

Operations Services Production Agreement

Record of Meeting



Date 09 February 2021
Location Videoconference via Webex
Attendees See Appendix 1
Meeting Open: 10:00am (AEST)
Meeting Close: 11:40am (AEST)

Agenda

1. Introductions & agenda
2. Reaffirm Operations Services' position and what is important to us
3. Bargaining representatives present proposals
4. Logistics for next meeting

Summary

Introduction & Agenda	OS shared the agenda for the meeting.
OS' position	OS reconfirmed its position that the proposed Production Agreement is a simple, safety net agreement with a national scope. To ensure OS continues working well, all proposals will be considered through a lens of simplicity, maximising flexibility and choice for our employees, and enabling OS to remain cost competitive and continue to grow.
Proposals presented by Bargaining Representatives	<p>Prior to the commencement of the bargaining meeting, the CFMMEU – QLD, CFMMEU – NSW and AWU provided extensive lists of proposals via email for the Company's consideration (see Appendices 2, 3 & 4).</p> <p>During the meeting, all parties were provided an opportunity to further explain their proposals.</p> <p>OS noted that:</p> <ul style="list-style-type: none">• The parties appear to be largely apart in relation to their proposals• At first glance, OS is concerned that many of the proposals do not meet its objectives of simple, safety net agreements• OS will consider all proposals through the lens of cost, flexibility and simplicity <p>On the issue of agreement scope, OS noted:</p> <ul style="list-style-type: none">• CFMMEU (QLD) division seeks an agreement to cover Queensland based Employees only.• CFMMEU (NSW) seeks an agreement to cover OS Employees at Mount Arthur Coal Mine only.• AWU seeks an agreement to cover all Production employees, however they did indicate that they are supportive of the CFMMEU (QLD) position to scope out Queensland Coal, as there are a number of differences between WAIO and Coal.• OS has proposed an agreement that covers all our production employees in mining operations across Australia. <p>The individual bargaining representative raised a number of proposals and committed to providing these in writing for OS' consideration.</p>

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	OS asked bargaining representatives to confirm their key claims. OS committed to giving consideration to the proposals tabled and providing responses during the next meeting.
Next Meeting	The next meeting has been scheduled for 23 February 2021 via WebEx (videoconference).

Actions		
Provide proposals in writing to OS	Individual Bargaining Representative	23 February 2021

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Appendix 1

Attendance List	
Mitch Hughes	CFMMEU QLD
Jeff Drayton	CFMMEU NSW
Shane Roulstone	AWU
Stephen Smyth	CFMMEU QLD
Harriet Daniels	Individual bargaining representative
Chelsea Cross	Specialist Employee Relations
Dean Scott	Manager Production
Alli Chauncy	Principal Employee Relations

Appendix 2 Proposals provided by CFMMEU – QLD

Operations Services Queensland Black Coal Production Agreement 2021

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CFMMEU Mining and Energy Division, Queensland District Log of Claims

Draft version: 9 February 2021

This draft constitutes the CFMMEU's preliminary log of claims. It is not our intention that the Agreement contain any prohibited content or matters that can't be dealt with in an enterprise agreement. If at any time the Company is concerned that there might be that kind of claim please raise it immediately and we will consider it and act in good faith.

The CFMMEU reserves the right to add additional claims throughout negotiations as requested by its membership or based on the outcomes of the negotiations.

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1. Title, Coverage and Term

- 1.1. The Agreement will be known as the Operations Services Production Agreement ("**Agreement**") and will cover and apply to:
 - a) OS MCAP Pty Ltd (ACN 626 224 655) ("**the Company**"); and
 - b) The employees employed by the Company who perform work covered by Schedule A of the Black Coal Mining Industry Award 2010 ("**BCMI Award**") and who are members or eligible to be members of any of the Unions and who are engaged by the Company to perform production work in the QLD Black Coal Industry, in the classifications prescribed by this Agreement ("**Employees**"); and
 - c) The Construction, Forestry, Maritime, Mining and Energy Union – Mining and Energy Division, provided it becomes covered by this Agreement pursuant to section 183 of the Fair Work Act 2009 (Cth).hereinafter described as "**the Parties**".
- 1.2. This Agreement (including any relevant Schedule) will form the complete agreement covering all terms and conditions of employment that apply to Employees. It overrides and replaces in its entirety the BCMI Award and all other awards or industrial instruments that may have otherwise applied.
- 1.3. The National Employment Standards ("**NES**") apply to all employees as a minimum standard. Where there is an inconsistency between this Agreement and the NES, the NES will apply to the extent of the inconsistency, except where this Agreement provides for a more beneficial outcome for employees than the NES.
- 1.4. This Agreement will commence seven days after the Agreement has been approved by the Fair Work Commission ("**FWC**"). The nominal expiry date of the Agreement will be 3 years after the date on which the FWC approves the Agreement. The Agreement will continue to operate past the nominal expiry date until the Agreement is terminated, or replaced.

2. Type of Employment

- 2.1. Employees may be engaged under this Agreement as Full Time Employees or Part Time Employees.

Full Time Employment

- 2.2. A full-time Employee is an Employee who has been engaged to work 35 ordinary hours per week, averaged over a roster cycle.

Part Time Employment

- 2.3. A Part Time employee is an employee who:
 - a) works less than an average of 35 hours per week, averaged over their roster cycle;

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- b) has reasonably predictable hours of work; and
 - c) receives, on a pro rata basis, equivalent pay and conditions to those of full time employees who do the same kind of work.
- 2.4. At the time of engagement the employer and the Part Time Employee will agree in writing on a regular pattern of work, specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day.
- 2.5. Any agreed variation to the regular pattern of work will be recorded in writing.
- 2.6. All time worked in excess of the hours as mutually arranged will be overtime and paid for at the rates prescribed in clause [10] – Overtime.

3. Paid Suspension

- 3.1. In circumstances where an Employee's conduct may lead to disciplinary action, the Company may at its discretion suspend the Employee without loss of pay while the Company investigates the matter.
- 3.2. The appropriate period of any suspension will be determined by the Company, but such a decision will not limit the Company's right to terminate the Employee's employment if the circumstances warrant such termination of employment.
- 3.3. The Employee will be notified in writing by the Company of their suspension. The Company will update the Employee on the progress of the investigation on a regular basis which will be, at a minimum, weekly.
- 3.4. The Company will provide reasonable notice of any meetings the Employee is required to attend.
- 3.5. Where a meeting under this clause is to be held at the Mine, the Company will arrange return transportation for the Employee between their place of residence and the Mine to attend the meeting.
- 3.6. Employees will be entitled to a representative during any meeting.

