

Operations Services Production Agreement

Record of Meeting



Date 23 November 2021
Location Videoconference via Webex
Attendees See Appendix 1
Meeting Open: 01:00pm (AEDST)
Meeting Close: 01:30pm (AEDST)

Agenda

1. Introduction & agenda
2. Continue discussion on current bargaining positions
3. Logistics for next meeting

Summary

Introduction & Agenda	OS shared the agenda for the meeting
Continued discussion on current bargaining positions	<p>Discussions continued on each of the subclauses in the proposed OS Production Agreement, as well as proposals from the CFMMEU and AWU.</p> <p>OS responded to the CFMMEU and AWU's proposals from the last meeting.</p> <p>The CFMMEU indicated that they were intending to provide an updated version of their proposed Agreement, and will do so in the next couple of weeks.</p> <p>Details of all proposals tabled and discussed during the course of bargaining to date, as well as OS' responses, are in Appendix 2.</p> <p>OS has published an updated version of the draft proposed OS Production Agreement which includes proposed changes to the Superannuation and Long Service Leave clauses (Appendix 3).</p> <p>While we continue to table and respond to proposals, all parties acknowledged that OS and the union bargaining representatives remain largely apart in positions and objectives for the proposed OS Production Agreement.</p> <p>The AWU referred to the outstanding matter before the Fair Work Commission relating to the scope application brought by the CFMMEU. OS confirmed that any outcome on the scope application will not impact OS' fundamental objectives in seeking to make a simple, safety net Agreement.</p> <p>The AWU also confirmed their key proposals remain unchanged: arbitration, 35hr week and scope.</p> <p>The parties agreed to a break over the holiday period, with bargaining to resume in the new year.</p>
Next Meeting	The next OS Production bargaining meeting has been scheduled for 16 February 2022.

Operations Services Production Agreement

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Actions		
CFMMEU to provide proposed wording for OS to consider in respect of their proposed clause 18.5 – <i>travel obligations for public holidays</i>	CFMMEU	16 February 2022

Appendix 1

Attendance List	
Shane Roulstone	AWU
Mitch Hughes	CFMMEU QLD
Brodie Allen	Employee Bargaining Representative
Harriet Daniels	Employee Bargaining Representative
Drew Watson	Employee Bargaining Representative
Melanie Zilm	Employee Bargaining Representative
Reece Heald	Specialist Employee Relations
Tim Witney	Manager Production
Lucy Bryan	Principal Employee Relations
Alli Chauncy	Principal Employee Relations

Appendix 2

OS Production agreement - Summary of current positions on clauses as at 23 November 2021

Operations Services Production Agreement – OS summary of current positions on clauses

For meeting on 23 November 2021

Key – OS understanding of current position	
	Agreed.
	No different position indicated by bargaining representatives / somewhat agreed
	Not agreed.

Clause No.	Current OS Production Draft EA	CFMMEU Claim from draft EA tabled 09 February 2021 and as amended	Current Position of all parties (includes OSP responses tabled up to and including the bargaining meeting on 23 November 2021)
Title			
1	This agreement will be known as the <i>Operations Services Production Agreement</i> (" Agreement ").		
Coverage			
2.1	Subject to clause 2.2, this Agreement shall cover: (a) OS MCAP Pty Ltd (ACN 626 224 655) (" the Company "); and (b) Employees of the Company employed in the classifications set out in clause 6.4 of this Agreement who undertake production activities on a mining operation (" Employees ").	1.1 This enterprise agreement ("Agreement") will be known as the Operations Services Maintenance Agreement (the "Agreement") and will cover and apply to: (a) OS ACPM Pty Ltd (CAN 623 848 895) and 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 maintenance work in the QLD Black Coal Industry, in the classifications prescribed by this Agreement ("the Employees"); and (c) The Unions, provided each one becomes covered by this Agreement pursuant to section 183 of the Fair Work Act 2009 (Cth). d) hereinafter described as "the Parties". 1.2 For the purpose of this Agreement, "Unions" means: (a) Construction, Forestry, Mining and Energy Union – Mining and Energy Division; (b) Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia; (c) Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union.	<ul style="list-style-type: none">CFMMEU wants to<ul style="list-style-type: none">include a reference to Coal; andcover Maintenance and OSM as wellAWU also wants a reference to all other mining.OSP does not accept any union proposal as:<ul style="list-style-type: none">OS MCAP Pty Ltd has a national business model in Production works across Minerals Australia. We employ only production employees. We want an Agreement for our workforce that covers our production business across Australia and enables OS to provide consistency and certainty to our customers. Having multiple agreements would increase complexity and can reduce our flexibility, which could hinder our ability to win future work packages and/or keep existing scopes of work.Additionally, OS ACPM Pty Ltd and OS MCAP Pty Ltd are different business with different workforces and interests. The CFMMEU's proposed scope requires OS MCAP Pty Ltd to bargain for an agreement which includes classifications it does not employ and does not intend to employ. This significantly increases complexity for OS
2.2	Any site specific enterprise agreement that covers and applies to the Company and any Employees working at the specific site(s) will cover and apply to the Company and those Employees to the exclusion of this Agreement.		<ul style="list-style-type: none">CFMMEU –<ul style="list-style-type: none">not supportive of site specific agreements. This should be the agreement that applies wherever OS is deployed.AWU –<ul style="list-style-type: none">seeking wording to guarantee any site specific agreement would not see Employee's worse offOSP Response<ul style="list-style-type: none">OSP maintains inclusion of this clause to allow for the

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			flexibility to make site specific enterprise agreements where necessary
Relationship with Other Instruments and the National Employment Standards			
3.1	This Agreement does not incorporate the Company's policies or procedures (notwithstanding any references to any policies or procedures in this Agreement).		<ul style="list-style-type: none">Unions want the policies as at agreement date to be includedOSP does not consider any further amendments are required as its position on a simple and safety net structure of the agreement is already clear
3.2	Subject to clause 2.2, while this Agreement operates in relation to an Employee, no other industrial instrument shall have effect in relation to the Employee.		
3.3	The National Employment Standards ("NES") apply to all Employees as a minimum standard. Where there is an inconsistency between the NES and a clause of this Agreement, the NES will apply and the clause of this Agreement will not apply, except to the extent that the clause of the Agreement provides for a more beneficial outcome for employees than the NES.		
Term of Agreement			
4.1	This Agreement will commence operating seven days after the Agreement is approved by the Fair Work Commission ("FWC").		
4.2	The nominal expiry date of the Agreement will be four years after the date on which the FWC approves the Agreement.	The nominal expiry date of the Agreement will be 3 years after the date on which the FWC approves the Agreement.	<ul style="list-style-type: none">Unions are seeking<ul style="list-style-type: none">a 3 year termAWU seeking<ul style="list-style-type: none">Requirement to commence bargaining 6 months before nominal expiry commencing renegotiationOSP response<ul style="list-style-type: none">has proposed a four year term Agreement as permitted by the Fair Work Act 2009.Additional requirements such as commencing bargaining prior to the agreement's nominal expiry date do not meet our objective of a simple, safety net Agreement with our employees.For these reasons, OSP does not accept these proposals.
4.3	The Agreement will continue to operate past the nominal expiry date until terminated or replaced by another agreement.		
Type of employment			
5.1	Employees may be engaged under this Agreement as Full Time Employees, Part Time Employees or Casual Employees.	2.1. Employees may be engaged under this Agreement as Full Time Employees or Part Time Employees.	<ul style="list-style-type: none">CFMMEU want references to casuals removed. Proposal tabled 09/09: Employees may be engaged under this Agreement as Full Time Employees or Part Time Employees. At the time of engagement, the Company will outline which mine that the Employee is engaged to carry out their duties in the employee's letter of offer, and that mine will be the Employee's ordinary location of work.OSP Response<ul style="list-style-type: none">OSP believes the clause as currently drafted fairly reflects the industry conditions for OSP's customers. In addition, the OS point of hire approach enables OS to transfer EE's to other deployment sites as directed by the Company (in accordance with the point of hire in their Contract of Employment). This business model is part of what makes OS so unique and successful. The inclusion of any further restrictions on

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			<p>this would limit our flexibility. Additionally, flexibility to move between deployments is a benefit many OS team members enjoy.</p> <p>Accordingly, OS does not accept this proposal</p>
5.2(a)	<p>A Full Time Employee is an Employee who is employed to work ordinary hours of work as follows:</p> <p>(a) in the case of an Employee to whom the <i>Mining Industry Award 2020</i> would have applied but for the operation of this Agreement— an average of 38 ordinary hours per week, averaged over their roster cycle; or</p>	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.	<ul style="list-style-type: none"> • AWU want 35 hours not 38 • OSP believes the clause as currently drafted fairly reflects the industry conditions for OSP's customers across their coverage The clause as presently drafted does not leave any employee worse off compared to the reference awards. To adopt the 35 ordinary hours across coal and non-coal operations may reduce its ability to be competitive in certain markets. <p>Accordingly, OSP does not accept this proposal</p>
5.2(b)	<p>A Full Time Employee is an Employee who is employed to work ordinary hours of work as follows:</p> <p>(b) in the case of any other Employee – an average of 35 ordinary hours per week, averaged over their roster cycle.</p>		
5.3 (a)	<p>A Part Time Employee is an Employee who is not a Casual Employee and is employed to work less than the following number of ordinary hours per week:</p> <p>(a) in the case of an Employee to whom the <i>Mining Industry Award 2020</i> would have applied but for the operation of this Agreement— an average of 38 ordinary hours per week, averaged over their roster cycle; or</p>	<p>2.3. A Part Time employee is an employee who:</p> <p>a) works less than an average of 35 hours per week, averaged over their roster cycle;</p> <p>b) has reasonably predictable hours of work; and</p> <p>c) receives, on a pro rata basis, equivalent pay and conditions to those of full time employees who do the same kind of work.</p>	<ul style="list-style-type: none"> • AWU and CFMMEU want reference to:- <ul style="list-style-type: none"> ○ proportional benefits and ○ 35 hours not 38. • CFMMEU want <ul style="list-style-type: none"> ○ overtime for work in excess of agreed hours • OSP response :- <ul style="list-style-type: none"> ○ As to the 35 hour reference see above. ○ As to the proportional benefits, OSP proposed if there are concessions by BRs (e.g. agree clauses including reference to 38 hours) OS will include provision for proportional benefits / overtime for work in excess of agreed hours • CFMMEU counter-proposal <ul style="list-style-type: none"> ○ Should the Company accept their request for 35 hours base, then the Union Bargaining reps would consider agreeing to the casual clause/s which OSP has proposed. • OSP response to counter-proposal <ul style="list-style-type: none"> ○ OSP does not consider that the union offer was a genuine 'offer' - only a comment it would 'consider' ○ In any case, OSP does not accept this counter proposal on the basis that it seeks to maintain its position for 38 ordinary hours per week as reflected in clause 5.2(a) ○ Accordingly, OSP does not accept this counter proposal
5.3 (b)	<p>(b) in the case of any other Employee – an average of 35 ordinary hours per week, averaged over their roster cycle.</p>		
5.4	<p>Each Part Time Employee's rostered hours of work, including the days when they will work and their starting and finishing times, will be as agreed in writing between the Company and the Part Time Employee from time to time.</p>		

