$33.69	\$35.52	\$34.74	\$35.49	\$35.85	\$36.11	\$36.78	\$36.78	\$37.57	\$37.57	\$38.24	\$38.24

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Employer name: WorkPac Construction Pty Ltd
Authority to sign: Cameron Hockaday, Chief Commercial & Risk Officer
Signature: 
Date: 2 August 2021

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.

Construction Services Agreement 2021

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1. Agreement Application & Operation

1.1. Title of Agreement

Construction Services Agreement 2021 (**the Agreement**).

1.2. Parties to the Agreement

1.2.1. The parties to the Agreement are:

- a) WorkPac Construction Pty Ltd [ABN 14 108 556 412] (the Company); and
- b) WorkPac Construction Employees.

1.2.2. All WorkPac Construction Employees covered by this Agreement are referred to as Field Team Members (FTM) or Employees.

1.3. Period of Operation

1.3.1. This Agreement shall commence seven (7) days after an approval notice is issued by the Fair Work Commission; and

1.3.2. The nominal expiry date of the Agreement is four (4) years from when the Agreement is approved by the Fair Work Commission.

1.4. Application of Agreement

1.4.1. This Agreement shall apply to and be binding upon the Company in relation to the Employees whose classification and rates of pay are contained in this Agreement and are Employees principally engaged in Construction work within all States and Territories of Australia.

1.4.2. The Agreement shall incorporate the Building and Construction General On-site Award 2020, as varied from time to time. In the event of inconsistency between this Agreement and the Building and Construction General On-site Award 2020, the provisions of this Agreement shall prevail.

1.4.3. This Agreement is not intended to displace the NES and the NES will apply to the extent of any inconsistency.

1.5. Definitions

In this Agreement:

"The Act" shall mean the *Fair Work Act 2009* (Cth), as amended from time to time, or any legislation that supersedes it.

"Agreement" shall mean the WorkPac Construction Services Agreement 2020.

"Award" shall mean the Building and Construction General On-site Award 2020.

"Casual double time penalty rate" shall mean 225% of the base rate prescribed in Annexure B of this Agreement.

"Casual double time and a half penalty rate" shall mean 275% of the base rate prescribed in Annexure B of this Agreement.

"Casual time and a half penalty rate" shall mean 175% of the base rate prescribed in Annexure B of this Agreement.

"Company" shall mean WorkPac Construction Pty Ltd [ABN 14 108 556 412].

"Construction work" definition shall be consistent with the definition of construction in the Building and Construction General On Site Award 2020, as varied from time to time.

"Continuous service" means the period of service of a FTM notwithstanding the FTM's absence from work for:

- Annual leave, personal leave, long service leave or parental leave;
- Illness or accident to a maximum of four (4) weeks after paid personal leave expires;
- Community service leave, including jury service and defence force service;
- Injury sustained during the course of employment up to a maximum of 26 weeks for which the FTM received worker's compensation; and
- Any reason deemed satisfactory to the Company where the FTM has provided the Company with 24 hours prior notice of the absence, including the reason for same and likely duration.

"De Facto Partner" in relation to an employee shall mean:

- person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
- includes a former de facto partner of the employee.

"family and domestic violence" means violent, threatening or other abusive behaviour by a close relative of a FTM that seeks to coerce or control the FTM and causes the FTM harm or to be fearful. A 'close relative' may include a member of the employee's immediate family or a person who is related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

"FTM" means 'field team member' and refers to a WorkPac Construction Employee who is a party to this Agreement.

"FWC" shall mean the Fair Work Commission, or any body that replaces it.

"Immediate family" shall mean:

- (a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the FTM; or
- (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the FTM.

"Inclement Weather" shall mean the existence of abnormal weather conditions (that can include heavy persistent rain, hail, snow, cold, high winds, severe dust storm, extreme high temperatures, flooding or any combination of these), which has either affected or about to affect the safe operations of any worksite.

"Irregular Casual FTM" is a FTM who has been engaged to perform work on an occasional or non-systematic or irregular basis.

"NES" shall mean the National Employment Standards.

"Ordinary hours of work" shall mean a maximum of 38 hours per week and no more than eight (8) hours per day.

"Ordinary rate of pay" shall mean the base rate of pay payable to FTMs for their ordinary hours of work on any given day and is inclusive of applicable penalties and loadings when/if due.

"Pay rate" shall mean the rate of pay that the FTM is paid which includes the flexible reward scheme.

"Permanent FTM" shall mean FTMs engaged as specified in Clauses 6.5 and 6.6.

"Relevant state or territory" shall refer to the location where the work is actually carried out by the FTM.

"Roster" means any arrangement of rostered hours worked by the FTM.

"Regular Casual FTM" means a casual FTM who has been employed by the employer for a period of 12 months and, during at least the last six (6) months of that period, has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the FTM could continue to work as a full-time or part-time FTM.

"Roster cycle" means a twelve (12) week period over which a roster repeats and on which the FTMs average hours are determined.

"Continuous Shift Worker" shall refer to a FTM engaged to work in a system of consecutive shifts throughout the 24 hours of each day of at least six (6) consecutive days without interruption (except during breakdowns, meal breaks or other unavoidable interruptions beyond the Company's control) and who is regularly rostered to work those shifts.

"Trainee" means an FTM undertaking a traineeship under a Training Contract.

"Traineeship" means a system of training which has been approved by the relevant State or Territory training authority, which meets the requirements of a training package developed by the relevant Industry Skills Council and endorsed by the National Quality Council, and which leads to an AQF certificate level qualification.

"Training Contract" means an agreement for a traineeship made between the Company and an FTM which is registered with the relevant State or Territory authority.

"Training Package" means the competency standards and associated assessment guidelines for an AQF certificate level qualification which have been endorsed for an industry or enterprise by the National Quality Council and placed on the National Training Information Service with the approval of the Commonwealth, State and Territory Ministers responsible for vocational education and training, and includes any relevant replacement training package.

"Work cycle" shall refer to the period of time, from beginning to end, that the work cycle or roster pattern completes a full rotation and repeats again.

2. Individual Flexibility

- 2.1. The Company and an FTM covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
- a) the Agreement deals with one (1) or more of the following matters and is applicable to the FTM:
 - (i) arrangements about when work is performed; or
 - (ii) overtime rates; or
 - (iii) penalty rates; or
 - (iv) allowances; or
 - (v) annual leave loading.
 - b) the arrangement meets the genuine needs of the Company and FTM in relation to one (1) or more of the matters mentioned in Clause 2.1(a); and
 - c) the arrangement is genuinely agreed to by the Company and FTM.
- 2.2. The Company will 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 FTM being better off overall than the FTM would be if no arrangement was made.
- 2.3. The Company will ensure that the individual flexibility arrangement:
- a) is in writing; and
 - b) includes the name of the Company and FTM; and
 - c) is signed by the Company and FTM and if the FTM is under 18 years of age, signed by a parent or guardian of the FTM; 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 FTM will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
 - (iv) states the day on which the arrangement commences.
- 2.4. The Company will give the FTM a copy of the individual flexibility arrangement within fourteen (14) days after it is agreed to.
- 2.5. The Company or FTM may terminate the individual flexibility arrangement:
- a) by giving twenty eight (28) days written notice to the other party to the arrangement; or
 - b) if the Company and FTM agree in writing — at any time.

3. Higher Duties

- 3.1. Where an FTM is directed to work for more than two (2) hours on any day on a classification of work carrying a higher rate than the FTM's usual classification, the FTM shall be paid the higher rate for the whole day.
- 3.2. Where an FTM is directed to work for less than two (2) hours on any day on a classification of work carrying a higher rate than the FTM's usual classification, the FTM shall be paid for the actual time worked at the higher classification.

4. Deduction of Monies

- 4.1. Wages will be paid subject to the FTMs authorised deductions as agreed with the Company. The FTM authorises the Company to deduct from their Wages (including leave and termination payments):
 - a) all taxes, payable by law;
 - b) all identified and justified overpayments;
 - c) any amount attributable to unauthorised absences, approved unpaid leave or monies owing to the Company;
 - d) any other deductions authorised by the FTM and agreed by the Company or as required or permitted by law.
- 4.2. FTMs authorise the Company to deduct from any wages or entitlements payable or owing to the FTM, any overpayments made in error by the Company to the FTM upon the Company providing a written notification of an overpayment to the FTMs last known home address, last known email address or current work address.
- 4.3. Overpayments will be deducted via reasonable amounts over a maximum period of eight (8) calendar weeks, unless agreed otherwise.
- 4.4. The Company commits to ensure the provisions in section 324 of the Act are followed regarding any attempt in the pursuit of deduction of any monies from its FTMs.
- 4.5. The Company commits that where there is an acknowledged underpayment that this will be rectified and paid to the affected FTM(s) as soon as possible which will not extend past the next business day where possible, and in the event that this cannot be achieved the maximum period will be the next pay-run.

5. No Extra Claims

The parties will not, during the term of this Agreement, pursue any further claims about any matter which pertains to the employment relationship.

6. Contract of Employment

6.1. Qualifying Period

- 6.1.1. Permanent FTMs will initially be engaged on a six (6) month qualifying period, during which time the FTM's performance will be monitored. The FTM's employment status will be confirmed following completion of a satisfactory qualifying period.

6.2. Skills, Competence & Training

- 6.2.1. FTMs are required to perform work within their skill, competence and training as required by the Company. It is agreed that FTMs will undertake all training as directed for the performance of work and the development of skills.

6.3. Lawful Directions

- 6.3.1. FTMs must follow all reasonable and lawful directions given by the Leading Hand/Supervisor, or any other appropriate person, as nominated by the Company or Client that are within the FTM's ability. Should an FTM not be able to perform the assigned task for any reason whatsoever, it is the FTM's duty to inform their Leading Hand/Supervisor or other appropriate person immediately.
- 6.3.2. If a FTM refuses to comply with a reasonable and lawful direction, this may result in disciplinary action, which may include the termination of employment.

6.4. Status of Employment

- 6.4.1. FTMs under this Agreement will be employed in one of the following categories, as specified in their Notice of Offer of Employment:
- a) Full-Time FTMs;
 - b) Part-Time FTMs;
 - c) Casual FTMs; or
 - d) Fixed Term FTMs.
- 6.4.2. FTMs engaged in each of the above categories will be engaged as either a Base Rate FTM or a Flat Rate FTM. The method of remuneration for Base Rate and Flat Rate FTMs is set out in Clause 9.1.

6.5. Full-time FTMs

- 6.5.1. A full-time FTM is a FTM who works an average of 38 ordinary hours per week.

6.6. Part-Time FTMs

- 6.6.1. A part-time FTM is a FTM who works an average of fewer than 38 ordinary hours per week and has reasonably predictable hours of work.
- 6.6.2. Part-time FTMs will receive a proportionate amount (based on hours worked) of the same pay and conditions afforded to full-time FTMs who perform the same work. Part-time FTMs will receive no less than the minimum prescribed ordinary time hourly rate for the appropriate classification.

6.6.3. Before commencement of part-time employment, the Company and the Part-Time FTM will agree in writing:

- a) that the FTM will work part-time;
- b) the hours to be worked by the FTM, the days on which the hours will be worked and the start/finish times for the work;
- c) the classification applying to the work to be performed; and
- d) the duration of the period of part-time employment.

6.6.4. The terms of an agreement may be varied, in writing, by consent from both parties. A copy of the varied agreement will be provided to the FTM by the Company.

6.6.5. All time worked in excess of the hours as mutually arranged between the Company and the FTM, per Clause 6.6.3, will be deemed overtime and paid in accordance with Clause 14.2.

6.7. Additional Ordinary Hours

6.7.1. The Company and a part-time FTM may enter into an arrangement through mutual agreement for the FTM to work additional ordinary hours, which may be averaged out over the FTM's roster cycle.

6.7.2. Where the Company and the part-time FTM have made an 'additional hours agreement', the agreed additional hours will be deemed part of the FTM's ordinary hours of work.

6.7.3. For the agreement to be effective, the Company must:

- a) inform the FTM that the agreement is an additional hours agreement before the FTM agrees to it;
- b) make a record of the agreement in writing before the first period of agreed additional hours are worked; and
- c) keep a copy of the agreement or record and provide a copy of it to the FTM if so requested.

6.7.4. The additional hours agreement must:

- a) identify the agreed hours to be worked on one or more days; and
- b) must be entered into before the start of the first such period of agreed additional hours.

6.7.5. The additional hours agreement must not require the FTM to perform work for less than the minimum engagement period on any one day, or to perform work in excess of the maximum number of consecutive days that the FTM is able to work.

6.8. Casual FTMs

- 6.8.1. A casual FTM is one engaged and paid in accordance with the provisions of this Clause and the *Fair Work Act 2009* (Cth), as amended from time to time.
- 6.8.2. Casual FTMs will be engaged for a minimum of four (4) hours on each occasion they are required to attend work.
- 6.8.3. A casual FTM receives a casual loading of 25% for ordinary hours, paid by way of the following:
- a) A FTM engaged as a Base Rate Casual FTM, as defined in Clause 9.1.1(a) will be paid a casual loading of 25% on the ordinary permanent base rate of pay prescribed herein. The casual loading is paid in lieu of all paid entitlements to which a Full Time, Part Time or Fixed Term or Assignment FTM is entitled to (with the exception of long service leave); or
 - b) A FTM engaged as a Flat Rate Casual FTM, as defined in Clause 9.1.1(b), has the casual loading referred to in this Clause already incorporated into the casual flat rate of pay. Accordingly, Flat Rate Casual FTMs will not be paid any additional casual loading amount on top of the casual flat rate of pay.
- 6.8.4. For clarity, the casual loading of 25%, referred to in Clause 6.8.3 is made up of the following components:
- a) a component to compensate for the absence of an entitlement to paid annual leave and leave loading entitlements;
 - b) a component to compensate for the absence of an entitlement to paid personal/carer's leave entitlement;
 - c) a component to compensate for the absence of an entitlement to paid compassionate leave;
 - d) a component to compensate for the absence of an entitlement to payment for absence on a public holiday;
 - e) a component to compensate for the absence of an entitlement to notice of termination requirements;
 - f) a component paid in recognition of the itinerant and non-secure nature of casual work and the absence of entitlement to forms of unpaid leave which may be available to a non-casual employee; and
 - g) a component to compensate for the absence of an entitlement to paid redundancy pay.