4. Duties

- 4.1. Employees are required to undertake all duties as reasonably directed by the Company that are within their skill and competence in accordance with safe working practices.
- 4.2. The Company will not allocate tasks in a manner which promotes deskilling.

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- 4.3. Employees will undertake training aimed at maintaining, enhancing or broadening their work skills and work performance as required by the Company and will teach work skills to other Employees covered by this Agreement, as required.
- 4.4. Organisational requirements may require Employees to temporarily work away from the Employee's ordinary location. Where this occurs, all time reasonably spent outside rostered shifts in travelling between home and the temporary location will be paid as if at work, including bonus, for time spent travelling. Consultation and notice of a minimum of two weeks will be provided in these circumstances.
- 4.5. Where the notice required by clause 4.4 is not available then, by agreement, less notice may be given, and the Employee will be paid at overtime rates for all work from the time of change of shift until that notice period would have expired.
- 4.6. **[CLASSIFICATION STRUCTURE TBD]**
- 4.7. Trainees may be employed by the Company under this Agreement.
- 4.8. An Employee's classification under clause 4.6 does not limit the duties that an Employee may be required to perform in accordance with clause 4.3.

5. Training

- 5.1. The Company shall provide the relevant training and payment for the renewal of statutory licences for all Employees required to utilise such licenses in the course of their normal employment with the Company.
- 5.2. If an Employee has to travel for the purpose of attending a training course required for their role away from their normal place of work, the Company will provide:
 - a) transport to and from the training venue;
 - b) accommodation and meals if necessary;
 - c) payment or TOIL; and
 - d) payment or TOIL for travel time if the Employee is required to travel on an RDO.
- 5.3. Where the Company requests or offers an Employee to undertake training outside of the Employee's normal shift patterns, and the Employee agrees, payment to the Employee will be made in accordance with Overtime rates for the period of the training.
- 5.4. If training is conducted on a rostered shift, there shall be no loss of pay for that day even if the course is of a shorter duration and it is not reasonably practicable to return to duty.

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6. Wages

6.1. TBD

6.2. [annual increases]

7. Bonus

7.1. [tbd]

8. Superannuation

- 8.1. Employees are allowed a personal choice of complying superannuation fund, to receive superannuation contributions on their behalf. Should an Employee elect not to choose their own complying superannuation fund, the default superannuation fund shall be used. The default Super Fund will be Mine Super.
- 8.2. The Company's contribution on behalf of Employees will be in accordance with the *Superannuation Guarantee (Administration) Act 1992*.
- 8.3. An Employee can request and the Company may agree that the Employee will forgo part of their Annual Salary otherwise payable under this Agreement and in lieu pay this amount into the Employee's nominated superannuation fund.

9. Hours of Work and Rosters

- 9.1. Rosters and hours of work will be based on an average of 35 ordinary hours per week, averaged over a roster cycle. Shifts will include an effective handover at the start and end of each shift.
- 9.2. An Employee shall not be rostered to work more than 12.5 hours in any one shift and will have a minimum break of 10 consecutive hours between shifts.
- 9.3. [start and finish time tbd] Employees will present themselves ready to start their rostered shift, at the prescribed start time and location.
- 9.4. The Company may require an Employee or Employees to change shift or their place on the roster. Where this occurs, the Employee must receive:
 - a) one week's notice of any change is given to the Employee, or four weeks' notice of any change where the Employee will be changing to a non-continuous shift roster; or
 - b) where less notice is given, the Employee will be paid at overtime rates for all work from the time of change of shift until that notice period would have expired..
- 9.5. The Company may only introduce a new roster following consultation, and with the agreement of the majority of affected employees.

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9.6. [Process TBD].

9.7. [Current rosters defined]

10. Overtime

10.1. Subject to the NES, the Company may require an Employee to work reasonable additional hours in addition to their rostered hours and be paid the applicable overtime rates.

10.2. In calculating overtime, except for call backs, each day is to be treated separately.

Length of rest period after working overtime

10.3. When overtime work is necessary it will be arranged where possible for Employees to have at least 10 consecutive hours off duty between the work of successive days.

Where the Employee does not get a 10 hour rest

10.4. The following conditions apply to an Employee who works so much overtime that the Employee has not had at least 10 consecutive hours off duty between the completion of work on one day and the commencement of work on the next day:

- a) the Employee will be released from duty after that overtime is finished until the Employee has had 10 consecutive hours off duty; and
- b) there will be no loss of pay for rostered hours of work time which occur during this absence.

10.5. The following conditions apply to an Employee who, on the instructions of the Company resumes or continues work without having had 10 consecutive hours off duty in accordance with 1 b) above.

- a) the Employee will be paid at overtime rates during rostered hours and after that until the Employee is released from duty;
- b) the Employee will then be entitled to be absent for 10 consecutive hours; and
- c) there will be no loss of pay for rostered hours of work time which occur during this absence.

Payment for call-back

10.6. An Employee who is recalled to work overtime after leaving the Mine (whether the Employee was notified before or after leaving the Mine) will be paid for at least four hours work at the appropriate rate for each time the Employee is recalled.

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- 10.7. Except where unforeseen circumstances arise, the Employee will not be required to work the full four hours if the job to be performed is completed within a shorter period.
- 10.8. The provisions of this clause do not apply in the following cases:
- a) where it is customary for an Employee to return to the Mine to perform a specific job outside the Employee's ordinary working hours; or
 - b) where the overtime is continuous (subject to a reasonable meal break) with the end or start of ordinary working time.

Call-back less than four hours

- 10.9. Overtime worked in the circumstances specified in this clause will not be regarded as overtime for the purposes of a rest period as set down in clause "Rest period after working overtime" if the actual time worked is less than four hours on any recall or on each of any recalls.