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5.5 to 5.9	<p>5.5 A Casual Employee is an Employee who is engaged and paid as a Casual Employee.</p> <p>5.6 A regular Casual Employee may elect to have their employment converted to full time or part time employment if the employment is to continue beyond the date when they qualify to be a regular Casual Employee.</p> <p>A “regular Casual Employee” for the purpose of this Agreement is a Casual Employee who has in any preceding period of six months worked a pattern of hours on an ongoing basis which, without significant adjustment, the Employee could continue to perform as a Full Time Employee or Part Time Employee under the provisions of this Agreement.</p> <p>5.7 The regular Casual Employee must give notice in writing to the Company at least four weeks prior to the Employee attaining such period of six months that they seek to elect to convert their employment to full time or part time employment. The Company must respond within four weeks of receiving such notice whether it consents to or refuses the election, but must not unreasonably so refuse.</p> <p>5.8 Where it is agreed that the regular Casual Employee will be converted to full time or part time employment, this agreement will be recorded in writing, including recording whether the Casual Employee is converting to full time or part time employment and, if the Casual Employee is converting to part time employment, recording the matters set out in clause 5.4.</p> <p>5.9 Once a regular Casual Employee has elected to become and been converted to a Full Time or Part Time Employee, the Employee may only revert to casual employment by written agreement with the Company.</p>		<ul style="list-style-type: none"> CFMMEU <ul style="list-style-type: none"> Opposed to any reference to casuals being included in the Agreement. However should the Company accept their request for 35 hours base, then the Union Bargaining reps would consider agreeing to the casual clause/s which OS has proposed OSP response <ul style="list-style-type: none"> OSP does not consider that the union offer was a real offer- only a comment it would ‘consider’ In any case, OSP does not accept this proposal on the basis that it seeks to maintain its position for 38 ordinary hours per week as reflected in clause 5.2(a) Accordingly, OSP does not accept this counter proposal
Duties			
6.1	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.	3.2. The Company will not allocate tasks in a manner which promotes deskilling.	<ul style="list-style-type: none"> CFMMEU want <ul style="list-style-type: none"> a reference to not promoting deskilling OSP's response to deskilling claim:- <ul style="list-style-type: none"> The clause relating to deskilling is too broad and ambiguous. OS has commitments to its customers and it is important to retain the right to allocate work in the way it deems appropriate in order to meet its obligations to its customers and remain competitive. For the reasons outlined above, OSP does not accept this proposal. <p>CFMMEU's revised proposal provided 13/10</p> <p>Employees are required to undertake all duties as reasonably directed by the Company provided, they are competent and authorised. The Company will not allocate work in a way that promotes deskilling.</p> <p>OSP's response to revised proposal provided 13/10:</p> <p>As previously mentioned, the CFMMEUs clause relating to deskilling is too broad and ambiguous. OS seeks to maintain its</p>

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			right to allocate work in the way it deems appropriate, so far as the Employee's skills and competence allows having regard to safety. As such, OSP does not accept this counter proposal.
6.2	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 others as required.	<p>3.3. 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.</p> <p>3.4 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.</p> <p>3.5. 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.</p> <p>4.1. 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.</p> <p>4.2. 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:</p> <ul style="list-style-type: none"> 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. <p>4.3. 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.</p> <p>4.4. 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.</p>	<ul style="list-style-type: none"> • CFMMEU wants to: <ul style="list-style-type: none"> ○ delete reference to training others; and ○ include wording for notice of two weeks when training is away from their ordinary work location as defined in union scope clause. ○ include wording for payments when training is away from work location • AWU wants to <ul style="list-style-type: none"> ○ limit training to 'other OS employees' • OSP position: <ul style="list-style-type: none"> ○ Its position on a simple and safety net structure of the agreement is already clear ○ We believe the current clause 6.2 adequately covers the provision of, and support for, training. In addition to this, OSP employees will be given training in accordance with the skills matrix for that particular workgroup. Where employees are requested to attend training for the purposes directly relevant to their employment, this will be managed on a case by case basis and in line with operational requirements. ○ We do not consider that there is any requirement for the proposed agreement to be more prescriptive than already drafted. For this reason, OSP does not accept this proposal.
6.3	Organisational requirements may necessitate Employees transferring to other positions, operations, or locations. Reasonable notice will be provided in these circumstances. Terms and conditions of employment will be reviewed in light of any change in responsibilities in the event of a transfer, but will remain at least as beneficial as set out in this Agreement.		<ul style="list-style-type: none"> • CFMMEU <ul style="list-style-type: none"> ○ would never agree to any transfer, anywhere. • AWU not opposed to transfers <ul style="list-style-type: none"> ○ provided there is adequate protection for Employees (ie by agreement) • OSP position: <ul style="list-style-type: none"> ○ The OS business model and our point of hire approach enables OS to transfer EE's to other deployment sites as directed by the Company (in accordance with the point of hire in their Contract of Employment). This business model is part of what makes OS so unique and successful. ○ The inclusion of any further restrictions on this would limit our flexibility. Additionally, flexibility to move between deployments is a benefit many OS team members enjoy. ○ For the reasons outlined above, OS does not accept

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			this proposal.									
6.4	<ul style="list-style-type: none">Employees will be placed in one of the following classifications according to their responsibilities from time to time:<table><tr><th>Operation Coverage</th><th>Classification</th><th>Description</th></tr><tr><td>Non-Coal Operations</td><td>Production Technician</td><td>Operating heavy mobile equipment</td></tr><tr><td>Coal Operations</td><td>Production Technician</td><td>Operating heavy mobile equipment</td></tr></table>Trainee Production Technicians in Non-Coal Operations or Coal Operations may be employed by the Company under this Agreement.	Operation Coverage	Classification	Description	Non-Coal Operations	Production Technician	Operating heavy mobile equipment	Coal Operations	Production Technician	Operating heavy mobile equipment		<ul style="list-style-type: none">CFMMEU Propose the following classifications in line with their proposed scope:<ul style="list-style-type: none">Production EmployeeMaintenance trade employee; andMaintenance non-trade employeeAWU Propose the following classifications:<ul style="list-style-type: none">OperatorTechniciansMaintainers; andTradespeopleEmployee Bargaining Representative<ul style="list-style-type: none">Pay levels according to skills (ie differentiation between skilled and non skilled Employees)OSP response<ul style="list-style-type: none">This is a Production Agreement and has classifications for Production roles only, We would not agree to have classifications relating to Maintenance work being included in the OS Production Agreement.Accordingly, OS does not accept this proposal
Operation Coverage	Classification	Description										
Non-Coal Operations	Production Technician	Operating heavy mobile equipment										
Coal Operations	Production Technician	Operating heavy mobile equipment										
6.5	An Employee's classification under clause 6.4 does not limit the duties that an Employee may be required to perform in accordance with clause 6.1.											
Remuneration												
7.1	Full Time and Part Time Employees will be paid an annualised salary (" Annual Salary ").											
7.2-7.3	<p>7.2 The Annual Salary payable under this Agreement to a Full-Time Employee or Part-Time Employee for working any roster will be the total of the following amounts:</p> <p>(a) the total amount of the remuneration that would have been payable to the Employee under the relevant modern award for working the same roster; and</p> <p>(b) an additional amount comprising 5% of the amount calculated under subclause 7.2(a), being an amount paid to give effect to the "Above Award Guarantee".</p> <p>For the purposes of this Agreement:</p> <p>(i) the "relevant modern award" in relation to any Employee is the modern award that would have applied to that Employee if this Agreement did not apply to that Employee;</p> <p>(ii) the "Above Award Guarantee" is a guarantee that the Annual Salary payable under this Agreement to every Full Time and Part Time Employee will be 105% of the amount that would have been payable to an Employee</p>	<ul style="list-style-type: none">	<ul style="list-style-type: none">AWU Proposes to<ul style="list-style-type: none">include the minimum salary rates that OS employees are currently receiving to be included in the agreement. That is, the current annualized salary paid to OS employees working on their 38hr week roster pattern to be included, as a minimum, in the Agreement.(This is not a concession on their claim for a 35hr week).Minimum yearly increasesCFMMEU Propose<ul style="list-style-type: none">minimum rates being included in the Agreement – that is, what is currently being paid to OS employees in QLD should be in the agreement as a minimum rate, including allowances (ie critical skills).Minimum yearly increasesEmployee Bargaining Representative<ul style="list-style-type: none">Minimum yearly increases of 3%, 3% and 4%									

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	<p>under the relevant modern award for working the roster on which they are working.</p> <p>7.3 For the avoidance of doubt:</p> <p>(a) the Above Award Guarantee also applies to the Annual Salary that is payable to any Trainee employed under this Agreement; and</p> <p>(b) an Employee's Annual Salary includes compensation for any allowances, penalties or payments that would have been applicable under the relevant modern award to the roster that the Employee is working. This includes compensation for working on rosters which cover public holidays, afternoon shifts and night shifts, and any other allowances, penalties or payments applicable to the Employee's roster under the relevant modern award. For the avoidance of doubt, all of these amounts are to be included in the calculation of the remuneration referred to in clause 7.2(a).</p>		<ul style="list-style-type: none"> OSP position on minimum salaries is <ul style="list-style-type: none"> Its position on a simple and safety net structure of the agreement is already clear OSP has sought to simplify the agreement by removing specific rosters and salaries. This reflects the size and scale of the OS business today and that we now work across several different locations on many different roster arrangements Attempting to capture all current arrangements would be too complex and may reduce flexibility (for both OSP and OSP employees) in the future. Employees can access their contract of employment to understand their individual salary and any applicable allowances including night shift loading that might apply. OSP position on wage increases is <ul style="list-style-type: none"> Minimum wage increases under the EA are guaranteed insofar as they will increase EA guarantees by relative the annual review of minimum rates by the Fair Work Commission. All OSP employees will have an annual salary review for their contractual salaries conducted to ensure our salaries remain market competitive. To include specific annual wage increases within the Agreement limits our flexibility and may put our competitiveness at risk. OSP response to the union proposal for the inclusion of minimum salary rates and details of the incentive scheme <ul style="list-style-type: none"> OSP is open to considering including minimum salary rates and some details of the current incentive scheme into the body of the Agreement, but we are not in a position to say any more than that other than what we look to put into the agreement would still be subject to meeting our objectives of flexibility and simple, safety net Agreement.
7.4	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 Annual Salary that is payable to the Employee by the number of rostered hours per annum for the Employee's roster. Alternatively, a Full Time or Part Time Employee and the Company may agree in writing to the Employee taking time off instead of being paid for a particular amount of un-rostered overtime that has been worked by the Employee.		
		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.	<p>OSP Response</p> <p>The employee's contract of employment allows for employees to work reasonable additional hours outside of their usual rostered hours to ensure that the full requirements of their role are met. Any un-rostered overtime outside of this is calculated as per clause 7.4. OS considers this accurately reflects the intent of the</p>