6.9. Application to convert engagement from casual to permanent

- 6.9.1. This Clause only applies to Regular Casual FTMs.
- 6.9.2. A Regular Casual FTM who has been employed for a minimum period of twelve (12) months and has worked equivalent full-time hours over the preceding period of at least six (6) months may request to have their employment converted to full-time employment.

- 6.9.3. A Regular Casual FTM who has been employed for a minimum period of twelve (12) months and has worked consistent hours each week, completing fewer hours than full-time, over the preceding period of at least six (6) months, may request to have their employment converted to part-time employment. The employee's part-time arrangement will be consistent with the pattern of hours previously worked.
- 6.9.4. Any request by a Regular Casual FTM to convert to full-time or part-time employment must be made in writing and provided to the Company.
- 6.9.5. Where a Regular Casual FTM requests to convert to full-time or part-time employment, the Company may only refuse the request on reasonable grounds.
- 6.9.6. The Company must not refuse the request to convert unless:
- a) The Company has consulted with the FTM;
 - b) There are reasonable grounds to refuse the request; and
 - c) The reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of refusing the request.
- 6.9.7. Reasonable grounds for refusing a Regular Casual FTM's request to convert to full-time or part-time employment may include that:
- a) It would require significant adjustment to the casual FTM's hours of work in order for the FTM to be engaged on a full-time or part-time basis in accordance with the provisions of the Agreement (i.e. the casual FTM is not truly a Regular Casual FTM, as defined in Clause 1.5);
 - b) It is known or reasonably foreseeable that the Regular Casual FTM's position will cease to exist within the next twelve (12) months;
 - c) It is known or reasonably foreseeable that the hours of work that the Regular Casual FTM is required to perform will be significantly reduced within the next twelve (12) months;
 - d) The Company has received notice that the service contract and/or commercial arrangement with the Client and/or for the Site where the FTM is engaged is ceasing in the near future;
 - e) It is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the FTM's hours of work are required to be performed in the next twelve (12) months, which cannot be accommodated having regard to the FTM's availability to work; or
 - f) Granting the request would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or Territory.
- 6.9.8. Where it is agreed that a Casual FTM will have their employment converted to permanent employment as provided for in this Clause, the Company and the FTM must agree upon:
- a) The form of employment that the FTM will convert to – full-time or part-time; and

- b) If it is agreed that the FTM will convert to part-time employment, the matters referred to in Clause 6.6.3.
- 6.9.9. The date from which the conversion will take effect is the commencement of the next pay cycle following such agreement to convert being reached, unless otherwise agreed to commence on a different date.
- 6.9.10. Once a casual FTM has converted to full-time or part-time employment, the FTM may only revert to casual employment with written agreement of the Company.
- 6.9.11. A casual FTM must not be engaged and/or re-engaged for the purposes of avoiding any obligation under this Agreement, including this Clause.
- 6.9.12. Nothing in this Clause obliges a Casual FTM to convert to full-time or part-time employment, nor permits the Company to require a casual FTM to so convert.
- 6.9.13. Nothing in this Clause requires the Company to convert the employment of a Regular Casual FTM to full time or part time employment if the FTM has not worked for 12 months or more in a particular establishment, in a particular classification stream.
- 6.9.14. Nothing in this Clause requires the Company to increase the hours of a Regular Casual FTM seeking conversion to full time or part time employment.
- 6.9.15. Following an application by a Casual FTM, the Company must assess the application within twenty-one (21) days and respond to the FTM, in writing, advising whether the request to convert has been approved.
- 6.9.16. Casual FTMs who are approved by the Company, will be provided with a new Notice of Offer of employment setting out the terms of the engagement, including which form of employment the FTM is converting to, being full-time or part-time, the hours and pattern the FTM will work.
- 6.9.17. Where a Casual FTM is provided a new Notice of Offer in accordance with this Clause, they will have twenty-one (21) calendar days to accept the offer from the date of issue, on the expiration of which the offer will lapse.

6.10. Fixed-Term FTMs

- 6.10.1. A fixed-term FTM is one who is engaged for a limited period, which may be defined with reference to:
 - a) A project, Site or workplace specific task;
 - b) The duration of the training contract, course or qualification for Fixed-term FTMs who are employed subject to a traineeship; or
 - c) A specific time period that is defined in the Notice of Offer of Employment.
- 6.10.2. The employment of a Fixed-term FTM will automatically cease on the end date specified in the Notice of Offer.

6.10.3. This Clause does not remove the right of the Company to terminate the FTM during their fixed-term employment for reasons of serious misconduct. In these circumstances, the Company is not liable to compensate the FTM for any notice period.

6.11. Termination of Employment

6.11.1. For the termination of a Full-time or Part-time FTM's employment, the period of notice to be provided by the Company or an FTM is:

Where the FTM's Period of Continuous Service with the Company is:	The Period of Notice is:
Up to 1 year	1 week
1 year or more but <3 years	2 weeks
3 years or more but <5 years	3 weeks
5 years or more	4 weeks
The period of notice is to be increased by 1 week where the permanent FTM is over 45 years of age and has completed 2 years of continuous service with the Company at the time of giving of the notice. This additional week only applies to notice given by the Company.	

6.11.2. In the event that the Company has terminated the employment of an FTM, other than by summary dismissal, payment in lieu of notice may be substituted for the required notice period. Employment may be terminated by giving part of the period of notice specified and part payment in lieu. Payment shall only be made for the time an FTM would have ordinarily worked during the notice period.

6.11.3. Where a FTM fails to give the required notice under Clause 6.11.1, the Company shall have the right to withhold the period of notice not provided from any monies owed to the FTM, including unpaid wages and any accrued leave entitlements. For example, if an FTM is required to provide two (2) weeks' notice and provided only one (1) weeks' notice, the Company may withhold an amount equal to the ordinary payment for the FTM for one (1) week.

6.11.4. The employment of a Fixed-term FTM will terminate automatically on the cessation date specified in the Notice of Offer or on the completion of the assignment, project, site or workplace specific task on which the employment arrangement is contingent on. No notice is payable in these circumstances. If the employment of a fixed-term FTM is terminated prior to the cessation date specified in the Notice of Offer (e.g. for misconduct or operational requirements), the notice provisions in Clause 6.11.1 will apply.

6.11.5. Where the FTM has abandoned their employment (as prescribed by Clause 6.12), the FTM shall only be entitled to payment up to the time that the FTM last worked and shall be deemed as having forfeited the right to notice under Clause 6.11.1.

6.11.6. When a FTM's employment is terminated, the Company shall pay any wages due to the FTM within seven (7) days of the FTM's last working day.

6.11.7. Nothing in this Clause, nor any other provision of this Agreement, interferes with the right of the Company to dismiss an FTM without notice for serious misconduct.

Examples of what may constitute serious misconduct include, but are not limited to:

- Serious/wilful breaches of relevant Legislation and/or Regulations;
- Serious/wilful breaches of site or workplace Rules, Policies, Standards and/or Regulations;
- Serious/wilful breaches of site or workplace Rules, Policies, Standards and/or Regulations in regard to Safety;
- Engaging or participating in any illegal activities that are directly related to employment;
- Smoking in any designated No Smoking area. All site or workplace offices inclusive of amenities and any enclosed areas are non-smoking areas. All vehicles and plant are also non-smoking areas;
- Misuse and/or distribution of Alcohol and Drugs;
 - Reporting to work while under the influence of alcohol and/or drugs;
 - Possession of, or use of, illegal drugs/illicit substances;
 - Trade of alcoholic beverages and/or drugs and/or illicit substances;
- Offensive, intimidating or violent behaviour in any form;
- Vandalism;
- Misuse of Company and/or Client property;
- Unauthorised possession of Company or another FTM's property;
- Practical jokes or acts of horseplay;
- Unauthorised entry to any restricted access areas;
- Discrimination or harassment of any form, including that relating to race, colour, religion, sex, gender identity, age, national origin, ancestry, disability or as provided under the relevant legislation; or
- Possession and/or use of weapons of any kind.

6.12. Abandonment of Employment

6.12.1. The absence of an FTM from work for a continuous period exceeding two (2) rostered working days without:

- a) the consent of the Company;
- b) a reason acceptable to the Company; or
- c) without notification to the Company,

shall be prima facie evidence that the FTM has abandoned their employment.

6.12.2. The Company will make reasonable attempts to contact a FTM before declaring that the FTM has abandoned their employment.

6.12.3. Termination of employment for reason of abandonment will be effective from:

- a) the day that the FTM last worked on Site; or
- b) the last day of the FTM's absence which was approved by the Company.

whichever is the later.

6.13. Standing Down of FTMs

6.13.1. The Company shall have the right to stand down an FTM without payment for any day (or part of any day) which an FTM cannot be usefully employed because of any breakdown in machinery or any stoppage of work by any cause for which the Company cannot reasonably be held responsible.

- 6.13.2. An FTM who is stood down may elect to use accrued annual leave entitlements or RDOs for such time.

6.14. Drugs and Alcohol

- 6.14.1. The Company expects all FTMs to attend for work in a fit and healthy condition free from the effects of drugs and/or alcohol each day to ensure that work can be performed safely. Accordingly, it is prohibited for an FTM(s) to attend work under the influence of any drug or intoxicant, and the possession of drugs other than those medically prescribed is prohibited on site.
- 6.14.2. If an FTM uses or possesses medically prescribed and / or non-prescribed drugs that can potentially affect an employee's ability to be fit for work, they must declare this to their supervisor when arriving at the site and before commencing work. For the avoidance of doubt, this Clause includes illicit drugs, synthetic drugs, prescription drugs and over the counter medications.
- 6.14.3. If an FTM(s) is found to be in possession of, using and/or under the influence of intoxicants or non-prescribed drugs, they will be subject to disciplinary action, which may include stand down without pay or summary dismissal.
- 6.14.4. The FTM(s) bound by this Agreement will be required to adhere to the Company's and/ or Client's site alcohol and other drugs procedures, which may include pre-employment, random and for cause testing on site. Random testing for the purposes of this Clause will be done in paid work time.
- 6.14.5. The Company recognises that where possible, for cause and random testing of FTMs will be consistent with testing methods contained in Australian/ New Zealand Standards AS4760.
- 6.14.6. FTMs bound by this Agreement who require assistance and support with alcohol, gambling and/ or drug issues, will have access to the Company Employee Assistance Program.

6.15. FTM Obligations

Each FTM covered by this Agreement shall:

- a) Complete any site induction program prescribed by the Company;
- b) Agree to abide by the Company's policies and procedures and the provisions of this Agreement;
- c) Be required to carry out work either individually or as part of a team;
- d) Be responsible for carrying out work in a safe manner and for the quality of their work;
- e) Be prepared to carry out such duties as are within the limits of the FTMs skills, competence and training consistent with the classification structure of this Agreement;
- f) Be prepared to train FTMs/ employees classified at a lower level than themselves and assist FTMs/employees in classifications at a higher level than themselves;

- g) Undertake work required of them on any worksite in a diligent, flexible and cooperative manner;
- h) Acknowledge and comply with Company directions, that smoking is not permitted in any site office, plant, vehicle, crib/meal area and/or in any other amenities where appropriate signage is displayed;
- i) Wear work clothing and PPE that that is approved by the Company; and
- j) Present themselves fit for duty and remain on duty for the duration of their shift.

6.16. Clothing and Personal Protective Equipment

- 6.16.1. The work clothing shall be supplied within the first two (2) weeks of employment by the Company. The supplied clothing will be consistent with the following items of safety clothing which must be worn at all times when appropriate:
- a) 1 long sleeve shirt; and
 - b) 1 trouser; and
 - c) 1 pair of safety boots
- 6.16.2. On reaching six (6) weeks of continuous employment with the Company, FTMs shall receive one (1) additional set of work clothing. For the avoidance of doubt, this refers to one (1) additional shirt and trouser and does not include another pair of safety boots.
- 6.16.3. All work clothing provided by the Company, as mentioned in Clause 6.16.1, is subject to the FTM having worked continuously for the Company for a period of at least 12 weeks. Where a FTM's employment is terminated within the first 12 weeks of employment, whether initiated by the Company or the FTM, the FTM must return all employer provided clothing to the Company. FTMs may be required to reimburse the company for any Company provided items that are not returned.
- 6.16.4. All clothing and footwear mentioned above will be replaced by the Company on a fair wear and tear basis on the condition that old clothing or footwear is presented for inspection if requested.
- 6.16.5. Additional personal protective equipment, such as hard hats, wet weather gear, gloves and safety glasses, may be supplied by the Company on an individual basis as required.
- 6.16.6. No safety equipment or PPE other than that provided and/or approved by the Company is permitted to be worn by an FTM whilst on a worksite.

7. Dispute Resolution Procedure

It is the intention of the parties that all disputes arising out of the interpretation and/or application of this Agreement, the application of the NES or any other employment related matters (excluding disciplinary and performance management issues) shall be dealt with at the local level to the maximum extent possible.

7.1. Procedure

- 7.1.1. At any stage of this Dispute Resolution Procedure, the FTM may appoint a representative, including another FTM or a Representative from an Industrial Organisation who is able to represent their Industrial Interests, to act as the FTM's representative in an attempt to achieve resolution.
- 7.1.2. In the event of any grievance, the parties to the dispute will consult to reach settlement without loss of wages or production, provided always that work shall continue in the usual manner without bans or limitations on the performance of work, unless the FTM has a reasonable concern about an imminent risk to health and safety.
- 7.1.3. The parties to the dispute agree to comply with the words and intent of the Company's dispute settlement procedure outlined below:

Stage 1

Any question or dispute arising in relation to the terms and conditions of this Agreement will be raised in the first instance with the FTM's Company contact person. This may include the FTM's assigned Recruitment Coordinator or the Company's Site Manager.