Meal breaks during non-rostered overtime

- 10.10. If an Employee is required to work more than one and a half hours past their rostered shift (exclusive of crib time) then the Employee will, unless agreed otherwise, before starting this overtime be allowed at least 30 minutes for a meal without deduction of pay.
- 10.11. Employees will also, unless notified the previous day of the requirement to work overtime, be paid a meal allowance of \$15.
- 10.12. After each four hours of overtime worked after a crib break the Employee will have a further crib break and be paid a meal allowance of \$15.
- 10.13. Where the overtime worked is not continuous with an Employee's rostered hours, the Employee is entitled to a meal break of 30 minutes without deduction from pay after each five hours worked.

Overtime rates

- 10.14. Any un-rostered overtime worked by Full Time or Part Time Employees will be paid at double time for each hour of un-rostered overtime. The hourly rate for the purpose of calculating the un-rostered overtime rate will be calculated by dividing the [salary/ wages/ calculation to be discussed] that is payable to the Employee by the number of rostered hours per annum for the Employee's roster.

11. Crib breaks

- 11.1. An employee is entitled to a meal break of 30 minutes without deduction from pay for each five hours worked during rostered hours. This period will be counted as time worked
- 11.2. Subject to clause 11.3, an employee will not be required to work for more than five hours without a meal break.

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- 11.3. Where the employer and employee agree that the employee will work for more than five hours without a break, then the employee will be paid for any work beyond five hours at the applicable overtime rates until a meal break is taken.
- 11.4. Where crib is taken it is to be taken at a place as close as possible to where the work is being performed, nominated by the Company, subject to the provision of suitable amenities. Time taken to travel to or from the place designated for crib will be counted as time worked, but will not be counted as part of the meal break.

12. Annual Leave

- 12.1. Employees will be entitled to annual leave at the rate of five weeks per year of continuous service. An employee will be credited annual leave at the end of each pay period.
- 12.2. An Employee working:
 - a) a seven day roster; or
 - b) a roster which requires ordinary shifts on public holidays and not less than 272 ordinary hours per year on Sundays;is a Shiftworker for the purpose of the NES and is entitled to annual leave at the rate of six weeks per year of continuous service. For other rosters, applicable annual leave accrual will be notified to the affected employees.
- 12.3. Annual leave may be taken at any time provided that reasonable notice (but a minimum of 14 days, except in extenuating circumstances) is given by the employee.
- 12.4. Annual leave is paid as if the employee was at work, including bonus. An employee's accrual and deduction of leave entitlements is based on the ordinary hour component of the employee's shift.
- 12.5. Approved leave without pay in accordance with this provision will not break an employee's continuity of service.
- 12.6. On termination, employees will be paid the amount that they would have otherwise been paid as if at work, including bonus, for any untaken annual leave.

13. Personal/ Carer's Leave

- 13.1. Employees will be entitled to 10 days of paid personal/ carer's leave on commencing employment and on each anniversary of commencement. Any personal leave which is not taken by an employee must accumulate without limitation.

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- 13.2. Paid personal/ carer's leave is available to an employee when he or she is absent due to:
- a) personal illness or personal injury affecting the employee ("personal leave"); or
 - b) for the purposes of providing care and support to a member of the employee's immediate family or household because of a personal illness or injury ("carer's leave").
- 13.3. Employees will be paid as if they were at work, including bonus, while on personal/ carer's leave.
- 13.4. An additional day of paid leave will be granted for the purposes of travel where an employee is required to travel in excess of 400kms to their place of residence for the purpose of the carer's leave.
- 13.5. In the event an employee has exhausted their personal/ carer's leave entitlement the employee may take unpaid leave as required on each permissible occasion.
- 13.6. On termination of employment for any reason, employees will be paid the rate they would have otherwise received if they were at work, including bonus, for any untaken personal / carer's leave accruals.

14. Long Service Leave

- 14.1. Conditions relating to long service leave ("LSL") are governed by Federal Legislation as amended from time to time.
- 14.2. An Employee is to be paid for their LSL as if they were at work, including Bonus, in accordance with their normal pay period at the time the leave is to be taken.
- 14.3. LSL may only be taken in a single continuous period of at least 14 days. LSL may be taken at any time provided that:
- a) Reasonable notice is given by the Employee; and
 - b) The operations of the Mine will not be affected by the granting of leave at that time.
- 14.4. Where an employee who qualifies for long service leave applies to take such leave in multiple applications in combination with a period or periods of rostered days off for a single continuous period, they will only receive payment for the long service leave component (for which the company is reimbursed from the Long Service Leave Fund) of the single continuous period. For the purpose of clarity, and having regard to the purpose/objective of this provision, if the single continuous period also includes periods of annual leave (in addition to rostered days off), the employee will also receive payment for the annual leave component of the single continuous period.

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15. Compassionate Leave

- 15.1. Employees will be entitled to compassionate leave in accordance with the Act.
- 15.2. An additional day of paid leave will be granted for the purposes of travel where an employee is required to travel in excess of 400kms from their place of residence for the purpose of the compassionate leave.
- 15.3. Employees will be paid as if they were at work, including bonus, while on Compassionate Leave.

16. Parental Leave

- 16.1. [Current policy provision to be substance of Agreement clause]

17. Community Service Leave

- 17.1. Community service leave shall apply in accordance with the NES.
- 17.2. Employees unable to attend work as a result of a requirement to attend for jury duty will be paid on a no loss of earnings basis for the period of Jury Service and will refund to the company any amount they receive for attending jury duty.
- 17.3. Employees who are required to attend to emergencies as part of voluntary work performed for an organisation dealing with an emergency management situation or a natural disaster, during the course of their work or at times when they would usually be at work, shall be paid as if they were at work, including bonus. This clause applies to employees who may be called out for emergencies involving the State Emergency Service, fire brigade, ambulance etc.
- 17.4. Military Leave may be granted to Employees who are members of the Armed Services Reserve to enable the Employee to meet regular annual training commitments. The maximum paid leave permitted will be 10 consecutive working days each year. Applications shall be made through the Employee's Superintendent who will make a recommendation to the Human Resources Manager based upon operational requirements. Applications for such leave shall be submitted at least four weeks prior to commencement of such leave.
- 17.5. Normal weekend or other Reserve commitments will be in the Employee's own time. Where an Employee is rostered to work on a weekend or other day/s, which coincide with a Reserve commitment, the Employee may be granted leave without pay or permitted to swap a shift or shifts at the discretion of the Department Manager or their nominated representative.
- 17.6. Employees who are granted paid leave will be paid on a no loss of earnings basis (any Military Leave pay will be reimbursed to the Company or the Company will pay the difference between Base Salary and Military Leave Pay.)
- 17.7. Councillors will be allowed up to two shifts per month to attend Council meetings and will be entitled to be paid on a no loss of earnings basis (Council fees will be

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reimbursed to the Company or the Company will pay the difference between no loss of earnings and Council fees). Any leave beyond the two shifts per month must be approved in advance by the Department Manager or their nominated representative.