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			CFMMEUs proposed clause 10.1. Accordingly, OSP does not accept this proposal.
		10.2. In calculating overtime, except for call backs, each day is to be treated separately.	CFMMEU clarified that each <u>shift</u> is to be treated separately OSP Response OSP considers that clause 7.4 adequately captures how unrostered overtime is calculated. Accordingly, OSP does not accept this proposal.
7.5	Casual Employees will be paid as follows: (a) An hourly rate, plus an additional and distinct casual loading of 25% for each of their rostered hours of work. (b) For the purpose of this clause 7.5, each Casual Employee's hourly rate will be calculated as follows: (Annual Salary for the Comparator Employee) divided by (Total rostered hours of work for the Comparator Employee), where the "Comparator Employee" is a Full Time Employee who is doing the same work on the same roster as the Casual Employee. (c) Any un-rostered overtime worked by a Casual Employee will be paid at double time, plus an additional and distinct casual loading of 25%. (d) The 25% casual loading referred to in clauses 7.5(a) and (c) is paid instead, and in lieu, of annual leave, paid personal/carer's leave, notice of termination of employment, redundancy benefits and any other benefits of full time or part time employment. (e) On each occasion a Casual Employee is required to attend work the Casual Employee will be paid for a minimum of four hours work. (f) If the amount payable to any Casual Employee under subclauses 7.5(a) to (e) for any casual engagement is less than 105% of the amount that would have been payable to that Casual Employee under the relevant modern award for that engagement, then the amount paid to the Casual Employee for that engagement shall be increased so as to make up the difference.		<ul style="list-style-type: none"> CFMMEU Opposed to any reference to casuals being included in the Agreement. Should the Company accept their request for 35 hours base, then the Union Bargaining reps would consider agreeing to the casual clause/s which OS has proposed OSP response <ul style="list-style-type: none"> the clause as currently drafted to include casuals fairly reflects the industry conditions for OSP's customers. To remove access to casuals across coal and non-coal operations may reduce OSP's ability to be competitive. Accordingly, OSP maintains inclusion of this clause
7.6	Remuneration will be paid at intervals determined by the Company (up to monthly), and is currently fortnightly in arrears.		<ul style="list-style-type: none"> CFMMEU maintain position that words 'up to monthly' be removed. AWU Propose 'payment will be fortnightly in arrears' OSP response: <ul style="list-style-type: none"> OS does not accept to have any further prescription around the timing of payments. OS maintains its proposal to remove the reference 'up to monthly' if the union bargaining representatives agree to no further prescription around timing of payments <p>CFMMEU & AWU do not want the pay period to extend past fortnightly – "up to fortnightly" allows OS to decide whether they pay fortnightly or weekly.</p>

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7.7	Payment will be by electronic funds transfer to a bank account in Australia nominated by the Employee.		
7.8	Employees may be eligible to participate in the Company Incentive Program, as amended from time to time. The Company reserves the right in its sole discretion to cancel, replace, or make any variations to any such scheme at any time.	Bonus TBD	<ul style="list-style-type: none"> AWU seek <ul style="list-style-type: none"> the detail on the Company Incentive Scheme to be included in the body of the Agreement. CFMMEU propose <ul style="list-style-type: none"> to have the bonus policy included into the body of the Agreement however would require further discussion around the timing (ie requirement to be Employed by 01 September to qualify for payment) OSP requested clarity on the union's bonus proposal in respect of the wording around the timing of qualification period - CFMMEU confirmed the qualifying period should be the financial year.
7.9	Where an overpayment of salary or entitlements has occurred, Employees must repay the overpayment within a reasonable period of time. Where the overpayment is not repaid within a reasonable period of time, the Company is entitled to deduct and retain any overpayments from the Employee's pay, including from termination payments, to the fullest extent permitted by law.	<ul style="list-style-type: none"> CFMMEU proposal tabled 09/09: <p><i>Employees authorise the Company to deduct from any wages or entitlements payable or owing to the Employee, any overpayments made in error by the Company to the Employee upon the Company providing written notification of an overpayment to the Employee.</i></p> <p><i>Overpayments will be deducted by a reasonable amount, as agreed between the Company and Employee, over a reasonable period of time.</i></p> <p><i>The Company commits that where there is an acknowledged underpayment to an Employee or Employees this will be rectified and paid to the effected Employee/s as soon as possible, which will not extend past the next business day where possible, and where this cannot be achieved, the maximum period will be the next pay run."</i></p> 	<ul style="list-style-type: none"> OSP requested further clarity from the CFMMEU in respect of the mechanics of their proposed clause – CFMMEU confirmed that in the event no agreement is reached, that the Company can go to the FWC to seek an order. <p>OSP Response:</p> <p>The Fair Work Act provides for permitted deductions. In line with our objective of seeking to make a simple, safety net agreement with our employees, OSP does not consider that there is any requirement for the proposed agreement to be more prescriptive than already drafted, as any overpayment will be dealt with to the fullest extent permitted by law.</p> <p>On this basis, OSP does not accept this counter proposal.</p>
Superannuation			
8.1	<p>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 Company's default superannuation fund shall be used. The Company reserves the right to change its default fund at any time. The Company's default superannuation fund will be a fund which offers a MySuper product.</p> <p><i>Note: Clause to be reviewed in light of the "superannuation stapling" reforms made by the Treasury Laws Amendment (Your Future, Your Super) Act 2021.</i></p>		<ul style="list-style-type: none"> OSP's revised position: <ul style="list-style-type: none"> Employees are allowed a personal choice of complying superannuation fund, to receive superannuation contributions on their behalf. If contributions are to be made by the Company to a default superannuation fund. The default fund will be a fund which offers a MySuper product. The Company reserves the right to change its default fund at any time. CFMMEU position – default fund to be MineSuper AWU position – default fund to be AustralianSuper <p>OSP has updated this clause to ensure consistency with the superannuation reforms:</p> <p>Employees are allowed a personal choice of complying superannuation fund, to receive superannuation contributions on their behalf. In the event the employee</p>

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			does not elect a superannuation fund, superannuation will be paid to the employee's stapled fund. If the employee does not have a stapled fund, contributions are to be made by the Company to a default superannuation fund which offers a MySuper product. The Company reserves the right to change its default fund at any time.
8.2	The Company's contribution on behalf of Employees will be in accordance with the <i>Superannuation Guarantee (Administration) Act 1992</i> , as varied from time to time.		
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.		
Hours of Work			
9.1	The Company expects that an Employee's work will usually be completed in their rostered hours.		
9.2	An Employee's rostered hours of work are averaged across their roster cycle, excluding handovers.	9.1 Rosters and hours of work average of 35 ordinary hours per week, averaged over a roster cycle. Shifts will include handover at the start and end of each shift.	<ul style="list-style-type: none">CFMMEU position<ul style="list-style-type: none">Ordinary hours of work include handoversAWU's position-<ul style="list-style-type: none">Ordinary hours of work include handovers <p>OSP Response:</p> <p>Propose to remove 'excluding handovers'</p> <p>Handovers must be completed as directed at start and end of shift</p> <p>The employee's contract of employment allows for employees to work reasonable additional hours outside of their usual rostered hours to ensure that the full requirements of their role are met. Any overtime outside of this is calculated as per 7.4.</p>
9.3	An Employee's rostered hours of work are inclusive of an Employee's ordinary hours and rostered overtime each week.		
9.4	By working these hours, Employees are acknowledging that the requirement to work the rostered hours of work is reasonable having regard to, among other things, the operational requirements of the workplace and the roster arrangements. The Annual Salary is calculated on the basis that Employees will work these hours.		<ul style="list-style-type: none">CFMMEU seek<ul style="list-style-type: none">a cap on the number of shifts that can be worked in a row. There is currently no max/min limit of shifts/days.
9.5(a)	The Company shall determine each Employee's roster, including the days and hours of work, and starting and finishing times from time to time, and may change any such rosters, days and hours of work or starting and finishing times, provided that: (a) 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; and	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	<ul style="list-style-type: none">AWU also seek :-<ul style="list-style-type: none">For residential & FIFO EEs work is considered to have commenced at arrival at the workplace and considered finished on departure from the workplaceFor FIFO EEs travelling from home to work on the first day of a work cycle, work is considered to have commenced for the EE on boarding the aircraft for that dayFor FIFO EEs travelling from work to home on the last day of a work cycle, work is considered to have

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			<p>ceased for paid purposes when the EE has boarded the departing aircraft</p> <ul style="list-style-type: none"> OSP has <ul style="list-style-type: none"> agreed to include the break requirements in clause 9.5(a), formally requested the proposals from all unions in respect of hours of work and rosters (S&F times, consultation Process, Current rosters defined) CFMMEU will provide their position in respect of hours of work S&F, and rosters by/at the next meeting <p>CFMMEU provided revised proposal on 13/10</p> <p>9.3 Start and Finish times and places will be agreed between the Company and the majority of affected employees. Employees will present themselves ready to start their rostered shift, at the prescribed start time and location</p> <p>OSP Response</p> <p>Specifying start and finish time and places by agreement may limit our flexibility, including in relation to meeting operational requirements for the sites at which OS is (or may be) deployed. In any event, OS has an obligation to consult with employees about changes to rosters or ordinary hours of work in accordance with clause 20 of the Agreement. Attempting to capture all current start/finish times and places would be too complex and may reduce flexibility (for both OS and OS employees) in the future. This is particularly the case as site layouts can change over time and OS needs to respond to the requirements at sites where OS is deployed.</p> <p>OS does not agree to the proposed amendments to this clause.</p>
9.5(b)	(b) the Company will provide an Employee with one week's notice of any change to an Employee's place on a roster, unless otherwise agreed with the Employee.	<p>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:</p> <p>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</p> <p>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.</p> <p>9.5. The Company may only introduce a new roster following consultation, and with the agreement of the majority of affected employees.</p> <p>9.6 {Process TBD}</p> <p>9.7 {Current rosters defined}</p>	<ul style="list-style-type: none"> AWU raise the same claims OSP has formally requested the proposals from all unions in respect of hours of work and rosters (S&F times, consultation Process, Current rosters defined) <p>CFMMEU provided revised proposal on 13/10:</p> <ul style="list-style-type: none"> CFMMEU proposed clause 9.6 – Remove CFMMEU proposed clause 9.7 – Seeking the current roster/s to be included and wording to reflect that rosters must be in line with the sites fatigue management.(ie there won't be any rosters introduced that don't comply with sites fatigue management system). <p>OSP Response:</p> <p>OS seeks to simplify the agreement by removing specific rosters. This reflects the size and scale of the OS business today and that</p>