The Company's contact person will provide a response to the FTM within three (3) working days or such other timeframe as agreed between the FTM and the Company's contact person.

Where the matter is not resolved, or the response is not received within three (3) working days (or agreed timeframe), the FTM may progress to stage 2 of the process.

Stage 2

In the event that a matter remains unresolved following Stage 1, the FTM may request that the matter be referred to the appropriate Company Area Manager.

The Company Area Manager shall respond within three (3) working days or such other timeframe as is agreed between the FTM and the Area Manager.

Where the FTM is dissatisfied with the response from the Company Area Manager, or the response is not received within three (3) working days (or agreed timeframe), the FTM may progress to Stage 3 of this process.

Stage 3

In the event that a matter remains unresolved following Stage 2, the matter may be referred to the Company's Industrial Relations Department.

The Company Industrial Relations Department shall respond within ten (10) working days or such other timeframe as is agreed with the FTM.

Where the FTM is dissatisfied with the response from the Company's Industrial Relations Department, or the response is not received within ten (10) working days (or agreed timeframe), the FTM may progress to Stage 4 of this process.

Stage 4

In the event that a matter remains unresolved following Stage 3, the FTM and / or their representative or the Company may refer the matter to Fair Work Commission (FWC) for conciliation and/or arbitration.

- 7.1.4. Any outcome or decision from the FWC during this process must be consistent with the Code for Tendering and Performance of Building Work 2016 and/or any other successor instruments or the parties statutory obligations.
- 7.1.5. The FWC is not permitted to arbitrate unless each of the proceeding stages have been completed or where there is agreement between the parties to bypass stages.
- 7.1.6. At all stages of this dispute settlement procedure, work will continue, unless there is an immediate and significant threat to health and safety.

8. Classifications

- 8.1. At the commencement of each assignment, a FTM will be assigned to a classification level based on their skills, qualifications and experience and in consideration of the substance of the duties to be carried out on the site or workplace. Classifications will be determined on skills required for the particular role and not skills attained.
- 8.2. The FTM's classification level, applicable to the assignment, will be specified in the notice of offer of employment made by the Company to the FTM.
- 8.3. The classification structure is set out in Annexure A.

9. Wage Rates

9.1. Hourly wage rate

- 9.1.1. As determined by the Company, an FTM will be paid on the basis of one of the following arrangements, as specified in the FTM's Notice of Offer of Employment:

- a) **Base Rate FTMs**

The base rate as prescribed in Annexure B for each classification being the ordinary hourly rate of pay, inclusive of the applicable industry allowance. Base Rate FTMs may also be entitled to additional allowances (except as specifically incorporated), overtime and any other entitlements as set out in this Agreement.

- b) **Flat Rate FTMs**

The flat rate of pay as prescribed in Annexure C for each classification. Flat rates are provided in compensation for all work, including:

- i. overtime;
- ii. weekend penalties;
- iii. public holiday loadings;
- iv. shift penalties;

- v. annual leave loading (where applicable);
- vi. casual loading (where applicable for a casual flat rate); and
- vii. any industry allowances,

that apply to FTMs covered by this Agreement.

Flat Rate FTMs shall also be entitled to any other applicable allowances (which have not been specifically incorporated above) provided for by this Agreement unless such allowance is identified as applying only to Base Rate FTMs.

9.1.2. Where a Flat Rate FTM works hours in excess of the flat rate scenarios as outlined in Annexure C, the FTM will be paid at the next highest flat rate hourly scenario for all hours worked.

- a) Example: An FTM who works an average of 47 hours a week (over the roster cycle) will be paid the flat rate for a 50 hour week for all hours worked, instead of the 45 hour flat rate.

9.1.3. In no case will an FTM be paid less than the applicable ordinary hourly rate, from the relevant pay and classification scale, as amended from time to time in accordance with the relevant legislation.

9.2. Rate Guarantee

9.2.1. FTMs who are employed on 'Notice of Offers' at the time this Agreement is lodged with the Fair Work Commission and who are receiving over Agreement payments and/or 'flex up' conditions contained in that Notice of Offer, will have those rates in the Notice of Offer to become their new 'guaranteed' flat rate for the period that Notice of Offer is applicable. For the avoidance of doubt, if the FTM materially changes the terms of their employment such as to require a new Notice of Offer, the rate guarantee in this Clause will cease.

9.3. Payment of Wages

9.3.1. Payment of wages shall be by direct deposit/electronic funds transfer on a weekly basis to a single bank account nominated by the FTM. Where a public holiday or weekend falls on the normal pay day, the payment shall be made as soon as practicable after the normal pay day.

10. Allowances

10.1.1. The Allowances set out in this Clause shall be paid in addition to either the base rate of pay or the flat rate of pay applicable to the FTM who becomes eligible for the allowance.

10.1.2. Flat Rate FTMs are not entitled to any additional allowances under this section where such an allowance has already been incorporated into their flat rate of pay, in accordance with Clause 9.1.1(b).

10.1.3. Where an FTM is paid an above Agreement payment in accordance with Clause 9.2 or 10.3, such additional payment shall incorporate all allowances which might otherwise apply to the FTM, provided that the total payment to the FTM is not less than what they would have received under the Agreement.

10.1.4. Application of these allowances is in line with the Award, as varied from time to time.

10.2. Allowances

Allowance	\$ Value
First aid allowance (minimum qualification)	\$3.16 per day (Flat)
First aid allowance (higher qualification)	\$5.00 per day (Flat)
Leading Hand Allowance ('All Purpose')	
Leading hand of 2 to 5 people	\$1.41 per hour
Leading hand of 6 to 10 people	\$1.78 per hour
Leading hand of 10 or more people	\$2.39 per hour
Underground allowance	\$0.46 per hour (Flat)
Electricians Licence allowance	\$0.74 per week (All Purpose)
In charge of plant	\$1.09 per hour (Flat)
Carpenter-driver allowance	\$1.04 per hour (All Purpose)
Scaffold or Rigging Certificate allowance	\$0.74 per hour (Flat)
Employees carrying fuels, oils and grease	\$12.20 per day (Flat)
Tool Allowance (Where Employees are required to provide their own tools and or work related equipment- not including work clothing and/ or PPE)	\$ 0.86 per hour (All Purpose)
Meal Allowance	\$15.71
Daily Travel Allowance	\$17.43

10.3. Project Allowance

10.3.1. A FTM required to perform work on a particular construction project may receive an additional allowance, to reflect circumstances including (but not limited to):

- a) the particular roster arrangements;
- b) RDO arrangements;
- c) accommodation and meals;
- d) working environment;
- e) location of work;
- f) the requirement to possess additional skills or experience; or
- g) travel arrangements.

The additional allowance will be payable only for the period the FTM is performing work on that particular construction project.

10.3.2. A Project Allowance will only be payable where:

- a) the Company notifies the FTM in writing of the revised arrangements and the applicable allowance pertaining to the project;
- b) the FTM is notified that the additional project allowance will cease where the FTM's involvement on that particular project ends; and
- c) the FTM is not paid less than the entitlements provided for under this agreement.

11. Superannuation

- 11.1. The Company will comply with all relevant superannuation legislation as amended from time to time.
- 11.2. The ordinary time earnings under this Agreement for which superannuation is payable is based on the number of ordinary hours worked by a base rate permanent full-time FTM or pro-rata for part-time or casual FTMs at the base rate of pay regardless of whether they are base rate or flat rate FTMs. Where FTMs are paid a flat rate, the additional hours have attracted an overtime penalty that has been incorporated into the flat rate.
- 11.3. In accordance with Superannuation Choice Legislation if the FTM provides insufficient information regarding their choice of superannuation fund then payments of superannuation for the FTM will be made into WorkPac's nominated default fund (currently SunSuper).

12. Redundancy

12.1. Definitions

"Redundancy" occurs where the Company has made a definite decision that the Company no longer wishes the job the FTM has been doing to be done by anyone and that decision leads to the termination of employment of the FTM, except where this is due to the ordinary and customary turnover of labour.

"Week's pay" for the purposes of this Clause means the FTM's base rate of pay for their ordinary hours of work. For the avoidance of doubt, such rate shall exclude:

- a) overtime
- b) penalty rates;
- c) disability allowances;
- d) shift allowances;
- e) special rates;
- f) fares and travelling time allowances;
- g) bonuses and/or flexible reward scheme payments; and
- h) any other ancillary payments of a like nature.

12.2. Severance Pay

- 12.2.1. An FTM whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service with the Company in line with the NES entitlements:

Period of Continuous Service	Severance Pay
Less than 1 year	Nil
1 year or more but less than 2 years	4 weeks' pay
2 years or more but less than 3 years	6 weeks' pay
3 years or more but less than 4 years	7 weeks' pay

4 years or more but less than 5 years	8 weeks' pay
5 years or more but less than 6 years	10 weeks' pay
6 years or more but less than 7 years	11 weeks' pay
7 years or more but less than 8 years	13 weeks' pay
8 years or more but less than 9 years	14 weeks' pay
9 years or more but less than 10 years	16 weeks' pay
More than 10 years	12 weeks' pay

12.2.2. Continuity of service shall be calculated in the following manner:

- a) Except for the following, any absences from work are not to be taken into account and will not count as time worked in calculating continuous service:
 - i. in a 12 month period the FTM is entitled to have off up to 152 ordinary working hours because of sickness or accident and this will be counted as time worked (i.e. worker's compensation leave, paid sick leave, paid carers leave);
 - ii. long service leave, annual leave, public holidays, paid compassionate leave, paid training leave and jury service taken by an FTM will count as time worked;
 - iii. any interruption or termination of the employment by the Company which has been made with the intention of avoiding obligations under this Clause.
- b) Absences from work which do not count as time worked in calculating continuous service but do not break continuity of service for the purposes of this Agreement include:
 - i. any absence with reasonable cause, proof of which shall be required of the FTM;
 - ii. any leave without pay taken with the agreement of the Company;
 - iii. parental leave.

12.2.3. The Company may choose to offset a FTM's redundancy pay entitlement in whole or in part by contributions to a redundancy pay scheme.

12.3. FTMs exempted

This Clause does not apply to:

- a) FTMs terminated as a consequence of serious misconduct, performance or other inability to fulfil the contract of employment; or
- b) Qualifying FTMs as defined in Clause 6.1; or
- c) FTMs who resign; or
- d) FTMs engaged for a specific period of time or for a specified task/s; or
- e) Casual FTMs.

12.4. Non payment of severance in particular circumstances

The severance benefits in clause 12.2.1 are not payable in a transfer of business situation where the new employer recognises the FTM's service for the purpose of redundancy entitlements or in other circumstances where the Company obtains other acceptable employment for the FTM. Nothing in this clause affects the right of the Company to apply the provisions of the Act to that part of a redundancy benefit which, pursuant to section 55(6) of the Act, is the same as the NES entitlement. This includes the Company's ability to make application to the FWC to reduce the amount of the NES entitlement by the amount (including to nil) that the FWC considers appropriate.

13. Flexible Reward Scheme

- 13.1. At the total discretion of the Company, the Company may develop/implement and/or remove a flexible reward scheme that may apply to an FTM(s) engaged under this Agreement which is due to the nature and conditions of the assignment and subject to the following:
- a) The scheme may take into account and be based upon client requirements and expectations, skills, safety, production, quality, equipment condition, environmental compliance, market conditions, performance as determined by the Company in its sole discretion;
 - b) The scheme will be in addition to any employment benefits provided for in this Agreement and may be paid as an hourly supplement to classification wages or as a weekly or one-off lump sum amount;
 - c) The scheme may be withdrawn or varied at any time, but will not be used to reduce the rates otherwise payable under this Agreement;
 - d) In the event that the scheme applies to only one classification it will not have a flow on to other areas of work or classifications under this Agreement;
- 13.2. Details of any scheme entitlement under this Clause will be communicated to the FTM at the commencement of engagement through the Letter of Offer.

14. Hours of Work – Base Rate FTM

The provisions of Clause 14 shall only apply to FTMs in receipt of the base rate of pay as prescribed in Annexure B for the classification of work being performed.

14.1. Hours of Work – Day Work

- 14.1.1. Ordinary hours of work may be worked between 6:00am and 6:00pm Monday to Friday. Ordinary hours of work for FTMs will be an average of 7.6 hours per day and 38 hours per week over a 4 week period.
- 14.1.2. The ordinary hours of work for a Base Rate FTM may be subject to change in accordance with Clause 16.

14.1.3. The maximum ordinary hours of work on any one day shall be 8 hours.

14.1.4. An FTM will also be expected to work reasonable additional hours.

14.2. Overtime – Base Rate FTMs

14.2.1. Base Rate FTMs are required to work reasonable overtime where the Company deems it necessary.

14.2.2. All hours worked:

- a) subject to Clause 16, beyond 38 hours per week; or
- b) beyond the ordinary hours on any day

shall be paid as overtime.

14.2.3. All overtime worked Monday to Saturday (before 12:00 PM) shall be paid at time and a half for the first two (2) hours and double time thereafter.

14.2.4. FTMs engaged to work overtime on Saturday must be paid a minimum of 4 hours.

14.2.5. All overtime worked on Saturday (after 12:00 PM) and Sunday shall be paid at double time.

14.2.6. FTMs engaged to work overtime on Sunday must be paid a minimum of 4 hours.

14.2.7. FTMs required to work any Public Holiday (in accordance with Clause 21 of this Agreement) must be paid double time and a half for a minimum of 4 hours.

14.2.8. All overtime for continuous shift workers (other than in 14.2.7) in accordance with the definition, shall be paid at double time.

14.3. Calculation of overtime for Base Rate Casual FTMs

14.3.1. In calculating overtime for Base Rate Casual FTMs, as defined in this Clause, time and one half shall mean 175% of the base rate of pay, double time shall mean 225% of the base rate of pay and double time and a half shall mean 275% of the base rate of pay.

14.4. Shift Work

“Shift work” means any ordinary hours of work that occurs outside the normal span of hours as prescribed in Clause 14.1.

“Day shift” means any shift starting on or after 6:00am and before 10:00am.