18. Public Holidays

18.1. The following days shall be recognised as public holidays:

- a) New Years Day
- b) Labour Day
- c) Australia Day
- d) Queen's Birthday
- e) Good Friday
- f) Easter Monday
- g) Christmas Eve from 6pm
- h) Christmas Day
- i) Anzac Day
- j) Boxing Day
- k) Easter Saturday (for employees rostered to work ordinary hours on that day)
- l) Easter Sunday
- m) any additional day observed by the local community and gazetted at the place of work as a holiday
- n) any day gazetted in addition or in lieu of one of these holidays by State or Federal government

18.2. Public holidays shall be a period of 24 hours and unless otherwise agreed, and shall commence from the start of night shift on the day preceding the holiday.

18.3. Given the nature of the company's business and its operational and rostering requirements, employees acknowledge that the company may request that they work on public holidays, but only if the request is reasonable in accordance with the NES. This shall apply on all public holidays except for Christmas and Boxing Day (25 and 26 December), which shall be non-working days.

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- 18.4. The Company may call for volunteers to work on Christmas and Boxing Day (25 December and 26 December) and, while they are designated non-working days, an employee may, at their complete discretion, volunteer to work these days.
- 18.5. [Travel obligations for mid-swing days off to be discussed]
- 18.6. An employee who works on a public holiday is to be paid double time for work performed during ordinary hours, in addition to the payment prescribed.
- 18.7. Work performed in excess of ordinary hours on a public holiday is to be paid at the rate of treble time.

19. Redundancy

- 19.1. When the Company is considering redundancies, the Company will take all necessary steps to avert the need for redundancies and minimise the effects on employees. The Company will consult with the employees affected in accordance with the consultation clause in this Agreement. The company will first:
- a) Reduce the number of labour hire employees and contractor employees across the operation where the work performed by labour hire employees and contractor employees is not considered to be specialist work and employees covered by this agreement have the necessary skills to perform the work.
 - b) After the company have reduced the number of labour hire employees and contractor employees, and there is still a surplus of employees, the company will offer voluntary redundancies at the rate specified in this Agreement. The Company will have regard to its requirement to retain an appropriate mix of skills and competencies and accordingly, not all applicants will necessarily be accepted for voluntary redundancy.
- 19.2. Where a surplus of employees still exists, that cannot be addressed through natural attrition, the company will determine the number of employees to be made redundant and the spread of skills required for the efficient and effective operations. The surplus will be addressed by:
- a) Redeployment of any employees who have the appropriate skills and competencies or who can be retrained within a reasonable period of time, to another task within the operation; and
 - b) Transfer of employees who have the appropriate skills and competencies, or who can be retrained within a reasonable period of time, to another operation. The Company will pay for relocation expenses if required.
- 19.3. After all the above steps have been taken the company may implement forced redundancies. To ensure that the Company can continue to operate in the most productive and efficient manner all employees from within the work area where a surplus exists will be interviewed to determine the employees to be retained or retrenched. The selection method for forced redundancies will take into consideration the following:

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- a) necessary skills mix required by the business;
- b) individual skills and proficiency in them;
- c) employment record/ service;
- d) cases where unsatisfactory performance has been identified and is being managed;

Severance payment

- 19.4. Except where clause 21.3 applies, when terminations of employment occur due to redundancy the Employees terminated are entitled to severance pay equal to three weeks' pay (at the rate that the Employee would have received if at work, including bonus) for each completed year of service .
- 19.5. Regardless of length of employment, the minimum payment due to Employees under clause 21.2(a) is four weeks' pay.

20. Accident Pay

- 20.1. An Employee in receipt of weekly payments under the provisions of the *Workers' Compensation and Rehabilitation Act 2003 (Qld)* will be entitled to receive accident pay from the Company subject to the following conditions and limitations:

Payment to be made during incapacity

- 20.2. The Company shall pay, or cause to be paid accident pay during the incapacity of the Employee, within the meaning of the said Act:
 - a) Until such incapacity ceases; or
 - b) Until the expiration of a period of 78 weeks from the date of injury,
- 20.3. whichever event shall first occur, even if the Company terminates the Employee's employment within the period.

Meaning of Accident Pay

- 20.4. For the purposes of this clause, "accident pay" means:
 - a) For the initial period of 39 weeks from the date of injury, a weekly payment representing the Employee's [TBD] plus Bonus.
 - b) For a further period of 39 weeks, a weekly payment representing 80% of the Employee's [TBD] plus Bonus or the Employee's 35 hour rate at the ordinary time rate expressed in the Employee's mine Schedule plus Bonus (whichever is the greater), provided the Employee participates in a company approved rehabilitation plan under the *Workers' Compensation and Rehabilitation Act 2003 (Qld)*.

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- c) Where an Employee fails to undertake rehabilitation after the initial 39 week period, the Employee will be paid a weekly payment representing the Employee's 35 hour rate at the ordinary time rate expressed in this Agreement.

Pro-rata payments

- 20.5. In respect of incapacity for part of a week the amount payable to the Employee as accident pay shall be a direct pro rata.

When not entitled to payment

- 20.6. An Employee shall not be entitled to any payment under this clause in respect of any period of paid annual leave or long service leave or for any paid public holiday.

Redemptions

- 20.7. In the event that an Employee receives a lump sum in redemption of weekly payments under the said Act, the liability of the Company to pay accident pay as herein provided shall cease from the date of such redemption.

Damages independent of the Acts

- 20.8. Where the Employee recovers damages from the Company or from a third party in respect of the said injury independently of the said Acts, such Employee shall be liable to repay to the Company the amount of accident pay which the Company has paid under this clause and the Employee shall not be entitled to any further accident pay thereafter.