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			<p>we now work across many different roster arrangements including part-time and job share arrangements. Attempting to capture all current arrangements would be too complex and may reduce flexibility (for both OS and OS employees) in the future.</p> <p>On this basis, OS does not accept this proposal.</p>
9.6	Employees are entitled to meal and rest breaks up to a total of 60 minutes per day. The meal break and rest breaks shall be taken at times prescribed by the Company having regard to safety, operational and production requirements.	<p>CFMMEU tabled revised position on 29/06:</p> <p><i>Employees are entitled to meal and rest breaks of 30 minutes for every 5 hours worked. The meal break and rest breaks shall be taken at times prescribed by the Company having regard to safety, operational and production requirements. Employees will not be required to work more than 5 hours without a meal and rest break</i></p>	<ul style="list-style-type: none"> • AWU supports the claim • OSP response <ul style="list-style-type: none"> ○ Will accept the CFMMEU's proposed wording in respect of this clause if there is provision added to extend the time for a break in the event of an emergency. <p>OSP proposed wording:</p> <ul style="list-style-type: none"> ○ Employees are entitled to meal and rest breaks up to a total of 60 minutes per day. The meal break and rest breaks shall be taken at times prescribed by the Company having regard to safety, operational and production requirements. Other than in an Emergency work situation, Employees will not be required to work more than 5 hours without a meal and rest break. <p>CFMMEU & AWU do not accept this proposal on the basis that they seek to maintain a 30min period for each break</p>
		<p><i>Where an EE will work for more than 5 hours without a break, the EE will be paid for any work beyond 5 hours at the applicable OT rate until a meal break is taken</i></p> <p><i>Time taken to travel to or from the place of designated crib will be counted as time worked</i></p>	<ul style="list-style-type: none"> • AWU also Claim <ul style="list-style-type: none"> ○ All breaks to be counted as time worked • OSP response – <ul style="list-style-type: none"> ○ Clause 7 of the proposed Agreement guarantees an annual salary higher than the amount that would have been payable to an employee under the relevant modern award for the roster they are working, which would include paid meal breaks if applicable. ○ For these reasons, OS does not agree to this proposal.
		<p>Meal breaks during non-rostered overtime</p> <p>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.</p> <p>10.11. Employees will also, unless notified the previous day of the requirement to work overtime, be paid a meal allowance of \$15.</p> <p>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.</p> <p>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.</p>	<p>OSP Response:</p> <ul style="list-style-type: none"> ○ As a priority OSP manages any required overtime in accordance with the fatigue management procedure. This already ensures employees have adequate breaks and do not work excessive hours. ○ Clause 7 of the proposed Agreement guarantees an annual salary higher than the amount that would have been payable to an employee under the relevant modern award for the roster they are working. If an employee would have been entitled to any meal allowances or paid breaks if the relevant modern award applied, this is already captured in the annual salary guarantee with the employee being, overall, better off under the agreement. ○ For these reasons, OS does not agree to this proposal.

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Public holidays			
		<p>18.1. The following days shall be recognised as public holidays:</p> <p>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</p> <p>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.</p>	<ul style="list-style-type: none"> OSP response <ul style="list-style-type: none"> Its position on a simple and safety net structure of the agreement is already clear The NES prescribes public holidays for the relevant work location. The EA does not need to do so.
10	Employees acknowledge that, from time to time, in accordance with their applicable roster, they may be requested to work on a public holiday. Employees acknowledge that this is reasonable based on the Company's operational requirements.	<p>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.</p> <p>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</p> <p>18.5 {Travel obligations for mid-swing days off to be discussed}</p>	<ul style="list-style-type: none"> Unions want <ul style="list-style-type: none"> Christmas / Boxing Day to be non-working days unless employees volunteer. Travel obligations for mid-swing days off to be determined OSP response <ul style="list-style-type: none"> OS generally works 24/7 rosters. To meet our plans and commitments to our customers, we need rostered shifts to continue over Christmas and Boxing Day. For these reasons, OSP does not agree to the proposal. <p>CFMMEU provided revised proposal on 13/10:</p> <ul style="list-style-type: none"> CFMMEU proposed clause 18.5 – The Union is seeking for the same arrangements for employees of BMA at Daunia and Caval Ridge to be made available to OS employees (travel organised to go home for Xmas and Boxing Day – FIFO employees – mid swing). CFMMEU to provide proposed wording for OS to consider
	The Annual Salary includes compensation in recognition of the need for Employees to work on public holidays. No separate payment will be made where a public holiday falls during a rostered day off.	<p>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.</p> <p>18.7. Work performed in excess of ordinary hours on a public holiday is to be paid at the rate of treble time.</p>	<ul style="list-style-type: none"> Unions want overtime rates specified in the agreement OSP response <ul style="list-style-type: none"> OSP pays market competitive salaries, which our proposed Agreement guarantees are in excess of relevant Awards, which already financially compensate for where employees are required to work public holidays including Christmas and Boxing Day.

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			○ For these OSP does not agree to the proposal
Annual leave			
11.1	Annual leave entitlements will be provided for in accordance with the NES.		
		<ul style="list-style-type: none">CFMMEU tabled revised position on 29/06:<ul style="list-style-type: none">Annual Leave may be taken at any time provided that reasonable notice is given by the employee. Once an employee makes application for Annual Leave, the Company must respond, in writing, approving or rejecting the Annual Leave. Where the Annual Leave application is rejected the Company must provide the employee with the reasons why the application was rejected, in writing	<ul style="list-style-type: none">OSP response to revised wording tabled by CFMMEU on 29/06:<ul style="list-style-type: none">OSP's current practice is to respond to leave requests in a timely manner, and will continue to do so for its employees, but cannot agree to any specific timeframe, or reference to a timeframe. To do so may reduce flexibility and not enable OS to account for individual circumstances.With respect to applications and rejections being made in writing, Employees are expected to first discuss their leave requests with their line leader, followed by the request being submitted via the SAP portal. If a leader is unable to approve leave, they will discuss the reasons why with the employee directly. This process which is driven by productive communications between employees and their line leaders has, and continues to, work for OSP and its employees. Additional requirements around providing written responses reduces flexibility and unnecessarily adds administrative burden to OSP.
11.2	Employees (other than Casual Employees) are 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 service is a cumulative total of 5 weeks.		
11.3	An Employee who: (a) is a seven day roster Employee (an Employee who over the roster cycle, may be rostered to work shifts on any of the seven days of the week); or (b) works 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 entitled annually to an additional week of annual leave in addition to clause 11.2, being a cumulative total of 6 weeks.		
11.4	Annual leave taken during employment and paid out on termination of employment is paid at an Employee's Annual Salary rate.	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. 12.6. 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	<ul style="list-style-type: none">CFMMEU want wording to ensure<ul style="list-style-type: none">Leave payments include bonusOSP<ul style="list-style-type: none">confirms current practice is that all paid leave counts as service for the OS Short Term Incentive scheme, however maintains its position that this scheme is managed via policyagrees to update the drafting of clause 11 to include any payment of annual leave on termination will be paid at an Employee's Annual Salary Rate.This will not include bonus because bonus is a variable and periodic payment
11.5	An Employee and the Company may agree for the Employee to "cash out" amounts of annual leave provided that: (a) the cashing out would not result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks; (b) each occasion of cashing out is by a separate agreement in writing between the Company and the Employee; and cashed out annual leave is paid at the Employee's Annual Salary rate.		
Personal/carer's leave			

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12.1	Personal/carer's leave entitlement will be provided for in accordance with the NES. In addition, Full Time and Part Time Employees will be credited with their annual entitlement to personal/carer's leave under the NES on commencing employment and then on each anniversary of commencement.		
		<p>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.</p> <p>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.</p>	<ul style="list-style-type: none"> CFMMEU seek <ul style="list-style-type: none"> an additional day of paid leave for each absence for travel for the distance between the Employee's work location and home or wherever they need to go to provide the care distinction for sick and carers leave AWU seek <ul style="list-style-type: none"> 15 day paid leave entitlement want an additional day of paid leave for each absence for travel Employee Bargaining Representative <ul style="list-style-type: none"> Carers leave to be separate to personal leave – as per the BMA Agreement OSP response <ul style="list-style-type: none"> OSP proposed clause in regards to the minimum entitlement to Personal/Carer's leave is in accordance with the NES which provides for annual entitlement and definitions of personal leave and carers leave. OSP does not accept the proposal to provide separate personal leave and carer's leave entitlements. Personal/carer's leave is provided as per the NES. OSP does not accept the proposal for 15 days per annum or additional paid leave for travel as that will increase costs. Unpaid leave is a matter of discretion for the OSP Manager
12.2	Personal/carer's leave is paid at an Employee's Annual Salary rate.	<p>13.3. Employees will be paid as if they were at work, including bonus, while on personal/ carer's leave.</p> <p>13.6. CFMMEU tabled a revised payout of sick leave position on 29/06: <i>Personal/ Carer's leave will be paid out on termination of employment (except where the termination is a result of serious misconduct, or the employee is within probation) and is paid at the Employee's Annual Salary rate</i></p>	<ul style="list-style-type: none"> CFMMEU want wording to ensure <ul style="list-style-type: none"> Leave payment includes bonus Payout of unused sick leave OSP response <ul style="list-style-type: none"> confirms current practice is that all paid leave counts as services for the OS Short Term Incentive scheme, however maintains its position that this scheme is managed via policy OSP is prepared to consider including a provision in the proposed Agreement for payment for any accrued but untaken personal/carers leave entitlements upon termination of employment in limited circumstances but will not finalise our position on this until such time that all outstanding proposals are tabled by the Union Bargaining Representatives.
Compassionate leave			
13.1	Compassionate leave entitlements will be provided for in accordance with the NES.		<ul style="list-style-type: none"> CFMMEU and AWU want <ul style="list-style-type: none"> an additional day of paid leave for each absence for travel for the distance between the Employee's work location and home or wherever they need to go to provide the care OSP response – <ul style="list-style-type: none"> The minimum entitlement to Compassionate Leave is

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			<p>in accordance with the NES.</p> <ul style="list-style-type: none"> ○ The OS Employee Handbook provides that employees may be eligible “for at least 2 and up to 5 days of paid compassionate leave per occasion” but its position on a simple and safety net structure of the agreement is already clear and OSP will assess additional paid compassionate leave beyond the NES entitlement in its absolute discretion and on a case by case basis.
13.2	Compassionate leave is paid at an Employee’s Annual Salary rate.		<ul style="list-style-type: none"> • CFMMEU want wording to ensure <ul style="list-style-type: none"> ○ Leave payment includes bonus • OSP <ul style="list-style-type: none"> ○ confirms current practice is that all paid leave counts as services for the OSP Short Term Incentive scheme, however maintains its position that this scheme is managed via policy ○ OSP agrees to update the drafting of clause 13 to include that Compassionate Leave will be paid at an Employee’s Annual Salary Rate ○ This will not include bonus because bonus is a variable and periodic payment
Parental leave			
14	<p>Employees (other than Casual Employees) with at least 3 months’ continuous service are entitled to unpaid parental leave at least in accordance with the NES.</p> <p><i>Note:</i> The Company has policies that provide for parental leave on terms that in some respects are more generous than the NES, including paid parental leave for primary caregivers and secondary caregivers. This clause does not affect the operation of those policies, as amended from time to time.</p>		<ul style="list-style-type: none"> • CFMMEU want the current policy provision to be fixed and included in the agreement clause • OSP response- <ul style="list-style-type: none"> ○ The entitlement to paid parental leave is derived from a wider BHP Group policy and OSP does not agree to have the terms of such incorporated into the proposed Agreement. ○ Its position on a simple and safety net structure of the agreement is already clear ○ On this basis, OSP does not accept the proposal
Long service leave			
15.1	<p>15.1 Long service leave is in accordance with applicable legislation.</p> <p>15.2 Long Service leave accrues and must be taken subject to relevant legislation and the Company policies as amended from time to time.</p>	<p>14.1</p> <p>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.</p> <p>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:</p> <p>a) Reasonable notice is given by the Employee; and</p> <p>b) The operations of the Mine will not be affected by the granting of leave at that time.</p> <p>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.</p>	<ul style="list-style-type: none"> • AWU seeking <ul style="list-style-type: none"> ○ Accrual at 7 years • CFMMEU seek wording <ul style="list-style-type: none"> ○ this will be paid as if at work ○ notice processes ○ minimum periods ○ taking leave in conjunction with other leave • OSP response <ul style="list-style-type: none"> ○ For simplicity, OSP has proposed a long service leave clause which provides the entitlement in accordance to the applicable State or federal legislation. This is important because OS works across, and the Agreement covers, different jurisdictions in Australia. ○ The clause as currently drafted adequately captures arrangements for long service leave ○ OSP has agreed to revise its position to include that