“Afternoon shift” means any shift, the ordinary hours of which starts at or after 10:00am and before 8:00pm.

“Night shift” means any shift, starting after 8:00pm and before 4:00am.

“Early morning shift” means any hours worked between 4:00am and 6:00am. For the avoidance of doubt, the maximum number of hours payable at the ‘early morning shift’ rate is two (2) hours per shift.

“Permanent night shift” means an FTM who remains on nights shift for a period of 4 successive weeks or longer.

“Five successive shifts (Short Shift)”: Shiftworkers who work on any afternoon or night shift which does not continue for at least five successive afternoons or nights will be paid at the rate of time and a half for all ordinary time occurring during such shift.

14.4.1. The loading rates applicable for shift work will be as follows:

Type of Shift	Shift Rates
Afternoon shift	15% loading
Night shift	15% loading
Early morning shift	15% loading
Permanent night shift	30% loading
Short shift	50% Loading
Saturday shift	50% Loading
Sunday shift	100% Loading

14.4.2. The company will view and pay employees for shifts worked as per the above Clause 14.4.1 on the basis of when the shift commences. However, any ordinary shift hours worked on a Saturday or Sunday will be paid at the applicable penalty rate (for example a “night shift” worker commencing at 8pm on Sunday night would receive a 100% loading for the hours worked until 12 midnight, then revert to night shift loading for the balance of hours worked past midnight)

14.4.3. All overtime worked by a shift worker in excess of or outside the ordinary hours, or on a non-rostered shift, is paid at double time.

15. Hours of Work – Flat Rate FTM

15.1. The provisions of Clause 15 shall only apply to FTMs in receipt of the flat rate of pay as prescribed in Annexure C for the classification of work being performed.

15.2. Ordinary hours of work may be worked between 6:00am and 6:00pm Monday to Friday. Ordinary hours of work for FTMs will be an average of 7.6 hours (7.6) per day and 38 hours per week, averaged over a 12 week period.

15.3. FTMs will be required to work reasonable additional hours as prescribed in Annexure C, averaged over the particular work cycle being worked.

15.4. A Flat Rate FTM shall be employed on either day work or shift work and work hours as rostered by the Company to meet business operational needs. The shift work definitions in Clause 14.4 shall be applied to determine if work is shift work.

15.5. For Flat Rate FTM shift workers, the provisions of Clauses 15.6 to 15.8 shall apply where an FTM works in excess of the specified hours for the flat rate over a roster period.

- 15.6. Flat Rate FTMs do not receive any additional payment for overtime loadings, weekend penalty rates, shift penalties, annual leave loading, casual loading (where applicable), public holiday rates or time worked within the spread of hours as these have been incorporated into the flat rate.
- 15.7. Where FTMs are placed on an assignment where it is necessary for the Company to pay the FTM in excess of the wages or allowances in this Agreement, this arrangement will be received by the FTM in satisfaction of any and/or all wages, penalties and allowances which might otherwise apply to FTMs under this agreement. This may include (but is not limited to) flat hourly rates. The total payment to the FTM will not be less than that which the FTM would have received under this Agreement.
- 15.8. In respect of Clause 15.7, the Company will ensure the FTM's rates will not fall below the minimum rates contained in the Agreement. Where a FTM considers that, over a minimum of a four (4) week roster cycle, they are not better off overall under this Agreement due to the implementation of Clause 15.7, they may request a comparison of the wages received for that roster cycle under this Agreement and the wages they would otherwise have been provided with under the Award. Any shortfall in wages which would otherwise be payable under the Award will be paid to the FTM in the next pay period after the review is completed. If the FTM and the Company cannot reach agreement on the total amount payable under this Clause, the Dispute Resolution Procedure in Clause 7 will be followed.

16. Rostered Days off (RDOs)

- 16.1. Clause 16 applies to both Flat Rate FTMs and Base Rate FTMs.
- 16.2. The default position is that the standard working week is a 38 ordinary hours and that RDOs do not apply. However, RDOs may be implemented at a site or workplace at the Company's discretion, to meet the Company's operational requirements.
- 16.3. When RDO arrangements are implemented, the ordinary hours referenced in Clauses 14.1 and 15.2 of this agreement shall be amended to facilitate a RDO under this Clause. This shall mean a minimum of 8 hours per day with:
 - a) 0.4 hours accumulating to 1 RDO per 4 weeks (based on 38 ordinary hours per week); or
 - b) 0.8 hours accumulating to 2 RDOs per 4 weeks (based on 36 ordinary hours per week),With the implementation of option B being at the complete discretion of the Company.
- 16.4. The Company shall decide when RDOs will be taken and will notify FTMs as to which day(s) will be designated as an RDO when such entitlement is due.
- 16.5. Where an FTM does not have sufficient RDO hours accrued at the time of a scheduled RDO, the FTM may elect to take annual leave (if available).
- 16.6. Scheduled RDOs may be moved to another day due to operational requirements. Where an FTM is required to work on a day they were originally rostered off, they will be paid at their applicable ordinary rate of pay for all work performed during ordinary hours on that day, with their scheduled RDO moved to an alternate day.

- 16.7. An RDO may, by mutual agreement between the Company and the FTM, be deferred and taken at an alternative date.
- 16.8. Any deferred RDO shall be taken within a period of 6 months from the date of the deferment.
- 16.9. The Company may direct FTMs to take any accumulated RDOs during a reduced period of activity.
- 16.10. FTMs may 'bank' their accrued RDO entitlements to a maximum of five (5) days per annum. Any accrued but untaken RDO balances shall be paid out to the FTM annually in the final months of the calendar year, at the FTM's pay rate at the time of accruing the RDO entitlements.
- 16.11. All RDO arrangements remain at the total discretion of the Company and may be withdrawn by giving written notice to the affected FTMs.
- 16.12. All hours worked by a Flat Rate FTM on their RDO shall be paid for at their ordinary flat rate as prescribed by Annexure C.
- 16.13. Where an FTM terminates employment with the Company with time accrued towards an RDO, such accrued time shall be paid out at the FTM's base rate of pay or flat rate of pay (whichever is applicable to the particular FTM) as at the time the RDO was accrued.
- 16.14. An RDO may be cashed out at the requesting FTM's base rate of pay (exclusive of any allowances) or flat rate of pay (whichever is applicable to the particular FTM) as applicable at the time of accruing the RDO, subject to the Company's absolute discretion.

17. Call Back

- 17.1. An FTM who is recalled to work overtime after leaving the assignment premises (whether the FTM was notified before or after leaving the assignment premises) will be paid for at least four (4) hours work at the appropriate overtime rate for each time the FTM is recalled.

18. Minimum Break Between Shifts

- 18.1. An FTM, where reasonably practicable, must have 10 consecutive hours off duty. An FTM, other than a casual, who works so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day who has not had 10 consecutive hours off duty between those will, be able to have 10 consecutive hours off duty without loss of ordinary working time occurring during such absence.
- 18.2. If on the instructions of the Company, an FTM resumes or continues work without having had ten (10) consecutive hours off duty, the FTM shall be paid double time until they are released from duty and will be entitled to be absent until ten (10) consecutive hours off duty has been taken, without loss of pay for ordinary working time occurring during the absence.
- 18.3. In the case of shift workers 8 hours will be substituted for 10 hours overtime worked:
 - a) For the purpose of changing shift rosters; or

- b) Where a shift is worked by arrangement between the employees themselves.

19. Breaks

19.1. Meal Breaks

- 19.1.1. FTMs must take an unpaid meal break of no less than 30 minutes within the first 5 hours of commencing their ordinary hours, or as otherwise agreed between the Company and majority of FTMs.
- 19.1.2. The 30 minute meal break is unpaid for day workers and paid as time worked for shift workers.
- 19.1.3. If the FTM is required to work through their meal break, then the FTM will be paid an amount equal to double their ordinary time base rate for the period worked between the end time of the prescribed meal break and the commencement time of the delayed meal break.
- 19.1.4. Where an FTM is required to work overtime for at least 1.5 hours after working their ordinary hours, without being notified by the previous day that they will be required to work the overtime, the FTM shall be eligible to receive a meal allowance, as per clause 10.2. This clause does not apply where the Company has arranged for provision of a suitable meal or reasonable board and lodging, or where the FTM is in receipt of a distant job allowance.

19.2. Rest Breaks

- 19.2.1. All FTMs shall be entitled to one paid rest break of minimum ten minutes within the first 3 hours of commencing an ordinary shift.
- 19.2.2. The rest pause will be taken at a mutually agreed time between the Company and the majority of FTMs affected so as not to interrupt the operations of the Company or Client site or workplace. To meet individual or Company needs, the Company and any individual FTM may reach agreement to take rest pauses at a time other than that determined by the majority.
- 19.2.3. Where an FTM is required to work 2 or more hours of overtime after the finishing time of their rostered shift, the FTM must be allowed to take a paid crib break of twenty (20) minutes duration, commencing immediately after their original planned finishing time. Where the FTM does not take this crib break and continues to work for 2 hours or more, they will be regarded as having worked an additional 20 minutes and shall be paid for same.
- 19.2.4. Where an FTM is required to work overtime that extends past four (4) continuous hours after the finishing time of their rostered shift, the FTM is entitled to a paid crib break of thirty (30) minutes duration.

20. Leave Entitlement

20.1. Annual Leave (Permanent FTMs)

- 20.1.1. Annual leave entitlements are provided for in the NES. This Clause supplements those entitlements and provides industry specific detail.

20.1.2. Only permanent FTMs are entitled to accrue and be paid for annual leave; this Clause is not applicable for casual FTMs.

20.2. Entitlement to Annual Leave

20.2.1. A FTM is entitled to annual leave, in addition to the amount provided for in the NES, such that the employee's total entitlement to annual leave pursuant to the NES and this agreement for each year of employment is a cumulative total of 152 ordinary hours (four weeks on the basis of a 38 hour week).

20.2.2. A continuous shift worker is entitled to 190 hours (5 weeks on the basis of 38 hours per week) of annual leave accrued for every 12 month period of continuous service.

20.3. Accrual of Annual Leave

20.3.1. Permanent FTMs, other than casual employees, accrue annual leave at the following rate:

- a) 152 hours per annum for 4 weeks annual leave; or
- b) 190 hours per annum for 5 weeks annual leave,

20.3.2. Annual leave is cumulative from year to year.

20.3.3. Part-time FTMs accrue annual leave on a pro-rata basis.

20.4. Rate of Pay for Annual Leave

20.4.1. A Base Rate FTM taking annual leave must be paid the FTM's ordinary rate of pay, as applicable immediately prior to the taking of annual leave, plus a loading of 17.5%.

20.4.2. A Flat Rate FTM taking annual leave will be paid the FTM's flat rate of pay, as applicable immediately prior to the taking of annual leave. No additional loadings are applicable as this has already been incorporated into the FTM's flat rate.

20.4.3. FTMs who are regarded as full-time shift workers and would have worked on shift work had they not been on annual leave and where the FTM would have received a shift loading as prescribed by Clause 14.4, will be entitled to shift loading or the annual leave loading, whichever is the greater.

20.5. Notice of Taking Annual Leave

20.5.1. A FTM must give one (1) months' notice of their intention to take annual leave. Annual leave applications are approved or declined by the Company upon consideration of its operational requirements.

20.6. Annual close down

20.6.1. The Company may direct an FTM to take paid annual leave during all or part of a period in conjunction with the Christmas/New Year holidays, where the Client and/or Site that the FTM is assigned to is shut down (including where only a part of the Site is shut down, if the partial shut down means there is no work available for the FTM during this period).

20.6.2. If an FTM does not have sufficient accrued annual leave for the period of the shutdown, the FTM may be required to take leave without pay for the remainder of the shut down period for which leave is not accrued.

20.6.3. The Company must give at least two (2) months' notice to the affected employees that they will be required to take annual leave, or leave without pay, in accordance with this Clause.

20.7. Annual leave in advance

20.7.1. The Company and an FTM may agree in writing to the FTM taking a period of paid annual leave before the FTM has accrued an entitlement to the leave. Such an agreement must:

- a) state the amount of leave to be taken in advance and the commencement date of the leave; and
- b) be signed by the Company and the FTM and, if the FTM is under 18 years of age, by the FTM's parent or guardian.

20.7.2. The Company will keep a copy of the agreement made pursuant to Clause 20.7.1 as an employee record.

20.7.3. If, on termination of the FTM's employment with the Company, the FTM has not accrued sufficient annual leave entitlements to the period of paid annual leave taken in advance, the Company may deduct from any monies owed to the FTM on termination an amount equal to the amount paid to the FTM in respect of the period of annual leave taken in advance to which an entitlement has not been accrued.

20.8. Cashing out of annual leave

20.8.1. The Company and an FTM may agree in writing for the FTM to cash out a particular amount of accrued paid annual leave, pursuant to this Clause.

20.8.2. An agreement to cash out paid annual leave entitlements must state:

- a) the amount of leave to be cashed out;
- b) the payment to be made to the FTM in respect of the cash out; and
- c) the date on which the payment is to be made.

20.8.3. To be eligible for cash out, an FTM must have a minimum of four (4) weeks of annual leave entitlements remaining after the cash out amount.

20.8.4. Each occasion of an annual leave cash out must be the subject of a separate agreement, pursuant to Clause 20.8.2.

20.8.5. The cash out amount must not be less than the FTM would have been entitled to be paid had the FTM taken the leave instead of cashing it out.

20.8.6. An FTM may not cash out more than a maximum of two (2) weeks of accrued paid annual leave in any twelve (12) month period.

20.8.7. The Company will keep a copy of the agreement made pursuant to this Clause as an employee record.

20.9. Managing excessive leave accruals

20.9.1. An FTM has an excessive leave accrual if they have more than eight (8) weeks of paid annual leave entitlements accrued (or ten (10) weeks paid annual leave for a continuous shift worker).

20.9.2. The Company and the FTM may try to reach an agreement on how to reduce or eliminate the excessive leave accrual. If, after genuine attempts, no agreement can be reached:

- a) The Company may direct the FTM, in writing, to take a period of paid annual leave; or
- b) The FTM may give notice to the Company, in writing, of their request to take a period of paid annual leave.