Calculation of period

- 20.9. The 78 week period commences from the first day of incapacity for work, which may be subsequent to the date of injury. Intermittent absences arising from the one injury are to be cumulative in the assessment of the 78 week limitation.

Occupational Health & Safety and Workers' Compensation

- 20.10. The Company is currently bound by the Coal Mining Safety and Health Act 1999 (Qld) and the Workers' Compensation and Rehabilitation Act 2003 (Qld). During the life of this Agreement, the Company commits that it will not seek to remove itself from the jurisdiction of those two Acts.

21. Stand down

- 21.1. The Company may stand down an Employee for part or all of a shift in the following circumstances:

- a) Refusal of duty; or
- b) Neglect of duty; or

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- c) Misconduct; or
 - d) if the Employee cannot be usefully employed in the Employee's usual classification because of industrial action.
- 21.2. In addition to the circumstances outlined above, the Company may stand down an Employee during any period in which the Employee cannot usefully be employed because of one of the following circumstances:
- a) a break down of machinery or equipment that has lasted for more than four consecutive working days, if the Company cannot reasonably be held responsible for the break down; or
 - b) a stoppage of work for any cause that has lasted for more than fourteen consecutive working days for which the Company cannot reasonably be held responsible.
- 21.3. The Company will take all reasonable steps to minimise the need for standing down Employees under any of these circumstances, including where practical, carrying out training.
- 21.4. Employees who have been stood down under the circumstances outlined in this clause may request to take outstanding leave entitlements. If the Employee does not request to take outstanding leave entitlements or does not have adequate accrued entitlements, they may be stood down without payment.
- 21.5. Any Employee stood down under this clause will continue to have their service recognised for the purposes of "continuous service".

22. Consultation

Model clause

23. Dispute Resolution Procedure

- 23.1. When a matter arises, it shall in the first instance be discussed between the employee and the immediate supervisor involved.
- 23.2. If, following the discussion referred to at 23.1, the matter remains unresolved it shall be referred for discussion between a representative of the employee's choice (**Representative**) and the relevant department manager. That discussion must take place within a week of it being raised with the relevant department manager, unless otherwise agreed.
- 23.3. If, following the discussion referred to at clause 23.2, the matter remains unresolved, it shall be referred for discussion between a senior officer of the Company and the employee and/ or representative. That discussion must take place within a week of it being raised with the senior officer, unless otherwise agreed.

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- 23.4. Where the matter remains unresolved, the Company or employee or employee representative, may refer the matter to FWC or, by agreement of both parties, an agreed private arbitrator or mediator to conciliate on the matter. Where conciliation has been exhausted and the dispute remains unresolved, the FWC or, by agreement, an agreed private arbitrator, may arbitrate the matter.
- 23.5. By agreement, the Company, the employee and the employee's representative may bypass any of these steps in the interests of speedy resolution of the issue. An exception to this is where a matter affects the majority of Employees across a crew, a department or the workforce. In those circumstances, the matter can be raised at, in the case of the crew or department, the department manager level as set out at clause 23.2, or, in the case of the workforce, the senior officer level as set out at clause 23.3, effectively bypassing the earlier steps without consent.
- 23.6. During any conciliation or arbitration proceedings before FWC under this clause, either party may choose to be represented by a legal practitioner.
- 23.7. If FWC issues a decision in writing under this clause, the decision and reasons for the decision will be provided in writing to the parties. Where FWC issues a decision in writing under this clause, it shall be binding on the parties and other persons bound by this Agreement in accordance with its terms.
- 23.8. The Company will pay on a "without loss of pay" basis (i.e., as if the Employee had attended work in accordance with their roster) for up to two Employees attendance at proceedings (other than directions hearings) together with reasonable travel and accommodation costs and reasonable cost of meals, not including alcohol, provided that the two Employees are nominated at the time that the application to FWC is made. Where a nominated Employee is unable to attend due to exceptional circumstances (eg personal sickness), a substitute Employee will be allowed to attend where:
- a) more than 48 hours notice is provided to the Company; and
 - b) the substitute Employee has previously been involved in the matter.
- 23.9. Necessary witnesses who are employees of the Company may also attend any matters being arbitrated by the FWC in accordance with these arrangements where their attendance is required.
- 23.10. The payment of reasonable travel and accommodation costs by the Company in respect of Employees and witnesses who are required to attend the arbitration will be subject to:
- a) those Employees and witnesses travelling on flights which minimize their time spent away from work and the impact on operations; and
 - b) any fatigue management and fitness for work requirements applying to the Employees and witnesses.

24. Individual Flexibility Term

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Note: prior to entering an IFA, the relevant supervisor/manager must check that the proposed IFA arrangements meet payroll requirements.

- 24.1. Subject to operational requirements, the Company and any Employee may agree to make an individual flexibility arrangement to vary the effect of a term of this Agreement provided that the arrangement is genuinely agreed to by the Company and the Employee. Such arrangements may include and are limited to:
- a) Cashing out of annual leave, provided that:
 - (i) The request is approved by the relevant General Manager on the basis of genuine hardship; and
 - (ii) The Employee must be paid at least the full amount that would have been payable to the Employee had he or she taken the leave that he or she has foregone;
 - b) Parental leave arrangements;
 - c) Flexible arrangements that facilitate workforce diversity (eg hours of work, rosters, start and finish times and places);
 - d) Job sharing arrangements;
 - e) Taking annual leave over longer periods than an Employee's accrued entitlement utilising a combination of annual leave and leave without pay;
- 24.2. The individual flexibility arrangement must:
- a) be in writing;
 - b) include the name of the Company and the Employee;
 - c) meet payroll requirements;
 - d) be signed by the Company and the Employee and, if the Employee is under 18 years of age, by a parent or guardian of the Employee;
 - e) include details of the terms of this Agreement that will be varied by the arrangement and how they will be varied.
- 24.3. The Company must ensure that the terms of any individual flexibility arrangement:
- a) are about permitted matters under section 172 of the Act;
 - b) are not unlawful terms under section 194 of the Act;
 - c) result in the Employee being better off overall than he or she would be if no arrangement was made;

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- d) do not result in the Employee being provided with any payment or benefit that is inconsistent with the National Employment Standards under the Act.
- 24.4. The Company must give the Employee a copy of the individual flexibility arrangement within 14 days after it has been agreed.
- 24.5. The Company or the Employee may terminate the individual flexibility arrangement:
 - a) by giving 28 days written notice to the other party to the individual flexibility agreement; or
 - b) if the Company and the Employee agree in writing – at any time.