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			<p>Long Service Leave is paid at an Employee's Annual Salary rate but does not include bonus because bonus is a variable and periodic payment</p> <ul style="list-style-type: none"> ○ For these reasons, OSP does not accept the remainder of this proposal.
Community Service Leave			
16	Community service leave entitlements will be provided for in accordance with the NES.		
		<p>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.</p> <p>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.</p> <p>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. 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. 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.)</p> <p>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 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.</p>	<ul style="list-style-type: none"> • CFMMEU and AWU want <ul style="list-style-type: none"> • additional entitlements above the NES be included in the agreement. • OSP response – <ul style="list-style-type: none"> ○ Entitlements above the NES are dealt with by a procedure outside of the Agreement. The OS Employee Handbook and the Human Resources Policy Schedule – Public Service Leave – Australia provides for above NES community service leave entitlements. ○ Its position on a simple and safety net structure of the agreement is already clear ○ As this is already provided to Employees as a matter of policy, OSP does not accept the proposal.
Leave to deal with Family and Domestic Violence			
17.1	<p>Entitlement to unpaid leave</p> <p>Unless otherwise agreed, an Employee is entitled to 5 days' unpaid leave in each 12 month period to deal with family and domestic violence. The leave is available in full at the start of each 12 month period and does not accumulate from year to year. The leave does not count as service but does not break the Employee's continuity of service.</p> <p><i>Note:</i> The Company has policies that provide for family and domestic violence leave on terms that in some respects are more generous than the NES, including paid family and domestic violence leave. This clause does not affect the operation of those policies, as amended from time to time.</p>		
17.2	<p>Taking unpaid leave</p> <p>An Employee may take unpaid leave to deal with family and domestic violence if the Employee is experiencing family and domestic violence, and needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside their rostered hours of work.</p>		
17.3	<p>Notice and evidence requirements</p> <p>(a) An Employee must notify the Company as soon as practicable of the taking of leave under clause 17, and the expected period of the leave.</p> <p>(b) If required by the Company, the Employee must give the Company evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 17.2.</p>		

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	An Employee must comply with clause 17 to access the entitlement.		
	Note: The Company has policies that provide for family and domestic violence leave on terms that in some respects are more generous than the NES, including paid family and domestic violence leave. This clause does not affect the operation of those policies, as amended from time to time		<ul style="list-style-type: none"> CFMMEU and AWU want the current policy provision for paid leave to be included in the Agreement clause OSP response – <ul style="list-style-type: none"> Entitlements above the NES are dealt with by policies outside of the Agreement. Its position on a simple and safety net structure of the agreement is already clear As this is already provided to Employees as a matter of policy, OSP does not accept the proposal.
Issue Resolution Procedure			
18.1	18.1 This clause sets out the process for resolving issues which relate to: (a) a matter arising under this Agreement; or (b) the NES.	.	<ul style="list-style-type: none"> CFMMEU and AWU want all matters of employment to be included AWU also seeks <ul style="list-style-type: none"> Status quo until dispute resolved FWC decision binding on parties and those bound by Agreement OSP response <ul style="list-style-type: none"> OSP stands by its updated position on 29/06/21 in respect of its proposed clause 18. In regards to the remaining items of this clause, OSP maintains the clause as now drafted adequately sets out a fair issue resolution process and is consistent with our objective to deal with matters at the local level to the maximum extent possible. On this basis, OSP does not accept this proposal.
18.2 – 18.5	18.2 Where an issue under clause 18.1 arises which the Company or an Employee seeks to be resolved, the issue must first be referred for discussion between the Employee and their immediate Supervisor to attempt to resolve the issue. 18.3 If the issue remains unresolved, it may be referred for discussion between the Employee and the Employee's Superintendent. 18.4 If the issue is still not resolved, it may be referred for discussion between the Employee and the Employee's Departmental Manager 18.5 Discussions in accordance with clauses 18.2, 18.3 and 18.4 will be held as soon as reasonably practicable.		
18.6	By agreement, the Company and the Employee may bypass any of the steps in clauses 18.3 or 18.4 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 24.2, or, in the case of the workforce, the senior officer level as set out at clause 24.3, effectively bypassing the earlier steps without consent.	<ul style="list-style-type: none"> CFMMEU want exceptions where the matter affects majority of Employees OSP response <ul style="list-style-type: none"> OSP stands by its updated position on 29/06/21 in respect of its proposed clause 18. In regards to the remaining items of this clause, OSP maintains the clause as now drafted adequately sets out a fair issue resolution process and is consistent with our objective to deal with matters at the local level to the maximum extent possible. On this basis, OSP does not accept this proposal.
18.7	If the issue resolution processes in clauses 18.2, 18.3 and 18.4 have genuinely been exhausted (with the exception of the processes in clauses 18.3 or 18.4 if there was an agreement to bypass any of these steps), and the issue is still unable to be resolved at the workplace level, either party (or its representative) may refer the matter to the FWC for conciliation. 24.4. 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.		

Clause No.	Current OS Production Draft EA	CFMMEU Claim from draft EA tabled 09 February 2021 and as amended	Current Position of all parties (includes OSP responses tabled up to and including the bargaining meeting on 23 November 2021)
	If the matter remains unresolved, it can be referred to the FWC for arbitration by consent of both parties involved.	Where conciliation has been exhausted and the dispute remains unresolved, the FWC or, by agreement, an agreed private arbitrator, may arbitrate the matter	<ul style="list-style-type: none"> CFMMEU seek <ul style="list-style-type: none"> arbitration without agreement additional payment for Employees to attend proceedings in the FWC OSP response – <ul style="list-style-type: none"> OSP stands by its updated position on 29/06/21 in respect of its proposed clause 18 In regards to the remaining items of this clause, OSP maintains the clause as now drafted adequately sets out a fair issue resolution process and is consistent with our objective to deal with matters at the local level to the maximum extent possible. On this basis, OSP does not accept this proposal.
18.8	Either the Employee or the Company may have a representative to assist at any stage of this process.		
		<p>24.8. 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:</p> <ul style="list-style-type: none"> a) more than 48 hours notice is provided to the Company; and b) the substitute Employee has previously been involved in the matter. <p>24.9. 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.</p> <p>24.10. 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:</p> <ul style="list-style-type: none"> 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. <p>30.2. 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</p>	<ul style="list-style-type: none"> CFMMEU seek <ul style="list-style-type: none"> Representative processes additional payment for Employees to attend proceedings in the FWC AWU also seeks <ul style="list-style-type: none"> 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 OSP response- <ul style="list-style-type: none"> OSP stands by its updated position on 29/06/21 in respect of its proposed clause 18 In regards to the remaining items of this clause, OSP maintains the clause as now drafted adequately sets out a fair issue resolution process and is consistent with our objective to deal with matters at the local level to the maximum extent possible. On this basis, OSP does not accept these proposals
Individual flexibility			

Clause No.	Current OS Production Draft EA	CFMMEU Claim from draft EA tabled 09 February 2021 and as amended	Current Position of all parties (includes OSP responses tabled up to and including the bargaining meeting on 23 November 2021)
19	The Company and individual Employees may agree to make an individual flexibility arrangement, in accordance with the model flexibility term prescribed by the <i>Fair Work Regulations 2009</i> . The model flexibility term is incorporated into this Agreement.	The Company and individual Employees may agree to make an individual flexibility arrangement, in accordance with the model flexibility term prescribed by the Fair Work Regulations 2009. 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;	<ul style="list-style-type: none"> The CFMMEU seeks to limit the flexibility options OSP response:- <ul style="list-style-type: none"> In line with our objective of seeking to make a simple, safety net agreement with our employees, OSP will adopt the model clause as set out in the Fair Work Act 2009. Accordingly, OSP does not accept this proposal.
Management of change / Consultation			
20	In the event that the Company makes: (a) a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the Employees; or (b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees, the Company will consult with the relevant Employees in accordance with the model consultation term prescribed by the <i>Fair Work Regulations 2009</i> , which is incorporated into this Agreement.	Model Clause	<ul style="list-style-type: none"> OSP advise that insufficient detail has been provided for us to consider and respond to this proposal. <p>CFMMEU confirmed that they to seek to have included the entirety of the model clause from the FWA to be included into the body of the OS Production Agreement</p> <p>OSP Response: In line with our objective of seeking to make a simple, safety net agreement with our employees, OS will adopt the model consultation clause as set out in the Fair Work Act 2009, and does not see the benefit of having the words incorporated into the body of the Agreement. Accordingly, OS does not accept this proposal.</p>
Redundancy			
21.1	Definition of redundancy (a) An Employee is made redundant where an Employee's employment is terminated at the Company's initiative: (i) because the Company no longer requires the job done by the Employee to be done by anyone except where this is due to the ordinary and customary turnover of labour; or (ii) because of insolvency or bankruptcy of the Company. This clause does not apply to Employees engaged for a fixed term or a specified task or to Casual Employees.		
		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	<ul style="list-style-type: none"> CFMMEU seeks <ul style="list-style-type: none"> Process to remove non-EA labour in the first instance a selection process for forced redundancies redeployment only within the Hunter Valley/Bowen basin coalfields AWU wants voluntary redundancies in the first instance. OSP position <ul style="list-style-type: none"> has already responded to the CFMMEU's proposed clause regarding Redundancy on 15 March 2021. OSP position on this does not change in light of the alternative wording proposed by the CFMMEU. the OS business model and our basis of hire approach enables OSP to provide as much certainty