20.9.3. The Company can direct the FTM to take a period of paid annual leave, in accordance with Clause 20.9.2(a) if:

- a) the FTM's remaining accrued annual leave entitlements after the directed period of leave would be no less than six (6) weeks, having regard for any other arrangements for the FTM to take paid annual leave;
- b) the directed period of leave is no less than one (1) week in duration;
- c) the FTM is required to take the period of paid leave between eight (8) weeks and twelve (12) months after the date the direction is given; and
- d) the period of paid leave must not be inconsistent with any leave arrangements agreed between the Company and the FTM.

20.9.4. The FTM must take paid annual leave in accordance with a direction given under Clause 20.9.3.

20.9.5. An FTM who is directed to take paid annual leave under Clause 20.9.3 may request to take a period of paid annual leave as if the direction had not been given.

20.9.6. The FTM may give written notice to the Company, in accordance with Clause 20.9.2(b) requesting to take one or more periods of annual leave if:

- a) the FTM has had an excessive leave accrual for more than six (6) months at the time of giving the notice;
- b) the FTM has not been given a direction by the Company under Clause 20.9.3 that would eliminate the FTM's excessive leave accrual, with any other paid annual leave arrangements taken into account;

- c) the FTM's remaining accrued annual leave entitlements after the requested period of leave would be no less than six (6) weeks, having regard for any other arrangements for the FTM to take paid annual leave;
- d) the requested period of leave is no less than one (1) week in duration;
- e) the FTM is requesting to take the period of paid leave between eight (8) weeks and twelve (12) months after the date of providing the request;
- f) the period of paid leave must not be inconsistent with any leave arrangements agreed between the Company and the FTM; and
- g) any request(s) made under this Clause cannot be to take a period of paid annual leave for longer than four (4) weeks (five (5) weeks for continuous shift workers) in any twelve (12) month period.

20.9.7. The Company must grant paid annual leave requested by a notice under Clause 20.9.6, unless there are reasonable business grounds to refuse.

20.10. Personal / Carer's Leave Entitlement (Permanent FTMs)

- 20.10.1. A full-time FTM is entitled to personal leave in accordance with the NES.
- 20.10.2. A FTMs paid personal/carers leave entitlements will accrue progressively during their employment. Any personal leave which is not taken by a FTM must accumulate without limitation. Personal/ Carer's leave is not paid out on termination.
- 20.10.3. Part-time FTMs accrue personal leave on a pro-rata basis, based on the hours worked.
- 20.10.4. FTMs must notify the Company of their absence prior to the commencement of their shift. FTMs who fail to notify the Company of their absence under this Clause will be regarded as absent without approved leave and if the FTM is unable to provide reasonable proof or evidence that they could not contact the Company to advise of their absence then they may be subject to disciplinary action.

20.11. Evidence required

- 20.11.1. If requested by the company, the FTM must provide a medical certificate or such other evidence as will prove to the company's reasonable satisfaction that the absence from work was for the reasons set out in the NES. The requested evidence must be provided to the Company as soon as practicable after the absence.
- 20.11.2. For the avoidance of doubt, the provision of medical certificates or other evidence (as accepted by the Company) must be provided by the FTM in the following circumstances:
 - a) The absence lasts for more than two (2) consecutive days;
 - b) An absence for a single day that is before/after a weekend and/or public holiday (for Monday to Friday FTMs);
 - c) An absence for a single day that falls on the first/last day of the FTMs shift block; and

d) An absence on a public holiday on which the FTM was required to work.

20.11.3. 'Other evidence' may include:

- a) Statutory declarations;
- b) A certificate completed by a pharmacist/chemist; or
- c) Site medic/ESO confirmation.

20.11.4. Any dispute in respect of the documentation provided as evidence shall be dealt with in accordance with the dispute resolution procedure in Clause 7.

20.12. Casual FTMs

20.12.1. Casual FTMs do not receive paid personal/carer's leave entitlements but are entitled to unpaid carer's leave in accordance with the NES.

20.13. Parental Leave

20.13.1. FTMs will be entitled to Parental Leave in accordance with the Act.

20.14. Compassionate Leave

20.14.1. In accordance with and subject to the requirements of the Act, a permanent FTM is entitled to two (2) days of compassionate leave for each occasion when:

- a) a member of the FTM's immediate family or a member of the FTM's household;
 - i. Contracts or develops a personal illness that poses a serious threat to his/her life;
 - ii. Sustains a personal injury that poses a serious threat to his/her life; or
 - iii. Dies; or
- b) A child that would have been a member of the employee's immediate family or household is stillborn.

20.14.2. A FTM is entitled to compassionate leave if the leave is:

- a) for the purpose of spending time with the FTM's immediate family member or member of the household in the circumstances provided in Clause 20.14.1(a); or
- b) after the death of the member of the employee's immediate family or household or the stillbirth of the child referred to in Clause 20.14.1(b).

20.14.3. The FTM will be required to give the Company any evidence that the Company reasonably requires of the illness, injury, death or stillbirth.

20.14.4. Payment for Compassionate Leave shall be at the amount the permanent FTM would reasonably have expected to be paid if the FTM had worked for the period of paid leave.

20.14.5. Casual FTMs will be entitled to two (2) days of unpaid compassionate leave, in accordance with the Act.

20.15. Long Service Leave

20.15.1. FTMs are entitled to Long Service Leave in accordance with the relevant state or territory Long Service Leave Legislation in the place where the work is performed.

20.16. Community Service Leave

20.16.1. FTMs are entitled to be absent from work for the purpose of performing certain prescribed community service activities in accordance with the Act.

20.16.2. FTMs will be required to notify the Company as soon as practicable before their absence and shall provide any evidence that the Company reasonably requires to satisfy it that the absence is for the purpose of engaging in an eligible community service activity.

20.17. Leave to deal with Family and Domestic Violence

20.17.1. A FTM may take unpaid leave to deal with family and domestic violence if the FTM:

- 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 FTM to do that thing outside their ordinary hours of work. This may include making arrangements for the FTM's safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

20.18. Entitlement to unpaid leave to deal with Family and Domestic Violence

20.18.1. A FTM is entitled to five (5) days of unpaid leave in a twelve (12) month period to deal with family and domestic violence, as follows:

- a) the leave is available in full on commencement of each 12 month period of the FTM's employment;
- b) the leave does not accumulate from year to year; and
- c) the leave is available in full to part-time and casual FTMs.

20.19. Taking family and domestic violence leave

20.19.1. A FTM may take unpaid family and domestic violence leave as:

- a) A single continuous period of five (5) days;
- b) Separate periods of one or more days on each occasion; or
- c) Any separate periods, including for less than one (1) day in duration, where agreed between the FTM and the Company.

20.19.2. The FTM and the Company may agree that the FTM may take more than five (5) days of unpaid leave in a twelve (12) month period to deal with the impact of family and domestic violence.

20.19.3. The time a FTM 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.

20.20. Notice and evidence requirements.

20.20.1. A FTM must give the Company notice that they wish to take leave to deal with family and domestic violence. The notice:

- a) must be given to the Company as soon as practicable (which may be a time after the leave has started);
- b) shall explain the reason for needing to take leave; and
- c) must advise the Company of the period, or expected period, of the leave.

20.20.2. If requested by the Company, a FTM who takes leave to deal with family and domestic violence must provide evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in Clause 20.17.1. Acceptable evidence, depending on the circumstances, may include police documentation, Court documentation, documentation issued by a court or a family violence support service, or a statutory declaration.

21. Public Holidays

21.1. The public holidays for the purpose of this Agreement shall be:

- Christmas Day,
- Boxing Day,
- New Year's day,
- Australia day,
- Good Friday,
- Saturday after Good Friday,
- Easter Sunday, (if gazetted in the State or Territory)
- Easter Monday,
- Anzac day,
- Labour Day, as gazetted in the relevant State or Territory,
- Queen's Birthday/Sovereigns Day (WA), and
- Any other day as gazetted in the relevant State or Territory

21.2. The Company may request for FTMs to work on a public holiday in accordance with the NES and the Act.

21.3. All Base Rate FTMs, other than casuals, who are not required to attend their usual rostered shift on a day or part-day that is a public holiday, shall be entitled to receive payment for the Public Holiday at their base rate of pay for their ordinary hours of work on the day or part-day.

- 21.4. Where an FTM has agreed to work on a Public Holiday and is absent without the consent of the Company or without reasonable cause, they will not be entitled to the benefit of any Public Holiday payment.
- 21.5. A Base Rate FTM required to work on a public holiday as prescribed by this Clause shall be paid at the rate of double time and a half of their ordinary rate of pay.
- 21.6. Flat Rate FTM's shall be paid at their flat rate of pay for any work performed on a public holiday. Flat Rate FTM's not required to work on a public holiday will not be entitled to be paid, as the hours are incorporated in the flat rate.
- 21.7. The Company and a majority of the affected FTMs may agree to substitute one of the prescribed public holidays for another day and the prescriptions of this Clause will apply to the substituted day. To meet individual or company needs, the Company and any FTM may agree to substitute a public holiday in circumstances where the majority does not agree, or may agree to substitute a public holiday on a day different to that determined by the majority.

22. Consultation

22.1. Major workplace change

- 22.1.1. This Clause applies if the Company has made a definite decision to make major changes in production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees. The Company must:
 - a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and
 - b) discuss with the relevant FTMs:
 - i. the introduction of the change; and
 - ii. the effect the change is likely to have on the FTMs; and
 - iii. measures the Company is taking to avert or mitigate the adverse effect of the change on the FTMs; and
 - c) commence discussions as soon as practicable after a definite decision has been made.
- 22.1.2. For the purposes of the discussion under Clause 22.1.1.(b) the Company must provide, in writing, to the relevant FTMs and their representatives (if any):
 - a) All relevant information about the change including the nature of the change proposed;
 - b) Information about the expected effects of the change on the FTMs; and
 - c) any other matters likely to affect the FTMs.
- 22.1.3. Clause 22.1.2 does not require the Company to disclose confidential or commercially sensitive information if its disclosure would be contrary to the Company's interests.
- 22.1.4. The Company must give prompt and genuine consideration to matters raised by the FTMs or their representatives about the changes in the course of the discussion under Clause 22.1.1 (b).

- 22.1.5. In this Clause, a 'major change' is likely to have a significant effect on FTMs if it results in:
- a) the termination of the employment of FTMs; or
 - b) major change to the composition, operation or size of the Company's workforce or to the skills required of FTMs; or
 - c) the loss of or reduction in job opportunities (including opportunities for promotion or tenure); or
 - d) the alteration of hours of work; or
 - e) the need to retrain FTMs; or
 - f) the need to relocate FTMs to another workplace or location; or
 - g) the restructuring of jobs.
- 22.1.6. Where this Agreement provides for alteration of any of the matters defined in Clause 22.1.5, such alteration is taken not to have significant effect.
- 22.2. Consultation about changes to rosters or hours of work**
- 22.2.1. Clause 22.2 applies if the Company proposes to change the regular roster or ordinary hours of work of an FTM, other than a FTM whose working hours are irregular, sporadic or unpredictable.
- 22.2.2. The Company must consult with any FTMs affected by the proposed change and their representatives (if any).
- 22.2.3. For the purpose of the consultation, the Company must:
- a) provide to the FTMs and their representatives information about the proposed change (for example, information about the nature of the change and when it is to begin); and
 - b) invite the FTMs to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.
- 22.2.4. The Company must consider any views given under Clause 22.2.3 (b).
- 22.2.5. Clause 22.2 is to be read in conjunction with any other provisions of this Agreement concerning the scheduling of work or the giving of notice.

23. Inclement Weather

23.1. General Principles

- 23.1.1. The primary intent of this Clause is to ensure that the general principle of productivity is maximised without exposing FTMs to unsafe inclement weather conditions.

23.2. Inclement Weather Procedure

- 23.2.1. A FTM shall comply with the Company or their client's instructions to:
- a) Continue work when the area in which the FTM is working is not affected by the inclement weather, or
 - b) Accept a transfer to work in an area of the site not affected by the inclement weather; or
 - c) Accept a transfer (within paid working time) from one site to another site not affected by the Inclement weather; (prior to the morning rest period) as long as it is within a 30km radial distance from the affected site unless agreed by a majority of the FTMs on the affected site; or
 - d) Leave the site without loss of pay. For the avoidance of doubt, FTMs will only receive ordinary hours due for the shift or, for overtime shifts, payments will be consistent with Clause 14.2 of this Agreement where it provides minimum hours for overtime.
- 23.2.2. Where it is necessary for a FTM to traverse open ground (not work) the Company will provide the FTM with safe transport and/or appropriate wet weather protective clothing. Such clothing will remain the property of the Company and must be returned to the Company on request. FTMs shall take reasonable care of the clothing and pay the cost of its replacement if lost or damaged due to their negligence. In circumstances where Wet Weather gear, work clothing and/or PPE is damaged through the normal course of work during inclement weather conditions, the Company will cover the cost of replacement of these items.
- 23.2.3. A FTM shall not be affected by inclement weather unless, by virtue of the weather conditions, it is not reasonable and is unsafe for work to continue.
- 23.2.4. Where the Company requires FTMs to remain on site, consistent with Clause 23.2.1(a) or (b), the Company shall ensure the FTMs have sufficient Supervisory staff on site as a minimum.

24. Trainees

- 24.1. The Company is committed to engaging Trainees in the Building and Construction Industry consistent with this Agreement and recognised government endorsed training packages.
- 24.2. The Company where and when possible will ensure as a priority that any trainee(s) come from the local community closest to the site where they will be engaged.
- 24.3. The Company will meet all legal requirements regarding the Traineeship program.
- 24.4. The Company will communicate with the recognised RTO and the Trainee during the Traineeship program to ensure the Training Plan is delivered as committed. Part of this process will be making sure all training records are kept up-to-date, and that support for Trainees is provided where/when needed.
- 24.5. The following types of traineeships are available under this Agreement:

- a) A full-time traineeship based on 38 ordinary hours per week; or
- b) A part-time traineeship based on less than 38 ordinary hours per week.