25. Transport and Accommodation

- 25.1. Employees can elect to reside in non-local areas and commute in accordance with this clause or to reside in the local community.

Transport

- 25.2. For employees who commute, the company will provide transport outside working hours in line with the nominated commute work patterns:
 - a) from nominated location(s) which are to include, at a minimum, Brisbane and Cairns to the village (and from the village to nominated location(s));
 - b) [process for adding more locations and/ or changing locations tbd] and
 - c) from the village to the mine (and from the mine to the village) during the roster period.
- 25.3. For employees who reside in the local community, the company will provide transport outside working hours during the roster period from the village to the mine (and from the mine to the village).
- 25.4. Employees are required to arrive at the nominated time(s) and location(s) (determined by the company) to access the company-supplied transport.
- 25.5. If an employee fails to arrive at the nominated time and location to access the company-supplied transport and as a consequence is unable to travel on the transport provided, the employee shall immediately notify their supervisor. The company may make alternative transport arrangements available to the employee. If alternative transport arrangements are made available by the company the employee must comply with those arrangements.
- 25.6. An employee will not be paid for any shifts or hours missed as a result of the employee's failure to arrive at the nominated time and location. However, in circumstances where it is demonstrated to the company's satisfaction that failure to arrive at the nominated time and location was not within the

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reasonable control of the employee, the company may exercise its discretion to pay the employee for any shifts or hours missed.

- 25.7. Failure to access the company-supplied transport at the nominated time and location may result in disciplinary action against the employee, unless the employee demonstrates to the company's satisfaction that this failure was not reasonably within the control of the employee. In circumstances determined by the company, employees may request and be granted paid leave for the shifts missed (provided that the employee has adequate leave accruals).
- 25.8. If an employee is required by their supervisor to work extended hours and finishes work when the company-supplied transport is unavailable, the company will arrange transport for the employee.
- 25.9. An employee receives no payment for travel under this clause.

Accommodation

- 25.10. Non-share village accommodation including three meals per day will be supplied by the company for the employee's roster period at no cost to employees. This accommodation may be provided on a check in / check out basis for Employees who choose to commute.
- 25.11. Employees who reside in the local community will be paid an allowance of [to be discussed], per week.

26. Inclement Weather

Wet Weather Conditions - During Current Working Shift

- 26.1. Where the Company determines that normal work cannot be performed when wet weather occurs whilst Employees are working on site Employees will perform alternate duties as required or undertake training sessions as directed by the Supervisor.
- 26.2. If alternate duties or training is not available then the following options will be applicable:
- a) Employees can remain on site or alternative nominated venue and receive payment for the full shift as the normal rostered shift. These Employees will be held in readiness for work.
 - b) Subject to approval, Employees can choose to apply for annual leave or unpaid leave for the duration of the work restrictions. In this instance Employees will be paid a minimum of four (4) hours or the actual hours worked prior to leaving site.
- 26.3. The above arrangements will also apply to Employee's isolated in camp, or the local community for the duration of their roster.

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- 26.4. Employees who are isolated on site and are unable to return to the camp or local community for any hours exceeding normal rostered shift length will be paid at the applicable overtime rate.

Wet Weather Conditions - Unable to Travel to Camp (from place of residence) and return

- 26.5. It is the Employee's responsibility to monitor road conditions and access, and flight statuses when travelling their normal route to camp from their usual place of residence. Employees are not expected to travel an alternate route in these circumstances. Updates on these situations can be sourced from relevant authorities such as Local Police, RACQ, relevant airline, Bureau of Meteorology and radio broadcasts. Employees must notify their supervisor and advise details of the circumstances.
- 26.6. In situations where Employees are unable to travel to camp via their normal route for any reason the following procedure will apply:
- a) Employees will be paid for the normal shift length aggregated rate for the first two days they are unable to attend work and will be required to provide evidence from an authorised authority to support payment for their claim. If Employees are unable to access any of the above mentioned authorised authorities, the Employee can obtain a written statement from an authorised person such as Police Officer or Justice of the Peace.
 - b) Employees will be required to take annual leave or leave without pay for each day they are unable to attend work thereafter
 - c) Company direction on these matters will be administered from a senior management representative.
- 26.7. Commute Employees unable to return to their residence from site due to weather will be provided with accommodation in the local community.

Wet Weather Conditions - Shutdown of Operations by Client

- 26.8. When the client considers it necessary to shut down operations, the following will apply:
- a) Employees will be held in readiness for work.
 - b) Employees will be paid as if at work, including bonus, for each day they are unable to attend work.
 - c) Employees who choose not to be in readiness for work may take annual leave or leave
 - d) without pay.

Natural Disaster Procedure

- 26.9. The parties also recognise that the region where Employees reside and work can be subject to natural disasters.

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- 26.10. The Company will monitor the development of the natural disaster, as advised by the relevant authorities and/or media, in the work area and provide regular updates to those personnel on shift. Where it becomes evident that the nature of the natural disaster may be of a destructive intensity, the Company will advise personnel accordingly.
- 26.11. Where the Company is made aware that an Employee's immediate family and/or property may be affected by the activities of a natural disaster, that Employee will be permitted to leave the workplace in a timely manner. When Employees are using Company transport they will be provided with transport.
- 26.12. The same processes and payments as outlined in the "Wet Weather Conditions - Unable to Travel to Camp (from place of residence) and return" provisions of this Agreement will apply.
- 26.13. Where the threat of the natural disaster has receded (as advised by the relevant authorities) Employees who have left the workplace are expected to return to duty as soon as possible.

27. Work Clothing

- 27.1. On commencement of employment, an Employee is entitled to an initial work clothing allocation as follows:
- a) Five shirts and five pairs of trousers;
 - b) One pair of safety boots;
 - c) One winter style jacket and one lighter style jacket (Jackets); and
 - d) Prescription safety glasses as required (including spare glasses).
- 27.2. Items listed in this clause will be replaced on a fair wear and tear basis. However, Employees will be entitled to an additional six items of industrial outer clothing (ie shirts, trousers and Jackets) on an annual basis at no cost to the Employee. In this clause, "annual basis" means one year from the anniversary of an Employee's commencement date with the Company.
- 27.3. Where in the course of work an Employee's work clothing or tools are damaged, destroyed or lost the Company will replace them at no cost to the Employee.