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		<p>the spread of skills required for the efficient and effective operations. The surplus will be addressed by:</p> <p>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</p> <p>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.</p> <p>19.3. After all the above steps have been taken the company may implement forced redundancies.</p> <p>CFMMEU tabled revised selection position on 29/06: 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:</p> <p>a) necessary skills mix required by the business;</p> <p>b) individual skills and proficiency in them;</p> <p>c) employment record/ service; 15</p> <p>d) cases where unsatisfactory performance has been identified and is being managed.</p>	<p>to employees about ongoing employment. Allocation to work where it is available in a hub is a point of difference for OSP.</p> <ul style="list-style-type: none">o enabling VRs where alternative employment opportunities exist would increase costs.o We believe the clause as currently drafted adequately addresses redundancy including providing severance pay which is largely consistent with that proposed.o For these reasons, OSP does not accept this proposal.
21.2(a)	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 (paid at an Employee's Annual Salary rate) for each completed year of employment, up to a maximum of 30 weeks' pay.		<ul style="list-style-type: none">• CFMMEU & AWU<ul style="list-style-type: none">o Sought 3 weekso take issue with the cap of 30 weeks• CFMMEU seeks<ul style="list-style-type: none">o bonus be included when calculating payment• OSP position<ul style="list-style-type: none">o 3 weeks per year of service agreedo In line with our objective of seeking to make a simple, safety net agreement with our employees, OSP does not propose to remove the cap on payments
21.(2)(b)	Regardless of length of employment, the minimum payment due to Employees under clause 21.2(a) is four weeks' pay.		
21.3	Exemption The Company is not liable for the payment in clauses 21.2 if the Company obtains, or causes to be made available for the Employee, work: (a) that the Employee is competent to perform; (b) in a position that carries the same or a higher classification rate of pay than the Employee's previous position; (c) that can reasonably be regarded as permanent; and (d) allows the Employee to reside in the same general locality as the Employee's previous residence.		
21.4	Variation of severance pay Despite anything in this clause, the Company may make application to the FWC to be granted relief from the obligation to make a payment pursuant to clause 21.2.		
Termination of Employment			
22.1	An Employee may resign from his or her employment with the Company by giving one week's written notice to the Company.		
22.2	Subject to clause 22.3, the Company may terminate the employment of a Full Time or Part Time Employee by giving the Employee four weeks' written notice or by payment by the Company in lieu of all or part of that notice.		
22.3	The Company may employ any Full Time or Part Time Employee on probation. In that case, the period of probation will begin on the commencement of employment and will continue for such period as is notified by the Company in advance in writing. During the period of		<ul style="list-style-type: none">• CFMMEU and AWU seek<ul style="list-style-type: none">o Period of probation should be capped at 'up to 6 months'• OSP proposes if the bargaining reps consider their position

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	probation, the Company may terminate the probationary Employee's employment by giving one week's written notice or payment by the Company in lieu of all or part of that notice.		<p>and cease to press all other claims in respect of this clause it will insert an amended clause.</p> <p><i>22.3 The Company may employ any Full Time or Part Time Employee on probation. In that case, the period of probation will begin on the commencement of employment and will continue for a period of up to 6 months (excluding any periods of unpaid leave or unauthorised absences) as is notified by the Company in advance in writing. During the period of probation, the Company may terminate the Employee's employment by giving one week's written notice or payment by the Company in lieu of all or part of that notice.</i></p> <p>CFMMEU & AWU do not accept OS' proposal to cease pressing all other claims in respect of the termination clause unless their proposal at 5.3b is accepted.</p>
22.4	The period of notice to be given by the Company to Full Time or Part Time Employees under clause 22.2 shall increase by one week if the Employee is over 45 years old and has completed more than two years continuous service with the Company.		
22.5	The Company may terminate the employment of a Casual Employee by giving one hour's notice of termination or payment by the Company in lieu of that notice.		<ul style="list-style-type: none">CFMMEU –<ul style="list-style-type: none">Does not want reference to casuals in the EAAgrees only if their proposal at 5.3b is accepted
22.6	The Company may dismiss an Employee without notice for any serious misconduct, and in such case the Employee's remuneration shall be payable only up to the time of dismissal.		<ul style="list-style-type: none">AWU expressed<ul style="list-style-type: none">concerns over the interpretation of "serious". Would prefer "gross" as per the Award.the word 'serious' opens it up to lower level matters. ie failure to turn up to shift on time – it is serious, but not gross.OSP does not see any need to making this change as 'serious misconduct' is already defined in the Fair Work Regulations 2009. <p>AWU does not accept OS' proposal to cease pressing all other claims in respect of the termination clause unless their proposal at 5.3b is accepted</p>
Better of Overall			
23	It is the intention that every Employee covered by this Agreement will be better off overall than if a relevant modern award applied to their employment, including by means of the Above Award Guarantee	<p>1.3 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.</p> <p>1.4 Without limiting clause 1.5, this Agreement operates to include compensation for and expressly exclude all award conditions under any applicable award.</p>	<ul style="list-style-type: none">CFMMEU and AWU oppose on the <i>basis of their position on a comprehensive EA</i>OSP asked What does it matter if this clause appears in a simple and safety net EA or any other form of EA, doesn't it have the same effect in either?CFMMEU maintained there are issues with wording re 'above award guarantee' but will consider further.
No further claims			
24	This Agreement is a comprehensive and full settlement of all Employee enterprise bargaining claims for the duration of this Agreement unless otherwise permitted by the <i>Fair Work Act 2009</i> (Cth).		
Other claims			
		20. Accident Pay	<ul style="list-style-type: none">OSP response –

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		<p>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</p> <p>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,</p> <p>20.3. whichever event shall first occur, even if the Company terminates the Employee's employment within the period. Meaning of Accident Pay</p> <p>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). 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.</p> <p>Pro-rata payments</p> <p>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.</p> <p>When not entitled to payment</p> <p>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.</p> <p>Redemptions</p> <p>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.</p> <p>Damages independent of the Acts</p> <p>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.</p> <p>Calculation of period</p> <p>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.</p>	<ul style="list-style-type: none"> ○ Entitlements of this nature are dealt with by a procedure outside of the Agreement. The OS Workers' Compensation Policy provides up to 78 weeks' worker's compensation payments: <ul style="list-style-type: none"> ▪ First 39 weeks at 100% of your normal weekly pay; ▪ Further 39 weeks at 85% of your normal weekly pay. ○ This is more generous than the accident pay entitlements set out in the Black Coal Mining Industry Award. ○ Its position on a simple and safety net structure of the agreement is already clear ○ OSP does not accept the proposal. <p>CFMMEU provided updated proposal on 13/10:</p> <ul style="list-style-type: none"> ○ CFMMEU proposed clause 20.4 – amend to include the words "normal weekly wage"
		<p>Occupational Health & Safety and Workers' Compensation</p> <p>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.</p>	<ul style="list-style-type: none"> • AWU also claims – <ul style="list-style-type: none"> ○ The Co not to seek to remove itself from the relevant jurisdiction of the state workers compensation schemes where the Co operates • OSP response – <ul style="list-style-type: none"> ○ OSP works at many locations in multiple states ○ Legislation applies at those sites giving rights and obligations ○ Its position on a simple and safety net structure of the agreement is already clear ○ It does not propose to add un-necessary site specific content ○ OSP does not accept the proposal.

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		<p>21. Paid Suspension</p> <p>21.1. 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.</p> <p>21.2. 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.</p> <p>21.3. 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.</p> <p>21.4. The Company will provide reasonable notice of any meetings the Employee is required to attend.</p> <p>21.5. 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.</p> <p>21.6. Employees will be entitled to a representative during any meeting.</p>	<ul style="list-style-type: none"> OSP response – <ul style="list-style-type: none"> This proposal is not in line with our objective of seeking to make a simple, safety net agreement. OSP's practice is to stand down any Employee who is being investigated (where warranted) and on full pay. As a matter of procedural fairness, OSP employees are entitled to have a support person present in all investigation / disciplinary meetings. For these reasons, OSP does not accept this proposal.
		<p>22. Stand down</p> <p>22.1. The Company may stand down an Employee for part or all of a shift in the following circumstances:</p> <p>a) Refusal of duty; or</p> <p>b) Neglect of duty; or</p> <p>c) Misconduct; or</p> <p>d) if the Employee cannot be usefully employed in the Employee's usual classification because of industrial action.</p> <p>22.2. 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:</p> <p>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</p> <p>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.</p> <p>22.3. 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.</p> <p>22.4. 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.</p> <p>22.5. Any Employee stood down under this clause will continue to have their service recognised for the purposes of "continuous service"</p>	<ul style="list-style-type: none"> OSP response – <ul style="list-style-type: none"> This proposal is not in line with our objective of seeking to make a simple, safety net agreement Stand down is already covered by the Act. OSP does not accept the proposal.
		<p>25. Transport and Accommodation</p> <p>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.</p> <p>Transport</p> <p>25.2. For employees who commute, the company will provide transport outside working hours in line with the nominated commute work patterns:</p> <p>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));</p> <p>b) [process for adding more locations and/ or changing locations tbd] and</p> <p>c) from the village to the mine (and from the mine to the village) during the roster period.</p> <p>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).</p>	<ul style="list-style-type: none"> AWU seeks <ul style="list-style-type: none"> For commute: <ul style="list-style-type: none"> 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 Non-share village accommodation; Supply of three meals per day; For residential: <ul style="list-style-type: none"> Company to provide transport from

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		<p>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.</p> <p>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.</p> <p>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 reasonable control of the employee, the company may exercise its discretion to pay the employee for any shifts or hours missed.</p> <p>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).</p> <p>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.</p> <p>25.9. An employee receives no payment for travel under this clause.</p> <p>Accommodation</p> <p>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.</p> <p>25.11. Employees who reside in the local community will be paid an allowance of [to be discussed], per week.</p>	<p>village to the mine;</p> <ul style="list-style-type: none"> ▪ Residential allowance payable ▪ Where an employee works extended hours affecting ability to access company supplied transport, company will arrange alternate transport. <ul style="list-style-type: none"> • Employee Bargaining Representative seeks <ul style="list-style-type: none"> ○ Bus from Rockhampton to Camp (and return) at the start and end of every shift ○ Permanent rooms for all OSP employees (not just FIFO) • OSP response – <ul style="list-style-type: none"> ○ These proposals would significantly increase costs and put our competitiveness at significant risk. ○ OSP offers competitive remuneration and flexible living options to our employees and does not operate a fly in, fly out model. ○ the OSP business model and our point of hire approach enables OSP to provide as much certainty to employees about ongoing employment. Allocation to work where it is available in a hub is a point of difference for OSP. ○ Employees can make the choice themselves for where they live. Prospective OSP employees are advised to carefully consider this prior to accepting employment with OSP. ○ Where OSP does provide accommodation, it must take steps to ensure maximum utilization of rooms to help alleviate the high demand for rooms in Company owned villages. This includes using rooms on a back to back or ad hoc basis for short-term accommodation during days off shift and leave periods. Offering permanent rooms would put greater stress on the already high capacity constraints and demand for rooms in Company owned villages. ○ For these reasons, OSP does not accept this proposal. <p>CFMMEU provided updated proposal on 13/10:</p> <ul style="list-style-type: none"> ○ CFMEU proposed clause 25.2 b) – remove ○ CFMEU proposed clause 25.11 – BHP OS have already rejected this clause and proposal so the CFMMEU does not see the value to add anything further at this stage. <p>OS reiterated that although they have already responded to the CFMMEUs proposal in respect of Transport & Accommodation, that any revised proposal tabled by the CFMMEU would always be considered.</p>