24.6. Approved training may occur:

- a) Solely on the job;
- b) Partly on the job and partly off the job; or
- c) Fully off the job.

24.7. Trainees will be paid in accordance with the applicable traineeship rates contained within Annexures B and C.

25. Apprentices

25.1. Definitions

"Apprentice" is an FTM who is bound by a contract of training registered with the appropriate State or Territory training authority.

"Apprenticeship" is a system of structured on the job training with an employer and off the job training with a Registered Training Organisation, accessed through a contract of training. For the purposes of this Agreement, an apprenticeship is a contract of training for the completion of a Certificate III in Civil Construction Plant Operations.

"Registered Training Organisation (RTO)" means a training organisation registered by the Australian Skills Quality Authority, the Victorian Registration and Qualifications Authority or Western Australia's Training and Accreditation Council.

"Contract of training" means an approved agreement for training, registered with the appropriate State or Territory training authority or under the provisions of the appropriate State or Territory training legislation.

- 25.2. Apprentices will be engaged in accordance with the terms of this Agreement, any relevant apprenticeship legislation and/or regulations of a State or Territory training authority with responsibility for the apprenticeship.
- 25.3. An apprentice will be permitted to be absent from work, without loss of pay or continuity of employment, to attend off the job training in accordance with the contract of training.
- 25.4. Apprentices are employed for the duration of their apprenticeship only and therefore the notice of termination and redundancy provisions of this Agreement do not apply.
- 25.5. If an apprentice's employment continues after completion of the apprenticeship, or the apprentice is terminated on completion of the apprenticeship and then re-employed by the Company within six (6) months of the termination, then the period of the apprenticeship will be counted as service for the purposes of long service leave entitlements and determining any future termination entitlements.

- 25.6. Apprentices will be paid in accordance with the applicable apprenticeship rates contained within Annexures B and C.

26. Requests for Flexible Working Arrangements

26.1. Employee may request change in working arrangements.

- 26.1.1. Clause 26 applies where a FTM has made a request for a change in working arrangements under the circumstances provided in s 65 of the Act.

26.2. Responding to the request

- 26.2.1. Before responding to a request made under Clause 26, the Company must discuss the request with the FTM and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the FTM's circumstances having regard to:

- a) the needs of the FTM arising from their circumstances;
- b) the consequences for the FTM if changes in working arrangements are not made; and
- c) any reasonable business grounds for refusing the request.

- 26.2.2. The Company must respond, in writing, to the FTM's request under this Clause within 21 days, stating whether the Company grants or refuses the request. Where the request is refused, the Company:

- a) Must include details of the reasons for the refusal, including the relevant business ground/s and how they apply;
- b) May advise of any proposed alternate change in working arrangements they can offer so as to better accommodate the FTM's circumstances.

- 26.2.3. Where an alternative arrangement is reached under Clause 26.2.2 (b), the Company must provide the FTM with written correspondence confirming the details of the agreed change(s) in working arrangements.

26.3. Dispute resolution

- 26.3.1. Disputes about whether the Company has discussed the request with the FTM and responded to the request in the way required by Clause 26, can be dealt with under Clause 7—Dispute Settlement Procedure.

SIGNATORIES


Signed for and on behalf of the "employer"

Name (Print): CAMERON HOCKADAY

Company Position: CHIEF COMMERCIAL & RISK OFFICER

Company Address: 168 ROBERTSON ST FORTITUDE VALLEY

Signature: 

Witness: 

Name: Kat Bennett

Date: 14/06/21

Signed for and on behalf of the FTMs

Name: Mitchel Edwards

Position: operator

Signature: 

Address: 55 GORDON STREET, MACKAY

Witness: 

Name: Jesse Dixon

Date: 01/06/2021

Annexure A

Classification	Indicative Description
Entry Level	<ul style="list-style-type: none"> • General Labourer less than 12 months industry experience
Level 1	<p>Typical roles</p> <ul style="list-style-type: none"> • Adult trainee terrazzo worker • Aircon group 2 • Aircon group 3 • Aluminium alloy structural worker • Assistant powder monkey • Assistant rigger • Bar bending machine operator • Bitumen worker • Builders' labourer group 4 • Cable jointer • Cement gun operator • Chainperson • Concrete cutting or drilling machine operator • Concrete floater • Concrete formwork stripper • Concrete gang worker • Concrete gun or pump operator • Cook's offside, work boat driver • Crane chaser • Demolition labourer • Dresser and grinder • Drilling machine operator • Dump cart operator • Employee directly assisting a tradesperson • Erector (wire mesh) • Fencer • Gantry hand or crane hand • General hand • Geotextile/geomembrane worker level 1 • Insulator • Ironworker on construction • Jackhammerman • Kerb and gutter layer • Lagger 1st assembler B • Lagger 2nd 6 months • Landscape labourer • Linesperson • Machinist (precast concrete manufacture) • Machinist grade 1 • Mess attendant, camp attendant • Mixer driver (concrete) • Mobile concrete pump hoseperson or line hand • Mobile crane driver

	<ul style="list-style-type: none"> • Painter brush hand • Pick or shovelman • Plasterer, terrazzo or stonemason’s assistant • Roof layer (malthead or similar material) • Sheetmetal worker 2nd class • Spray painter • Steel erector • Stonemason assistant—factory (Queensland and Tasmania) • Terrazzo assistant • Tool/material storeman • Tradesperson’s labourer • Welder 2nd class • General labourer more than 12 months industry experience
<p>Level 2</p>	<p>Typical roles</p> <ul style="list-style-type: none"> • Aircon group 1 • Concrete batching plant operator • Concrete finisher • Employee operating power driven portable saw • Forklift over 4500kg • Foundation shaftworker • Geotextile/geomembrane worker level 2 • Hoist or winch driver • Landscaper • Manhole builder • Pitcher or beacher • Powder monkey • Scaffolder • Spotter • Steelfixer • Storeman • Tack welder • Tool sharpener • Traffic controller • Wall builder
<p>Level 3</p>	<p>Typical roles</p> <ul style="list-style-type: none"> • Air compressor operator • Air-conditioning tradesperson • All winch driver • Artificial stoneworker • Battery fitter • Bitumen sprayer • Boilermaker and/or structural steel tradesperson • Bricklayer • Bridge and wharf carpenter • Carpenter • Caster • Concrete finisher, powered • Concrete spreader, powered

- Crawler tractor with power operated attachments (up to and including 2000kg shipping mass)
- Crusher operator aggregate (dimension stone quarries)
- Drainer
- Dumper, rear and bottom (up to and including 2 cubic metres struck capacity)
- Electric motor attendant
- Electrical fitter
- Electrical mechanic
- Fitter
- Fixer
- Floor layer specialist
- Floorsander
- Forklift driver
- Form setter
- Gardener
- Geotextile/geomembrane worker level 3
- Glazier
- Hand sprayer, lance type
- Joiner
- Locksmith
- Machinist
- Marble and slateworker
- Marker off
- Mobile concrete line pump operator
- Mobile hydraulic platform operator
- Motor mechanic
- Operator, drilling machine, up to and including 155 mm diameter
- Operator, pneumatic tyred tractor with power operated attachments (up to and including 15 kW net engine power)
- Operators of other cranes up to and including 5 ton
- Painter (including Artworker, Spraypainter, Shotblaster and Sandblaster)
- Paviour (including segmental paving)
- Pipe layer (any kind of pipes)
- Plant mechanic
- Plasterer
- Prefab tradesperson
- Qualified/trade cook
- Quarryworker (dimension stone quarries)
- Refrigeration mechanic
- Renderer in pipes, tunnels or covered drains
- Rigger
- Dogger
- Roller, vibrating (under 4 ton)
- Roof fixer
- Rooftiler (including Roof Slater)
- Second driver—Navy and dragline or dredge-type excavator
- Serviceperson
- Sheetmetal worker 1st class
- Shophand
- Slate ridge or roof fixer

	<ul style="list-style-type: none"> • Stonemason • Tilelayer • Timberperson • Tradesperson (radio) • Tradesperson (precast concrete manufacture) • Tradesperson landscaper • Trenching machine (small Ditch-Witch type) • Welder 1st class • Welder special class •
<p>Level 4</p>	<p>Typical roles</p> <ul style="list-style-type: none"> • Bitumen sprayer (driver) • Compactor—up to but not exceeding 48 kW (65 hp) • Concrete paver • Crawler loader (up to and including 15,000 kg mass) • Crawler tractor not using power operated attachments above class 3 • Crawler tractor using power operated attachments class 3, 4, 5 and 6 • Dumper, rear and bottom (above 2 cubic metres, up to and including 30 cubic metres struck capacity) • Electrician special class • Excavator up to and including 0.5 cubic metre capacity • Floating crane—up to and including 10 ton • Forklift—up to but not exceeding 48 kW (65 hp) • Geotextile/geomembrane worker level 4 • Grader, power operated below 35 kW brake power • Inspector • Instrument tradesperson complex systems • Instrument tradesperson • Joiner special class • Joiner-setter out • Letter cutter • Loader, front end or overhead, up to and including 2.25 cubic metres • Locomotive (not carrying passengers) • Marker-setter out • Mechanical tradesperson special class • Mobile concrete boom pump operator • Mobile crane—up to and including 10 ton • Operator, tractor—up to but not exceeding 48 kW (65 hp) • Operator, pneumatic tyred tractor—with power operated attachments (above 15 kW, up to and including 150 kW net engine power) • Operator of mobile crane with lifting capacity in excess of 8 ton and not exceeding 15 ton • Operator, drilling machine—over 155 mm to 230 mm diameter • Other cranes—over 5 ton and not exceeding 15 ton road roller • Shaft or trench sinker • Pile driver • Prefab setter • Roadmarker operator • Road roller (8 ton and above) • Road roller, vibrating (4 ton and above)

	<ul style="list-style-type: none"> • Scraper (up to and including 10 cubic metres struck capacity) • Scraper, self-powered under 10 cubic metres struck capacity • Signwriter • Skid steer tractor—up to but not exceeding 48 kW (65 hp) • Specialist landscaper tradesperson • Track laying, fixing or levelling machine (railway construction) • Trench machine (depth up to 2.4 metres, and width up to 450 mm) and bucket wheel trencher with equivalent capacity in cubic metres per hour • Tunneller 2 • <u>Winding and haulage driver</u>
<p style="text-align: center;">Level 5</p>	<p><u>Typical roles</u></p> <ul style="list-style-type: none"> • Carver • Compactor—from 48 kW (65 hp), • Crawler loader (above 15,000 kg mass, up to and including 60,000 kg mass) • Crawler tractor using power operated attachments class 7, 8 and 9 • Dragline/shovel excavator—up to but not exceeding 3.0 metre capacity • Dumper, rear and bottom (above 30 cubic metres, up to and including 120 cubic metres struck capacity) • Dumper—up to but not exceeding 100 ton • Excavator above 0.5 cubic metres • Excavator—hydraulic telescopic boom type • Floating crane—over 10 but not exceeding 100 ton • Forklift—from 48 kW (65 hp) up to but not exceeding 220 kW (295 hp) • Geotextile/geomembrane worker level 5 • Grader • Grader—from 96 kW (130 hp) up to but not exceeding 148 kW (200 hp) • Loader—front end and overhead, from 48 kW (65 hp) up to but not exceeding 370 kW (500 hp) • Locomotive (carrying passengers) • Mobile crane—over 10 but not exceeding 100 ton • Operator, drilling machine, over 230 mm diameter • Operator, pneumatic tyred loader (over 105 kW, up to and including 500 kW net engine power) • Operator, pneumatic tyred tractor using power operated attachments in excess of 110 kW brake power • Operator, tunnel boring machine; operator, tunnel excavating machine • Other cranes—over 15 but not exceeding 100 ton • Refractory bricklayer • Scraper, self-powered over 10 cubic metres struck capacity • Side boom/pipe layer—up to but not exceeding 220 kW (295 hp) • Skid steer tractor—from 48 kW (65 hp) • Special class trades • Tractor—from 48 kW (65 hp) up to but not exceeding 370 kW (500 hp) • Trainee dogger/crane hand (fixed cranes) •
<p style="text-align: center;">Level 6</p>	<p><u>Typical roles</u></p> <ul style="list-style-type: none"> • Dumper—from 100 ton struck capacity • Electronics tradesperson

	<ul style="list-style-type: none">• Instrumentation and control tradesperson• Loader—front end and overhead, from 370 kW (500 hp) up to but not exceeding 450 kW (600 hp)• Mobile crane with lifting capacity in excess of 100 ton and not exceeding 140 ton• Operator (dragline/shovel excavator—from 3 cubic metres, side boom/pipe layer—from 220 kW (295 hp)• Operator of mobile crane with lifting capacity in excess of 140 ton and not exceeding 180 ton• Tractor—from 370 kW (500 hp) up to but not exceeding 450 kW (600 hp)
Level 7	<ul style="list-style-type: none">• Sub-foreperson

Annexure B

Ordinary Hourly Rate – Base Rate FTMs

	On lodgement		
	Base Rate	Value of Casual Loading	Casual Rate
Entry Level	\$23.00	\$5.75	\$28.75
Level 1	\$23.72	\$5.93	\$29.65
Level 2	\$24.19	\$6.05	\$30.24
Level 3	\$24.85	\$6.21	\$31.06
Level 4	\$25.58	\$6.40	\$31.98
Level 5	\$26.32	\$6.58	\$32.90
Level 6	\$26.99	\$6.75	\$33.74
Level 7	\$27.72	\$6.93	\$34.65

Ordinary Hourly Rate – Base Rate Trainees & Apprentices

Trainee	On lodgement	
	1 st Year	2 nd & Subsequent Years
CERT III	\$19.80	\$20.16
CERT IV	\$20.52	\$21.56

Apprentice	On lodgement	
	3 Year Apprenticeship	4 Year Apprenticeship
Stage 1	\$14.30	\$14.30
Stage 2	\$18.99	\$16.64
Stage 3	\$22.50	\$18.99
Stage 4		\$22.50

- a) Rates above are inclusive of the industry allowance (not found in this agreement) due under the relevant Modern Award or otherwise.
- b) The first pay increase to FTM Pay Rates will be Company initiated and be by administrative adjustment equal to the National Wage Case Decisions on or about July 2021, July 2022, July 2023 and then the final increase will be July 2024.
- c) For the avoidance of doubt, increases mentioned above relate to the Agreement minimum rates only. Therefore FTM's who are receiving rates over the Agreement minimum rates and/ or 'flex up' arrangements/ conditions, may not receive a wage rate increase equal to the pay increases mentioned above (if any). An increase will apply to the extent that the Agreement minimum rates exceed an FTM's current rate of pay to ensure actual rates of pay are maintained equal to or above the Agreement minimum rates.