28. Medicals

- 28.1. Upon notification by the Company, Employees will be required to undertake a statutory health assessment in accordance with sections 46 and 47 of the Coal Mining Safety and Health Regulations 2001 (Qld).
- 28.2. Where practicable, statutory health assessments will take place during rostered working hours. Where this is not practicable, a payment equivalent to one hour

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overtime will be made to an Employee who participates in a statutory health assessment on a rostered day off. Where an x-ray is required, an extra payment equivalent to 30 minutes overtime will be paid. Notwithstanding this payment (or payments), an Employee's attendance at a health assessment is not considered time worked.

- 28.3. Where the Company has provided reasonable prior notification to the Employee and their statutory health assessment expires, the Employee will not be able to access the Mine site and will not be paid until the next rostered shift worked after an updated statutory health assessment form has been received by the Company.
- 28.4. The Company will ensure that all necessary costs are met prior to an Employee attending a Statutory Health Assessment.

29. Representatives

- 29.1. An Employee may nominate a representative of their choice to represent them in relation to matters arising under this Agreement or in the course of their employment. That representative may change from time to time.
- 29.2. Where the Company calls a meeting requiring the attendance of a particular Employee, the Company will advise the Employee of the purpose of the meeting to allow the Employee to nominate a representative. The Company will consult the Employee and their representative as early as possible to attempt to identify a mutually convenient time. The Representative will then make every reasonable effort to attend the meeting.

Appendix 3 Proposals provided by CFMEU – NSW



67A Aberdare Road, Aberdare NSW 2325 Australia

PO Box 364 Cessnock NSW 2325 Australia

T: 1300 712 791

T: 02 4990 7600

F: 02 4991 1595

E: union@cfmeunsw.org.au

W: www.cfmeunsw.org.au

ABN: 80 814 987 748

President: Peter Jordan

Secretary: Shane Thompson

The CFMEU proposes to include the claims below as the basis to form an Enterprise Agreement to cover OS employees only working at the Mt Arthur Coal Mine.

If there are any claims the Union has made that the Company believes are not permitted, we request that these concerns be brought to our attention.

The CFMEU reserves the right to add additional claims based on the outcomes of the negotiations.

Log of Claims

1. Wage increases dependent on the outcome of negotiations. Wage increases to apply to total package .
2. If redundancies occur forced redeployment to apply only within the Hunter Valley coalfields. All other redeployment to be by agreement.
3. Fixed rosters table to be included in the document . Change of roster to be by agreement with the majority of employees. (Rosters to suit residential roles only)
4. Christmas Day and Boxing Day to be non-rostered shifts
5. A training clause which enables employees to access training on different pieces of equipment
6. A crib clause indicating windows available to the company to send employees to each crib. (Clause to align with site fatigue management policy)
7. Accident Pay clause indicating 78 weeks payment at the rostered rate that applies to the employee
8. Site bonus scheme to apply dependant on production only.(Current site bonus scheme to apply)
9. All leave entitlements to be paid as current as if at work rostered rate.

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ABN: 80 814 987 748

President: **Peter Jordan**

Secretary: **Shane Thompson**

10. Separate non-rostered overtime rate to apply
11. Company to pay for all work related medical expenses
12. An ability to arbitrate disputes contained within the Grievance Procedure.

Appendix 4 Proposals provided by AWU

NATIONAL OFFICE

Level 1, 16-20 Good Street, Granville NSW 2142
T: 02 8005 3333 E: members@nat.awu.net.au W: www.awu.net.au
Daniel Walton National and NSW Secretary



ABN 28 853 022 982

BHP OS AGREEMENTS - AWU LOG OF CLAIMS

The below is not an exhaustive list of claims and may be amended based on further feedback from members. Below are general points that make up the AWUs preliminary log of claims. It is not our intention that the proposed Agreement contain any prohibited content or matters that can't be dealt with in an enterprise agreement.

COVERAGE

1. Covers OS ACPM employees engaged in maintenance or production, whichever is relevant.
2. Covers relevant unions

AGREEMENT LENGTH

3. Maximum three-year term
4. Requirement to commence bargaining 6 months before nominal expiry

EMPLOYMENT TYPES

5. Categories:
 - a. FT – 35 ordinary hours per week
 - b. PT – proportional benefits and pay based on 35 ordinary hours per week
 - c. Temporary – fixed term or specified task, no longer than 12 months.

DUTIES AND TRAINING

Not supportive of current proposed clause needs revising.

6. Training requirements limited to training of other OS employees

HOURS OF WORK AND ROSTERS

Not supportive of current proposed clause needs revising.

7. Rosters based on 35 ordinary hours per week, avg of roster cycle.
8. 12.5-hour maximum rostered hours.
9. For residential employee's work is considered to have commenced at arrival at the workplace (passing onto the mine site) and considered finished on departure from the workplace (passing off the mine site/gate).
10. For FIFO employee's work is considered to have commenced at arrival at the workplace (passing onto the mine site) and considered finished on departure from the workplace (passing off the mine site / gate).
11. For FIFO employee's travelling from home to work on the first day of a work cycle, work is considered to have commenced for the employee on boarding the aircraft for that day.
12. For FIFO employee's travelling from work to home on the last day of a work cycle, work is considered to have ceased for paid purposes when the employee has boarded the departing aircraft.
13. 10 consecutive hours break between shifts as minimum.
14. Change of shift only with one week's notice or by mutual agreement.
15. New rosters introduced only by agreement
16. Start and finish places by agreement

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MEAL BREAKS

- 17. Entitlement to 30-minute crib break every five hours worked.
- 18. No employee will be required to work more than five hours without a break for crib.
- 19. All breaks to be counted as time worked.

PUBLIC HOLIDAYS

Not supportive of current proposed clause needs revising.

- 20. Employees have an entitlement to all gazetted PHs off without loss of pay
- 21. Company may make reasonable requests for employees to work PHs.
- 22. 25 and 26 December are nonworking days, however employees may volunteer to work. All time worked on these two days are paid at double time.
- 23. All time worked on a PH to be paid at double time
- 24. Where an employee is rostered off, employee to be paid at base rate for the PH.