Clause No.	Current OS Production Draft EA	CFMMEU Claim from draft EA tabled 09 February 2021 and as amended	Current Position of all parties (includes OSP responses tabled up to and including the bargaining meeting on 23 November 2021)
		<p>27. Inclement Weather</p> <p>Wet Weather Conditions - During Current Working Shift</p> <p>27.1. 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.</p> <p>27.2. If alternate duties or training is not available then the following options will be applicable:</p> <ul style="list-style-type: none"> 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. <p>27.3. The above arrangements will also apply to Employee's isolated in camp, or the local community for the duration of their roster.</p> <p>27.4. 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.</p> <p>Wet Weather Conditions - Unable to Travel to Camp (from place of residence) and return</p> <p>27.5. 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.</p> <p>27.6. In situations where Employees are unable to travel to camp via their normal route for any reason the following procedure will apply:</p> <ul style="list-style-type: none"> 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. <p>27.7. Commute Employees unable to return to their residence from site due to weather will be provided with accommodation in the local community.</p> <p>Wet Weather Conditions - Shutdown of Operations by Client</p> <p>27.8. When the client considers it necessary to shut down operations, the following will apply:</p> <ul style="list-style-type: none"> 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. <p>Natural Disaster Procedure</p> <p>27.9. The parties also recognise that the region where Employees reside and work can be subject to natural disasters.</p> <p>27.10. 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</p>	<ul style="list-style-type: none"> • AWU also claims- <ul style="list-style-type: none"> ○ If wet or dangerous weather prevents normal work or results in a shut down then EEs isolated in camp or local community while on roster, to undertake alternate duties or training or, if training or alternate duties is unavailable will wait in readiness and continue to be paid if wet weather prevents normal work ○ If unable to return to camp or local community for any time outside normal rostered shift length, employee to be paid applicable overtime rate. ○ If wet weather prevents travel between camp and place of residence: <ul style="list-style-type: none"> ▪ No expectation that employees travel an alternate route; ▪ Paid total salary for first two days unable to attend work; ▪ Annual leave or LWOP for days thereafter ○ Commute employees unable to return to place of residence due to weather will be provided accommodation in the local community and alternative travel arrangements • OSP response – <ul style="list-style-type: none"> ○ Its position on a simple and safety net structure of the agreement is already clear ○ OSP has a custom and practice of enabling employees who are at work during inclement weather to complete alternative tasks such as training. Where employees cannot get to work due to inclement weather, they are able to take annual leave if they desire. ○ For these reasons, OSP does not accept these proposals.

Clause No.	Current OS Production Draft EA	CFMMEU Claim from draft EA tabled 09 February 2021 and as amended	Current Position of all parties (includes OSP responses tabled up to and including the bargaining meeting on 23 November 2021)
		<p>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.</p> <p>27.11. 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.</p> <p>27.12. 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.</p> <p>27.13. 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.</p>	
		<p>28. Work Clothing</p> <p>28.1. On commencement of employment, an Employee is entitled to an initial work clothing allocation as follows:</p> <p>a) Five shirts and five pairs of trousers;</p> <p>b) One pair of safety boots;</p> <p>c) One winter style jacket and one lighter style jacket (Jackets); and</p> <p>d) Prescription safety glasses as required (including spare glasses).</p> <p>28.2. 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.</p> <p>28.3. 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</p>	<ul style="list-style-type: none"> OSP response – <ul style="list-style-type: none"> Its position on a simple and safety net structure of the agreement is already clear This is a matter dealt with by a procedure outside of the Agreement. The OS Employee Handbook provides for Personal Protective Equipment (PPE) allocations which are largely consistent with that proposed. Where an employee requires additional PPE, they should speak with their Line Leader. For these reasons, OSP does not accept this proposal.
		<p>29. Medicals</p> <p>29.1. 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).</p> <p>29.2. Where practicable, statutory health assessments will take place during rostered working hours. Where this is not practicable, a payment equivalent to one hour 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.</p> <p>29.3. 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.</p> <p>29.4. The Company will ensure that all necessary costs are met prior to an Employee attending a Statutory Health Assessment.</p>	<ul style="list-style-type: none"> AWU Claim <ul style="list-style-type: none"> Will only be conducted in line with respective state safety legislation EEs can choose to use their own GP and all medicals will be conducted in paid time for all participants (employee and GP) OSP response – <ul style="list-style-type: none"> Its position on a simple and safety net structure of the agreement is already clear This is a matter dealt with in accordance with the applicable state safety legislation. This is important because OSP works across, and the Agreement covers, different jurisdictions in Australia. For this reason, OSP does not accept this proposal.
		<p>Payment for call-back</p> <p>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.</p> <p>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.</p> <p>10.8. The provisions of this clause do not apply in the following cases:</p> <p>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</p>	<ul style="list-style-type: none"> OSP response <ul style="list-style-type: none"> Its position on a simple and safety net structure of the agreement to maintain the competitiveness of OSP across different markets and industries is already clear This proposal as it is not in line with our objective. Additionally clause 7 of the proposed Agreement guarantees an annual salary higher than the

Clause No.	Current OS Production Draft EA	CFMMEU Claim from draft EA tabled 09 February 2021 and as amended	Current Position of all parties (includes OSP responses tabled up to and including the bargaining meeting on 23 November 2021)
		<p>b) where the overtime is continuous (subject to a reasonable meal break) with the end or start of ordinary working time.</p> <p>Call-back less than four hours</p> <p>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..</p>	<p>amount that would have been payable to an employee under the relevant modern award for the roster they are working and this guarantee includes a guarantee for payment for any call backs.</p> <ul style="list-style-type: none"> Accordingly, OS Pdoes not accept this proposal
			<ul style="list-style-type: none"> Additional AWU claim – <ul style="list-style-type: none"> The Co will provide for an income protection scheme that provides EEs with up to 52 weeks of salary continuance from the date of injury / illness at the EEs normal salary plus bonus OSP response – <ul style="list-style-type: none"> Its position on a simple and safety net structure of the agreement is already clear This is a matter dealt with outside of the Agreement if at all. For these reasons, OSP does not accept this proposal.
			<ul style="list-style-type: none"> Additional Employee Bargaining Representative claim <ul style="list-style-type: none"> Higher duties allowance provision in Employee handbook needs to be included in the Enterprise Agreement Higher duties allowance to cover the entire period of time in step up role OSP Response <ul style="list-style-type: none"> The OS Employee Handbook speaks to entitlements offered during Step Up, Higher Duties & Secondment arrangements. In seeking to maintain a simple, safety net agreement, OSP does not agree to have the terms of such incorporated into the proposed Agreement. In addition, any additional payment for higher duties for periods of less than 90 days would significantly increase our costs and put our competitiveness at risk. For these reasons, OSP does not accept this proposal.

Appendix 3

Proposed OS Production agreement - Updated as at 23 November 2021

OPERATIONS SERVICES PRODUCTION AGREEMENT

PROPOSED AGREEMENT

1. Title

This agreement will be known as the *Operations Services Production Agreement* ("**Agreement**").

2. Coverage

2.1 Subject to clause 2.2, this Agreement shall cover:

- (a) OS MCAP Pty Ltd (ACN 626 224 655) ("**the Company**"); and
- (b) Employees of the Company employed in the classifications set out in clause 6.4 of this Agreement who undertake production activities on a mining operation ("**Employees**").

2.2 Any site specific enterprise agreement that covers and applies to the Company and any Employees working at the specific site(s) will cover and apply to the Company and those Employees to the exclusion of this Agreement.

3. Relationship with Other Instruments and the National Employment Standards

3.1 This Agreement does not incorporate the Company's policies or procedures (notwithstanding any references to any policies or procedures in this Agreement).

3.2 Subject to clause 2.2, while this Agreement operates in relation to an Employee, no other industrial instrument shall have effect in relation to the Employee.

3.3 The National Employment Standards ("**NES**") apply to all Employees as a minimum standard. Where there is an inconsistency between the NES and a clause of this Agreement, the NES will apply and the clause of this Agreement will not apply, except to the extent that the clause of the Agreement provides for a more beneficial outcome for employees than the NES.

4. Term of Agreement

4.1 This Agreement will commence operating seven days after the Agreement is approved by the Fair Work Commission ("**FWC**").

4.2 The nominal expiry date of the Agreement will be four years after the date on which the FWC approves the Agreement.

4.3 The Agreement will continue to operate past the nominal expiry date until terminated or replaced by another agreement.

5. Type of Employment

5.1 Employees may be engaged under this Agreement as Full Time Employees, Part Time Employees or Casual Employees.

5.2 A Full Time Employee is an Employee who is employed to work ordinary hours of work as follows:

- (a) in the case of an Employee to whom the *Mining Industry Award 2020* would have applied but for the operation of this Agreement— an average of 38 ordinary hours per week, averaged over their roster cycle; or
 - (b) in the case of any other Employee – an average of 35 ordinary hours per week, averaged over their roster cycle.
- 5.3 A Part Time Employee is an Employee who is not a Casual Employee and is employed to work less than the following number of ordinary hours per week:
 - (a) in the case of an Employee to whom the *Mining Industry Award 2020* would have applied but for the operation of this Agreement— an average of 38 ordinary hours per week, averaged over their roster cycle; or
 - (b) in the case of any other Employee – an average of 35 ordinary hours per week, averaged over their roster cycle.
- 5.4 Each Part Time Employee's rostered hours of work, including the days when they will work and their starting and finishing times, will be as agreed in writing between the Company and the Part Time Employee from time to time.
- 5.5 A Casual Employee is an Employee who is engaged and paid as a Casual Employee.
- 5.6 A regular Casual Employee may elect to have their employment converted to full time or part time employment if the employment is to continue beyond the date when they qualify to be a regular Casual Employee.

A "regular Casual Employee" for the purpose of this Agreement is a Casual Employee who has in any preceding period of six months worked a pattern of hours on an ongoing basis which, without significant adjustment, the Employee could continue to perform as a Full Time Employee or Part Time Employee under the provisions of this Agreement.
- 5.7 The regular Casual Employee must give notice in writing to the Company at least four weeks prior to the Employee attaining such period of six months that they seek to elect to convert their employment to full time or part time employment. The Company must respond within four weeks of receiving such notice whether it consents to or refuses the election, but must not unreasonably so refuse.
- 5.8 Where it is agreed that the regular Casual Employee will be converted to full time or part time employment, this agreement will be recorded in writing, including recording whether the Casual Employee is converting to full time or part time employment and, if the Casual Employee is converting to part time employment, recording the matters set out in clause 5.4.
- 5.9 Once a regular Casual Employee has elected to become and been converted to a Full Time or Part Time Employee, the Employee may only revert to casual employment by written agreement with the Company.

6. Duties

- 6.1 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.

- 6.2 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 others as required.
- 6.3 Organisational requirements may necessitate Employees transferring to other positions, operations, or locations. Reasonable notice will be provided in these circumstances. Terms and conditions of employment will be reviewed in light of any change in responsibilities in the event of a transfer, but will remain at least as beneficial as set out in this Agreement.
- 6.4 Employees will be placed in one of the following classifications according to their responsibilities from time to time:

Operation Coverage	Classification	Description
Non-Coal Operations	Production Technician	Operating heavy mobile equipment
Coal Operations	Production Technician	Operating heavy mobile equipment

Trainee Production Technicians in Non-Coal Operations or Coal Operations may be employed by the Company under this Agreement.