Annexure C

Flat Rate FTMs Rates

			45 Hour Week			50 Hour Week		55 Hour Week		60 Hour Week		65 Hour Week		70 Hour Week	
			Mon-Fri	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun
Entry Level	Permanent	Day	\$26.33	\$27.09	\$30.93	\$27.84	\$30.14	\$29.49	\$30.53	\$30.48	\$30.86	\$31.67	\$32.03	\$31.71	\$32.70
		Afternoon & Night	\$29.75	\$30.29	\$32.84	\$31.38	\$32.67	\$32.71	\$33.15	\$33.81	\$33.81	\$34.75	\$34.75	\$35.56	\$35.56
		Non Rotating	\$32.67	\$32.97	\$34.76	\$34.00	\$34.74	\$35.09	\$35.34	\$36.00	\$36.00	\$36.77	\$36.77	\$37.43	\$37.43
	Casual	Day	\$31.82	\$32.58	\$36.42	\$33.35	\$35.65	\$35.02	\$36.07	\$36.03	\$36.42	\$37.24	\$37.60	\$37.29	\$38.28
		Afternoon & Night	\$35.97	\$36.45	\$38.81	\$37.55	\$38.70	\$38.84	\$39.23	\$39.91	\$39.91	\$40.83	\$40.83	\$41.61	\$41.61
		Non Rotating	\$39.61	\$39.80	\$41.21	\$40.83	\$41.29	\$41.82	\$41.98	\$42.65	\$42.65	\$43.35	\$43.35	\$43.95	\$43.95
Level 1	Permanent	Day	\$27.15	\$27.94	\$31.90	\$28.71	\$31.08	\$30.41	\$31.49	\$31.43	\$31.83	\$32.66	\$33.03	\$32.70	\$33.72
		Afternoon & Night	\$30.68	\$31.24	\$33.87	\$32.36	\$33.69	\$33.73	\$34.18	\$34.87	\$34.87	\$35.84	\$35.84	\$36.67	\$36.67
		Non Rotating	\$33.69	\$34.00	\$35.85	\$35.06	\$35.82	\$36.19	\$36.45	\$37.13	\$37.13	\$37.92	\$37.92	\$38.60	\$38.60
	Casual	Day	\$32.81	\$33.60	\$37.56	\$34.39	\$36.77	\$36.12	\$37.20	\$37.16	\$37.56	\$38.41	\$38.77	\$38.46	\$39.48
		Afternoon & Night	\$37.10	\$37.59	\$40.03	\$38.72	\$39.91	\$40.05	\$40.46	\$41.16	\$41.16	\$42.10	\$42.10	\$42.91	\$42.91
		Non Rotating	\$40.85	\$41.05	\$42.50	\$42.10	\$42.58	\$43.13	\$43.29	\$43.98	\$43.98	\$44.70	\$44.70	\$45.32	\$45.32
Level 2	Permanent	Day	\$27.69	\$28.50	\$32.53	\$29.28	\$31.69	\$31.01	\$32.11	\$32.06	\$32.46	\$33.31	\$33.68	\$33.35	\$34.39
		Afternoon & Night	\$31.29	\$31.86	\$34.54	\$33.00	\$34.36	\$34.40	\$34.86	\$35.56	\$35.56	\$36.55	\$36.55	\$37.39	\$37.39
		Non Rotating	\$34.36	\$34.68	\$36.56	\$35.76	\$36.53	\$36.91	\$37.17	\$37.86	\$37.86	\$38.67	\$38.67	\$39.36	\$39.36
	Casual	Day	\$33.46	\$34.27	\$38.30	\$35.08	\$37.49	\$36.83	\$37.93	\$37.90	\$38.30	\$39.17	\$39.54	\$39.22	\$40.26
		Afternoon & Night	\$37.83	\$38.33	\$40.82	\$39.49	\$40.70	\$40.85	\$41.26	\$41.98	\$41.98	\$42.94	\$42.94	\$43.76	\$43.76
		Non Rotating	\$41.66	\$41.86	\$43.34	\$42.94	\$43.42	\$43.98	\$44.15	\$44.85	\$44.85	\$45.59	\$45.59	\$46.22	\$46.22
Level 3	Permanent	Day	\$28.45	\$29.27	\$33.42	\$30.07	\$32.56	\$31.86	\$32.99	\$32.93	\$33.35	\$34.22	\$34.60	\$34.26	\$35.33
		Afternoon & Night	\$32.15	\$32.73	\$35.49	\$33.90	\$35.29	\$35.34	\$35.81	\$36.53	\$36.53	\$37.55	\$37.55	\$38.42	\$38.42
		Non Rotating	\$35.29	\$35.62	\$37.56	\$36.73	\$37.53	\$37.91	\$38.18	\$38.90	\$38.90	\$39.73	\$39.73	\$40.44	\$40.44
	Casual	Day	\$34.38	\$35.20	\$39.35	\$36.03	\$38.52	\$37.84	\$38.97	\$38.93	\$39.35	\$40.24	\$40.62	\$40.29	\$41.36
		Afternoon & Night	\$38.86	\$39.38	\$41.93	\$40.57	\$41.81	\$41.96	\$42.39	\$43.13	\$43.13	\$44.11	\$44.11	\$44.95	\$44.95
		Non Rotating	\$42.80	\$43.00	\$44.52	\$44.11	\$44.61	\$45.18	\$45.35	\$46.08	\$46.08	\$46.83	\$46.83	\$47.48	\$47.48

CONSTRUCTION SERVICES AGREEMENT 2021

			45 Hour Week			50 Hour Week		55 Hour Week		60 Hour Week		65 Hour Week		70 Hour Week	
			Mon-Fri	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun
Level 4	Permanent	Day	\$29.28	\$30.13	\$34.40	\$30.96	\$33.52	\$32.79	\$33.96	\$33.90	\$34.32	\$35.23	\$35.62	\$35.27	\$36.36
		Afternoon & Night	\$33.09	\$33.69	\$36.53	\$34.90	\$36.33	\$36.38	\$36.86	\$37.61	\$37.61	\$38.65	\$38.65	\$39.54	\$39.54
		Non Rotating	\$36.33	\$36.67	\$38.66	\$37.81	\$38.63	\$39.03	\$39.31	\$40.04	\$40.04	\$40.89	\$40.89	\$41.63	\$41.63
	Casual	Day	\$35.39	\$36.24	\$40.50	\$37.09	\$39.65	\$38.95	\$40.11	\$40.08	\$40.50	\$41.42	\$41.81	\$41.48	\$42.57
		Afternoon & Night	\$40.00	\$40.54	\$43.17	\$41.76	\$43.04	\$43.20	\$43.63	\$44.39	\$44.39	\$45.40	\$45.40	\$46.27	\$46.27
		Non Rotating	\$44.05	\$44.27	\$45.83	\$45.40	\$45.92	\$46.51	\$46.68	\$47.43	\$47.43	\$48.21	\$48.21	\$48.88	\$48.88
Level 5	Permanent	Day	\$30.13	\$31.01	\$35.39	\$31.85	\$34.49	\$33.74	\$34.94	\$34.88	\$35.32	\$36.25	\$36.65	\$36.29	\$37.42
		Afternoon & Night	\$34.05	\$34.66	\$37.59	\$35.91	\$37.38	\$37.43	\$37.93	\$38.70	\$38.70	\$39.77	\$39.77	\$40.69	\$40.69
		Non Rotating	\$37.38	\$37.73	\$39.78	\$38.91	\$39.75	\$40.16	\$40.44	\$41.20	\$41.20	\$42.08	\$42.08	\$42.83	\$42.83
	Casual	Day	\$36.41	\$37.29	\$41.67	\$38.16	\$40.80	\$40.08	\$41.27	\$41.23	\$41.67	\$42.62	\$43.02	\$42.68	\$43.80
		Afternoon & Night	\$41.16	\$41.71	\$44.42	\$42.97	\$44.28	\$44.44	\$44.89	\$45.68	\$45.68	\$46.72	\$46.72	\$47.61	\$47.61
		Non Rotating	\$45.33	\$45.55	\$47.16	\$46.72	\$47.24	\$47.85	\$48.03	\$48.80	\$48.80	\$49.60	\$49.60	\$50.29	\$50.29
Level 6	Permanent	Day	\$30.90	\$31.80	\$36.29	\$32.66	\$35.36	\$34.60	\$35.83	\$35.77	\$36.22	\$37.17	\$37.58	\$37.21	\$38.37
		Afternoon & Night	\$34.91	\$35.54	\$38.54	\$36.82	\$38.33	\$38.38	\$38.90	\$39.68	\$39.68	\$40.78	\$40.78	\$41.72	\$41.72
		Non Rotating	\$38.33	\$38.69	\$40.79	\$39.90	\$40.76	\$41.18	\$41.47	\$42.24	\$42.24	\$43.15	\$43.15	\$43.92	\$43.92
	Casual	Day	\$37.34	\$38.24	\$42.73	\$39.14	\$41.83	\$41.10	\$42.33	\$42.28	\$42.73	\$43.70	\$44.12	\$43.76	\$44.92
		Afternoon & Night	\$42.21	\$42.77	\$45.55	\$44.06	\$45.41	\$45.58	\$46.04	\$46.84	\$46.84	\$47.91	\$47.91	\$48.82	\$48.82
		Non Rotating	\$46.48	\$46.71	\$48.36	\$47.91	\$48.45	\$49.07	\$49.26	\$50.04	\$50.04	\$50.87	\$50.87	\$51.57	\$51.57
Level 7	Permanent	Day	\$31.73	\$32.66	\$37.28	\$33.55	\$36.32	\$35.54	\$36.80	\$36.73	\$37.20	\$38.17	\$38.60	\$38.22	\$39.41
		Afternoon & Night	\$35.86	\$36.51	\$39.59	\$37.82	\$39.37	\$39.42	\$39.95	\$40.75	\$40.75	\$41.88	\$41.88	\$42.85	\$42.85
		Non Rotating	\$39.37	\$39.74	\$41.90	\$40.98	\$41.86	\$42.29	\$42.59	\$43.39	\$43.39	\$44.31	\$44.31	\$45.11	\$45.11
	Casual	Day	\$38.35	\$39.27	\$43.89	\$40.19	\$42.97	\$42.21	\$43.47	\$43.43	\$43.89	\$44.89	\$45.31	\$44.95	\$46.13
		Afternoon & Night	\$43.35	\$43.93	\$46.78	\$45.25	\$46.64	\$46.81	\$47.28	\$48.11	\$48.11	\$49.20	\$49.20	\$50.14	\$50.14
		Non Rotating	\$47.74	\$47.97	\$49.67	\$49.20	\$49.76	\$50.40	\$50.59	\$51.40	\$51.40	\$52.24	\$52.24	\$52.97	\$52.97

Flat Rate Trainee Rates

			45 Hour Week			50 Hour Week		55 Hour Week		60 Hour Week		65 Hour Week		70 Hour Week	
			Mon-Fri	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun
CERT III	Year 1	Day	\$22.67	\$23.33	\$26.63	\$23.96	\$25.94	\$25.38	\$26.28	\$26.24	\$26.57	\$27.27	\$27.57	\$27.30	\$28.15
		Afternoon & Night	\$25.61	\$26.08	\$28.28	\$27.01	\$28.12	\$28.16	\$28.53	\$29.11	\$29.11	\$29.92	\$29.92	\$30.61	\$30.61
		Non Rotating	\$28.12	\$28.39	\$29.93	\$29.27	\$29.90	\$30.21	\$30.42	\$30.99	\$30.99	\$31.65	\$31.65	\$32.22	\$32.22
	2nd & Subsequent Years	Day	\$23.08	\$23.75	\$27.11	\$24.40	\$26.41	\$25.85	\$26.76	\$26.72	\$27.05	\$27.76	\$28.07	\$27.80	\$28.66
		Afternoon & Night	\$26.08	\$26.55	\$28.79	\$27.50	\$28.63	\$28.67	\$29.05	\$29.64	\$29.64	\$30.46	\$30.46	\$31.16	\$31.16
		Non Rotating	\$28.63	\$28.90	\$30.47	\$29.80	\$30.45	\$30.76	\$30.98	\$31.55	\$31.55	\$32.23	\$32.23	\$32.81	\$32.81
CERT IV	Year 1	Day	\$23.49	\$24.17	\$27.59	\$24.83	\$26.89	\$26.31	\$27.24	\$27.19	\$27.53	\$28.26	\$28.57	\$28.29	\$29.17
		Afternoon & Night	\$26.54	\$27.02	\$29.30	\$27.99	\$29.14	\$29.18	\$29.57	\$30.17	\$30.17	\$31.00	\$31.00	\$31.72	\$31.72
		Non Rotating	\$29.14	\$29.42	\$31.01	\$30.33	\$30.99	\$31.31	\$31.53	\$32.12	\$32.12	\$32.80	\$32.80	\$33.39	\$33.39
	2nd & Subsequent Years	Day	\$24.34	\$25.05	\$28.59	\$25.73	\$27.86	\$27.26	\$28.22	\$28.17	\$28.53	\$29.28	\$29.60	\$29.31	\$30.22
		Afternoon & Night	\$27.50	\$28.00	\$30.36	\$29.00	\$30.19	\$30.23	\$30.64	\$31.26	\$31.26	\$32.12	\$32.12	\$32.87	\$32.87
		Non Rotating	\$30.19	\$30.48	\$32.13	\$31.43	\$32.11	\$32.44	\$32.67	\$33.28	\$33.28	\$33.99	\$33.99	\$34.60	\$34.60