ANNUAL LEAVE

- 25. 6 weeks for seven-day roster workers
- 26. 5 weeks for other workers
- 27. Annual leave to be paid at total salary, both when taken and at end of employment for any untaken annual leave.

PERSONAL / CARERS LEAVE

Not supportive of current proposed clause needs revising.

- 28. Entitlement to 15 days at commencement of employment and annually, on each anniversary of commencement
- 29. Available for personal illness or injury, and/ or providing care and support to a member of immediate family or household.
- 30. Payment made at total salary rate.
- 31. Notice requirements to be reasonable.
- 32. Availability of unpaid personal leave – two days per each occasion
- 33. Additional day of paid leave (without deduction) where an employee is required to travel from site to residence while on or for personal leave.

LONG SERVICE LEAVE

- 34. In accordance with state and territory LSL acts or eligible at 7 years whichever is better for the employee.
- 35. Payments made at employees total salary rate

COMPASSIONATE LEAVE

Not supportive of current proposed clause needs revising.

- 36. In accordance with the NES, plus
- 37. Additional day of paid leave (without deduction) where an employee is required to travel from site to residence while on or for compassionate leave.
- 38. Total salary to be paid while on compassionate leave

COMMUNITY SERVICE LEAVE

Not supportive of current proposed clause needs revising.

- 39. In accordance with NES, plus:
- 40. Employees to be paid at total salary for period of jury service, and to refund to company any amount paid for attending jury duty
- 41. Employees attending emergencies for SES, fire brigade, ambulance etc. when would otherwise be working to be paid on a no loss of earning basis.

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SUSPENSIONS

- 42. Any suspension to be without loss of pay during investigation.
- 43. Entitlement to representative during all related meetings.

STAND DOWN

- 44. Limited to machinery break down or stoppage for any cause of 10+ consecutive days.
- 45. Company to minimize any requirement for stand down through providing training.
- 46. Employees can take any outstanding leave entitlements or LWOP.
- 47. Any period of stand down is treated for all purposes, other than payment of wages, as having continuity of service and employment.

SUPERANNUATION

Default funds to be traditional industry funds such as Australian and Mine Super

DISPUTE RESOLUTION PROCESS

Not supportive of current proposed clause needs revising.

- 48. Deals with all matters relating to employment, even if not dealt with in agreement
- 49. Status quo until dispute resolved
- 50. Right to representation at all levels
- 51. Matters to be dealt with at appropriate levels
- 52. Conciliation and Arbitration available at FWC (or other arbitrator/mediator/ conciliator by agreement)
- 53. FWC decision binding on parties and those bound by Agreement
- 54. Company to pay employees on a "without loss of pay" basis to attend all proceedings (other than directions hearings), incl travel and accommodation and meals.

REDUNDANCIES

Not supportive of current proposed clause needs revising.

- 55. Provision for voluntary redundancies in the first instance with retraining and redeployment obligations.

TRANSPORT AND ACCOMADATION

- 56. For commute:
 - a. Company to provide free of charge transport in line with nominated commute work patters from nearest state capital or regional city (Perth to site) and Cairns to village, and village to mine.
 - b. Non-share village accommodation.
 - c. Supply of three meals per day.
- 57. For residential:
 - a. Company to provide transport from village to the mine.
 - b. Residential allowance payable
- 58. Where an employee works extended hours affecting ability to access company supplied transport, company will arrange alternate transport.

INCLEMENT OR DANGEROUS WEATHER

- 59. If wet or dangerous weather prevents normal work or results in a shutdown then employees to undertake alternate duties or training. If training or alternate duties unavailable employees will wait in readiness and be paid be as if at work
- 60. Applies if employees isolated in camp or local community while on roster.
- 61. If unable to return to camp or local community for any time outside normal rostered shift length, employee to be paid applicable overtime rate.
- 62. If wet weather prevents travel between camp and place of residence:
 - a. No expectation that employees travel an alternate route.
 - b. Paid total salary for first two days unable to attend work.

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c. Annual leave or LWOP for days thereafter

63. Commute employees unable to return to place of residence due to weather will be provided accommodation in the local community and alternative travel arrangements.

INCOME PROTECTION

64. The company will provide for an income protection scheme that provides employees with up to 52 weeks of salary continuance from date of injury / illness at the employee's normal salary plus bonus

65. The income protection provisions can only be accessed after the employee has exhausted all personal leave entitlements.

66. Company not to seek to remove itself from the relevant jurisdiction of the state workers compensation schemes where the company operates.

OVERTIME

67. Additional hours subject to NES and to be paid at overtime rates.

68. 10 consecutive hours off duty to be arranged between work on successive days.

CALL BACKS

69. Minimum four hours work at overtime rate to be paid.

70. If job can be performed in less time, no requirement to work the full four hours.

71. Exception being if customary to return to work to perform a specific job outside ordinary working hours, or overtime is continuous with ordinary working time (subject to breaks).

72. Paid meal breaks to be an entitlements for overtime

73. Unrestored overtime to be paid at double time.

CLOTHING

To be provided free of charge to all employees, consisting of at commencement:

a. 5 x shirts and 5 x pants

b. 1 x safety boots

c. 1 x winter jacket and 1 x spray jacket

d. Prescription safety glasses (and spare glasses) as required

74. Items replaced on fair wear and tear basis, incl when damaged, destroyed or lost, at no cost to Employee

75. Entitlement to six additional items of industrial outer clothing annually

MEDICALS

76. Will only be conducted in line with respective state safety legislation.

77. Employees can choose to use their own GP and all medicals will be conducted in paid time for all participants (employee and GP)

REPRESENTATIVES

78. Acknowledgement of the right for workplace representatives to be able to assist and represent members about all employment matters with no loss of pay.

WAGES, SALARIES AND BONUSES

79. All classification rates, wages and salary bands to be included in the Agreement.

80. Annual increases to be provided for upon commencement and on anniversary of agreement.

81. Principles of the bonus system to be referenced in the agreement

<https://www.news.com.au/finance/business/mining/bhp-lifts-iron-ore-production-forecast-after-brazil-dam-disaster-mine-restarts/news-story/8808ee8bf32129c79c3277ca88b3837>