Flat Rate Apprentices Rates

			45 Hour Week			50 Hour Week		55 Hour Week		60 Hour Week		65 Hour Week		70 Hour Week	
			Mon-Fri	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun
4 Year Apprenticeship	Stage 1	Day	\$16.37	\$16.85	\$19.23	\$17.31	\$18.74	\$18.33	\$18.98	\$18.95	\$19.19	\$19.69	\$19.91	\$19.72	\$20.33
		Afternoon & Night	\$18.50	\$18.83	\$20.42	\$19.51	\$20.31	\$20.34	\$20.61	\$21.02	\$21.02	\$21.61	\$21.61	\$22.11	\$22.11
		Non Rotating	\$20.31	\$20.50	\$21.61	\$21.14	\$21.60	\$21.82	\$21.97	\$22.38	\$22.38	\$22.86	\$22.86	\$23.27	\$23.27
	Stage 2	Day	\$19.05	\$19.60	\$22.38	\$20.14	\$21.80	\$21.33	\$22.09	\$22.05	\$22.33	\$22.91	\$23.17	\$22.94	\$23.66
		Afternoon & Night	\$21.53	\$21.91	\$23.76	\$22.70	\$23.63	\$23.66	\$23.98	\$24.46	\$24.46	\$25.14	\$25.14	\$25.72	\$25.72
		Non Rotating	\$23.63	\$23.85	\$25.15	\$24.60	\$25.13	\$25.39	\$25.57	\$26.04	\$26.04	\$26.60	\$26.60	\$27.08	\$27.08
	Stage 3	Day	\$21.74	\$22.37	\$25.54	\$22.98	\$24.88	\$24.35	\$25.21	\$25.17	\$25.48	\$26.15	\$26.44	\$26.18	\$27.00
		Afternoon & Night	\$24.57	\$25.01	\$27.12	\$25.91	\$26.97	\$27.00	\$27.37	\$27.92	\$27.92	\$28.69	\$28.69	\$29.36	\$29.36
		Non Rotating	\$26.97	\$27.22	\$28.70	\$28.07	\$28.68	\$28.97	\$29.18	\$29.72	\$29.72	\$30.36	\$30.36	\$30.90	\$30.90
	Stage 4	Day	\$25.76	\$26.51	\$30.26	\$27.23	\$29.48	\$28.85	\$29.87	\$29.82	\$30.19	\$30.98	\$31.33	\$31.02	\$31.99
		Afternoon & Night	\$29.11	\$29.63	\$32.13	\$30.70	\$31.96	\$32.00	\$32.43	\$33.08	\$33.08	\$34.00	\$34.00	\$34.78	\$34.78
		Non Rotating	\$31.96	\$32.26	\$34.01	\$33.26	\$33.98	\$34.33	\$34.57	\$35.22	\$35.22	\$35.97	\$35.97	\$36.61	\$36.61

			45 Hour Week			50 Hour Week		55 Hour Week		60 Hour Week		65 Hour Week		70 Hour Week	
			Mon-Fri	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun
3 Year Apprenticeship	Stage 1	Day	\$16.37	\$16.85	\$19.23	\$17.31	\$18.74	\$18.33	\$18.98	\$18.95	\$19.19	\$19.69	\$19.91	\$19.72	\$20.33
		Afternoon & Night	\$18.50	\$18.83	\$20.42	\$19.51	\$20.31	\$20.34	\$20.61	\$21.02	\$21.02	\$21.61	\$21.61	\$22.11	\$22.11
		Non Rotating	\$20.31	\$20.50	\$21.61	\$21.14	\$21.60	\$21.82	\$21.97	\$22.38	\$22.38	\$22.86	\$22.86	\$23.27	\$23.27
	Stage 2	Day	\$21.74	\$22.37	\$25.54	\$22.98	\$24.88	\$24.35	\$25.21	\$25.17	\$25.48	\$26.15	\$26.44	\$26.18	\$27.00
		Afternoon & Night	\$24.57	\$25.01	\$27.12	\$25.91	\$26.97	\$27.00	\$27.37	\$27.92	\$27.92	\$28.69	\$28.69	\$29.36	\$29.36
		Non Rotating	\$26.97	\$27.22	\$28.70	\$28.07	\$28.68	\$28.97	\$29.18	\$29.72	\$29.72	\$30.36	\$30.36	\$30.90	\$30.90
	Stage 3	Day	\$25.76	\$26.51	\$30.26	\$27.23	\$29.48	\$28.85	\$29.87	\$29.82	\$30.19	\$30.98	\$31.33	\$31.02	\$31.99
		Afternoon & Night	\$29.11	\$29.63	\$32.13	\$30.70	\$31.96	\$32.00	\$32.43	\$33.08	\$33.08	\$34.00	\$34.00	\$34.78	\$34.78
		Non Rotating	\$31.96	\$32.26	\$34.01	\$33.26	\$33.98	\$34.33	\$34.57	\$35.22	\$35.22	\$35.97	\$35.97	\$36.61	\$36.61

IN THE FAIR WORK COMMISSION

FWC Matter No.: AG2021/5601

Applicant: WorkPac Construction Pty Ltd

Undertaking –section 190

WorkPac Construction Pty Ltd (**Company**) gives the following undertakings with respect to the *Construction Services Agreement 2021 (Agreement)*:

Clause 1.5 – Definitions

1. For the avoidance of doubt, the definition of 'Construction work' shall apply consistently with the definitions in clause 4.3 of the *Building and Construction General On Site Award 2020 (Award)*, as varied from time to time.

Clause 6.2 – Skills, Competence & Training

2. For the avoidance of doubt, the Company will apply clause A.5 of Schedule 1 of the Award.

Clause 6.16.3 – Clothing and Personal Protective Equipment

3. The Company will not require an FTM to reimburse the Company for any Company-provided items that are not returned.

Clause 7 – Dispute Resolution Procedure

4. For the avoidance of doubt, the Company will apply clause 39.10 of the Award.

Clause 10 – Allowances

5. For the avoidance of doubt, the Company will apply the following clauses of the Award:
 - a. 19.5 – mobile cranes adjustment formula;
 - b. 21.3 – compensation for clothes and tools;
 - c. 23.3 – multistorey allowance;
 - d. 23.4 – laser operation allowance;
 - e. 23.7 – air-conditioning industry and refrigeration industry allowances;
 - f. 23.10(b) – computing qualities;
 - g. 26.2, 26.3 and 26.4 – travelling time entitlements, although the payment under clause 26.4(i) of the Award will be at the equivalent Base Rate of pay for the equivalent classification under the Agreement.

Clause 11 – Superannuation

6. For the avoidance of doubt, the Company will apply the following clauses of the Award:
 - a. 28.3 – Voluntary employee contributions; and
 - b. 28.5(b) – absence from work due to work-related injury or illness.

Clause 12 – Redundancy

7. For Base Rate FTMs who are redundant within the meaning of clause 41.2 of the Award and eligible for a redundancy payment under that clause but who are not eligible for a severance payment pursuant to clause 12 of the Agreement, the Company will:

- a. calculate the number of hours worked by the FTM for the duration of their employment multiplied by the ordinary hourly rate which would have been payable to the FTM if employed under the Award (**Component A**);
- b. calculate the amount which is 105% of the amount which would have been payable to the FTM under clause 41.3 of the Award as a redundancy/severance benefit (**Component B**);
- c. calculate the number of hours worked by the FTM for the duration of their employment multiplied by the ordinary hourly rate actually paid to the FTM while employed under the Agreement, including any above-Agreement payment (**Component C**); and
- d. pay the FTM a severance payment of X (where X is a positive number) calculated in accordance with the formula $A + B - C = X$ in the next pay cycle.

Clause 14.2 – Overtime – Base Rate FTMs

8. For the avoidance of doubt, the Company will apply clauses 29.2 and 29.3 of the Award.

Clause 14.4 – Shift Work

9. Where an FTM is employed in the 'civil construction sector' (as defined in the Award), the definition of "shift work" shall be applied as if it read 'any system of work in which operations are being continued by the employment of a group of employees upon work on which another group had been engaged previously'.
10. The definition of "night shift" shall be applied as if it read 'any shift starting at or after 8:00pm and before 6:00am'.
11. The definition of "early morning shift" will be deleted.
12. Where a Base Rate Employee of the Company is employed in the 'general building and construction and metal and engineering construction sectors' (as defined in the Award), the Company will apply the shift loadings payable for work in that sector under clause 17.1 of the Award for the ordinary hours on each shift rather than the shift loadings payable under clause 14.4 of the Agreement.

Clause 15 – Hours of Work – Flat Rate FTM

13. Notwithstanding clauses 9.1.1(b) and 15, an FTM will not be engaged on a flat rate in circumstances where the FTM is engaged to work less than 38 hours per week, averaged over a 4 week period. For the avoidance of doubt, an FTM engaged by the Company to work less than 38 hours per week, averaged over a 4 week period will be engaged as a Base Rate Employee pursuant to clause 14 of the Agreement.
14. The flat rates of pay in Annexure C of the Agreement will only apply to Flat Rate Employees engaged in the 'civil construction sector' (as defined in the Award).
15. A Flat Rate FTM will not be engaged in the 'civil construction sector' (as defined in the Award), an 'afternoon & night' or 'non-rotating night' shifts unless they are performing shift work within the scope of clause 17.2 of the Award, or, alternatively, they are paid at least as much as a Base Rate FTM would be paid for the same work.

Clause 19.1 – Meal Breaks

16. Clause 19.1.4 will be applied as if it read "Where an FTM is required to work overtime for at least 1.5 hours after working their ordinary hours, the FTM shall be eligible to receive a meal allowance, as per clause 10.2. This clause does not apply where the Company has arranged for provision of reasonable board and lodging, or where the FTM is in receipt of a distant job allowance, and is provided with a suitable meal."
17. Base Rate FTMs engaged as operators will be entitled to be paid the meal allowance in clause 10.2 for each meal after the completion of each 4 hours from the commencement of overtime.

Clause 19.2 – Rest Breaks

18. For the avoidance of doubt, the Company will apply clauses 18.4 to 18.7 of the Award.

Clause 21 – Public Holidays

19. For the avoidance of doubt, the Company will apply Schedule H of the Award.

Clause 23 – Inclement Weather

20. For the avoidance of doubt, the Company will apply clauses 24.5 and 24.6 of the Award.

Annexure B – Ordinary Hourly Rate – Base Rate Trainees

21. The table as it relates to Trainees will be applied as if it read:

Trainee	On lodgement	
	1st Year	2nd Year
CERT III	\$19.80	\$22.00
CERT IV	\$20.52	\$23.50

Annexure C – Flat Rate Trainee Rates

22. The table as it relates to Trainees will be applied as if it read:

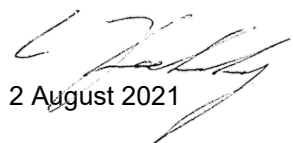
			45 Hour Week			50 Hour Week		55 Hour Week		60 Hour Week		65 Hour Week		70 Hour Week	
			Mon-Fri	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun	Mon-Sat	Mon-Sun
CERT III	Year 1	Day	\$22.67	\$23.33	\$26.63	\$23.96	\$25.94	\$25.38	\$26.28	\$26.24	\$26.57	\$27.27	\$27.57	\$27.30	\$28.15
		Afternoon & Night	\$25.61	\$26.08	\$28.28	\$27.01	\$28.12	\$28.16	\$28.53	\$29.11	\$29.11	\$29.92	\$29.92	\$30.61	\$30.61
		Non Rotating	\$28.12	\$28.39	\$29.93	\$29.27	\$29.90	\$30.21	\$30.42	\$30.99	\$30.99	\$31.65	\$31.65	\$32.22	\$32.22
	2nd & Subsequent Years	Day	\$25.18	\$25.92	\$29.58	\$26.63	\$28.83	\$28.20	\$29.20	\$29.15	\$29.52	\$30.30	\$30.63	\$30.33	\$31.28
		Afternoon & Night	\$28.46	\$28.97	\$31.42	\$30.01	\$31.25	\$31.28	\$31.70	\$32.34	\$32.34	\$33.24	\$33.24	\$34.01	\$34.01
		Non Rotating	\$31.25	\$31.54	\$33.25	\$32.52	\$33.23	\$33.56	\$33.80	\$34.43	\$34.43	\$35.17	\$35.17	\$35.80	\$35.80
CERT IV	Year 1	Day	\$23.49	\$24.17	\$27.59	\$24.83	\$26.89	\$26.31	\$27.24	\$27.19	\$27.53	\$28.26	\$28.57	\$28.29	\$29.17
		Afternoon & Night	\$26.54	\$27.02	\$29.30	\$27.99	\$29.14	\$29.18	\$29.57	\$30.17	\$30.17	\$31.00	\$31.00	\$31.72	\$31.72
		Non Rotating	\$29.14	\$29.42	\$31.01	\$30.33	\$30.99	\$31.31	\$31.53	\$32.12	\$32.12	\$32.80	\$32.80	\$33.39	\$33.39
	2nd & Subsequent Years	Day	\$26.90	\$27.68	\$31.60	\$28.44	\$30.79	\$30.13	\$31.20	\$31.14	\$31.53	\$32.36	\$32.72	\$32.40	\$33.41
		Afternoon & Night	\$30.40	\$30.95	\$33.56	\$32.06	\$33.38	\$33.42	\$33.87	\$34.55	\$34.55	\$35.51	\$35.51	\$36.33	\$36.33
		Non Rotating	\$33.38	\$33.69	\$35.52	\$34.74	\$35.49	\$35.85	\$36.11	\$36.78	\$36.78	\$37.57	\$37.57	\$38.24	\$38.24

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Employer name: WorkPac Construction Pty Ltd

Authority to sign: Cameron Hockaday, Chief Commercial & Risk Officer

Signature:



Date: 2 August 2021