- 6.5 An Employee's classification under clause 6.4 does not limit the duties that an Employee may be required to perform in accordance with clause 6.1.

7. Remuneration

- 7.1 Full Time and Part Time Employees will be paid an annualised salary ("**Annual Salary**").
- 7.2 The Annual Salary payable under this Agreement to a Full-Time Employee or Part-Time Employee for working any roster will be the total of the following amounts:
- (a) the total amount of the remuneration that would have been payable to the Employee under the relevant modern award for working the same roster; and
 - (b) an additional amount comprising 5% of the amount calculated under subclause 7.2(a), being an amount paid to give effect to the "Above Award Guarantee".

For the purposes of this Agreement:

- (i) the "relevant modern award" in relation to any Employee is the modern award that would have applied to that Employee if this Agreement did not apply to that Employee;

- (ii) the "Above Award Guarantee" is a guarantee that the Annual Salary payable under this Agreement to every Full Time and Part Time Employee will be 105% of the amount that would have been payable to an Employee under the relevant modern award for working the roster on which they are working.

7.3 For the avoidance of doubt:

- (a) the Above Award Guarantee also applies to the Annual Salary that is payable to any Trainee employed under this Agreement; and
- (b) an Employee's Annual Salary includes compensation for any allowances, penalties or payments that would have been applicable under the relevant modern award to the roster that the Employee is working. This includes compensation for working on rosters which cover public holidays, afternoon shifts and night shifts, and any other allowances, penalties or payments applicable to the Employee's roster under the relevant modern award. For the avoidance of doubt, all of these amounts are to be included in the calculation of the remuneration referred to in clause 7.2(a).

7.4 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 Annual Salary that is payable to the Employee by the number of rostered hours per annum for the Employee's roster. Alternatively, a Full Time or Part Time Employee and the Company may agree in writing to the Employee taking time off instead of being paid for a particular amount of un-rostered overtime that has been worked by the Employee.

7.5 Casual Employees will be paid as follows:

- (a) An hourly rate, plus an additional and distinct casual loading of 25% for each of their rostered hours of work.
- (b) For the purpose of this clause 7.5, each Casual Employee's hourly rate will be calculated as follows: (Annual Salary for the Comparator Employee) divided by (Total rostered hours of work for the Comparator Employee), where the "Comparator Employee" is a Full Time Employee who is doing the same work on the same roster as the Casual Employee.
- (c) Any un-rostered overtime worked by a Casual Employee will be paid at double time, plus an additional and distinct casual loading of 25%.
- (d) The 25% casual loading referred to in clauses 7.5(a) and (c) is paid instead, and in lieu, of annual leave, paid personal/carer's leave, notice of termination of employment, redundancy benefits and any other benefits of full time or part time employment.
- (e) On each occasion a Casual Employee is required to attend work the Casual Employee will be paid for a minimum of four hours work.

- (f) If the amount payable to any Casual Employee under subclauses 7.5(a) to (e) for any casual engagement is less than 105% of the amount that would have been payable to that Casual Employee under the relevant modern award for that engagement, then the amount paid to the Casual Employee for that engagement shall be increased so as to make up the difference.
- 7.6 Remuneration will be paid at intervals determined by the Company (up to monthly), and is currently fortnightly in arrears.
- 7.7 Payment will be by electronic funds transfer to a bank account in Australia nominated by the Employee.
- 7.8 Employees may be eligible to participate in the Company Incentive Program, as amended from time to time. The Company reserves the right in its sole discretion to cancel, replace, or make any variations to any such scheme at any time.
- 7.9 Where an overpayment of salary or entitlements has occurred, Employees must repay the overpayment within a reasonable period of time. Where the overpayment is not repaid within a reasonable period of time, the Company is entitled to deduct and retain any overpayments from the Employee's pay, including from termination payments, to the fullest extent permitted by law.
- 8. Superannuation**
- 8.1 Employees are allowed a personal choice of complying superannuation fund, to receive superannuation contributions on their behalf. In the event the employee does not elect a superannuation fund, superannuation will be paid to the employee's stapled fund. If the employee does not have a stapled fund, contributions are to be made by the Company to a default superannuation fund which offers a MySuper product. The Company reserves the right to change its default fund at any time.
- 8.2 The Company's contribution on behalf of Employees will be in accordance with the *Superannuation Guarantee (Administration) Act 1992*, as varied from time to time.
- 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**
- 9.1 The Company expects that an Employee's work will usually be completed in their rostered hours.
- 9.2 An Employee's rostered hours of work are averaged across their roster cycle, excluding handovers.
- 9.3 An Employee's rostered hours of work are inclusive of an Employee's ordinary hours and rostered overtime each week.

9.4 By working these hours, Employees are acknowledging that the requirement to work the rostered hours of work is reasonable having regard to, among other things, the operational requirements of the workplace and the roster arrangements. The Annual Salary is calculated on the basis that Employees will work these hours.

9.5 The Company shall determine each Employee's roster, including the days and hours of work, and starting and finishing times from time to time, and may change any such rosters, days and hours of work or starting and finishing times, provided that:

- (a) 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; and
- (b) the Company will provide an Employee with one week's notice of any change to an Employee's place on a roster, unless otherwise agreed with the Employee.

9.6 Employees are entitled to meal and rest breaks up to a total of 60 minutes per day. The meal break and rest breaks shall be taken at times prescribed by the Company having regard to safety, operational and production requirements.

10. Public Holidays

Employees acknowledge that, from time to time, in accordance with their applicable roster, they may be requested to work on a public holiday. Employees acknowledge that this is reasonable based on the Company's operational requirements. The Annual Salary includes compensation in recognition of the need for Employees to work on public holidays. No separate payment will be made where a public holiday falls during a rostered day off.

11. Annual Leave

11.1 Annual leave entitlements will be provided for in accordance with the NES.

11.2 Employees (other than Casual Employees) are 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 service is a cumulative total of 5 weeks.

11.3 An Employee who:

- (a) is a seven day roster Employee (an Employee who over the roster cycle, may be rostered to work shifts on any of the seven days of the week); or
- (b) works 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 entitled annually to an additional week of annual leave in addition to clause 11.2, being a cumulative total of

6 weeks.

11.4 Annual leave taken during employment and paid out on termination of employment is paid at an Employee's Annual Salary rate.

11.5 An Employee and the Company may agree for the Employee to "cash out" amounts of annual leave provided that:

- (a) the cashing out would not result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks;
- (b) each occasion of cashing out is by a separate agreement in writing between the Company and the Employee; and
- (c) cashed out annual leave is paid at the Employee's Annual Salary rate.

12. Personal/Carer's Leave

12.1 Personal/carers' leave entitlement will be provided for in accordance with the NES. In addition, Full Time and Part Time Employees will be credited with their annual entitlement to personal/carers' leave under the NES on commencing employment and then on each anniversary of commencement.

12.2 Personal/carers' leave is paid at an Employee's Annual Salary rate.

13. Compassionate Leave

13.1 Compassionate leave entitlements will be provided for in accordance with the NES.

13.2 Compassionate leave is paid at an Employee's Annual Salary rate.

14. Parental Leave

Employees (other than Casual Employees) with at least 3 months' continuous service are entitled to unpaid parental leave at least in accordance with the NES.

Note: The Company has policies that provide for parental leave on terms that in some respects are more generous than the NES, including paid parental leave for primary caregivers and secondary caregivers. This clause does not affect the operation of those policies, as amended from time to time.

15. Long Service Leave

15.1 Long service leave is in accordance with applicable legislation.

15.2 Long service leave accrues and must be taken subject to relevant legislation and the Company policies as amended from time to time.

15.3 Long service leave is paid at an Employee's Annual Salary rate.

16. Community Service Leave

Community service leave entitlements will be provided for in accordance with the NES.

17. Leave to deal with Family and Domestic Violence

17.1 Entitlement to unpaid leave

Unless otherwise agreed, an Employee is entitled to 5 days' unpaid leave in each 12 month period to deal with family and domestic violence. The leave is available in full at the start of each 12 month period and does not accumulate from year to year. The leave does not count as service but does not break the Employee's continuity of service.

Note: The Company has policies that provide for family and domestic violence leave on terms that in some respects are more generous than the NES, including paid family and domestic violence leave. This clause does not affect the operation of those policies, as amended from time to time.

17.2 Taking unpaid leave

An Employee may take unpaid leave to deal with family and domestic violence if the Employee is experiencing family and domestic violence, and needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside their rostered hours of work.

17.3 Notice and evidence requirements

- (a) An Employee must notify the Company as soon as practicable of the taking of leave under clause 17, and the expected period of the leave.
- (b) If required by the Company, the Employee must give the Company evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 17.2.
- (c) An Employee must comply with clause 17 to access the entitlement.

18. Issue Resolution Procedure

18.1 This clause sets out the process for resolving issues which relate to:

- (a) a matter arising under this Agreement; or
- (b) the NES.

18.2 Where an issue under clause 18.1 arises which the Company or an Employee seeks to be resolved, the issue must first be referred for discussion between the Employee and their immediate Supervisor to attempt to resolve the issue.

18.3 If the issue remains unresolved, it may be referred for discussion between the Employee and the Employee's Superintendent.

- 18.4 If the issue is still not resolved, it may be referred for discussion between the Employee and the Employee's Departmental Manager.
- 18.5 Discussions in accordance with clauses 18.2, 18.3 and 18.4 will be held as soon as reasonably practicable.
- 18.6 By agreement, the Company and the Employee may bypass any of the steps in clauses 18.3 or 18.4 in the interests of speedy resolution of the issue.
- 18.7 If the issue resolution processes in clauses 18.2, 18.3 and 18.4 have genuinely been exhausted (with the exception of the processes in clauses 18.3 or 18.4 if there was an agreement to bypass any of these steps), and the issue is still unable to be resolved at the workplace level, either party (or its representative) may refer the matter to the FWC for conciliation. If the matter remains unresolved, it can be referred to the FWC for arbitration by consent of both parties involved.
- 18.8 Either the Employee or the Company may have a representative to assist at any stage of this process.

19. Individual flexibility

The Company and individual Employees may agree to make an individual flexibility arrangement, in accordance with the model flexibility term prescribed by the *Fair Work Regulations 2009*. The model flexibility term is incorporated into this Agreement.

20. Management of change / Consultation

In the event that the Company makes:

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

the Company will consult with the relevant Employees in accordance with the model consultation term prescribed by the *Fair Work Regulations 2009*, which is incorporated into this Agreement.

21. Redundancy

21.1 Definition of redundancy

- (a) An Employee is made redundant where an Employee's employment is terminated at the Company's initiative:
 - (i) because the Company no longer requires the job done by the Employee to be done by anyone except where this is due to the ordinary and customary turnover of labour; or

- (ii) because of insolvency or bankruptcy of the Company.
- (b) This clause does not apply to Employees engaged for a fixed term or a specified task or to Casual Employees.

21.2 Severance payment

- (a) 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 (paid at an Employee's Annual Salary rate) for each completed year of employment, up to a maximum of 30 weeks' pay.
- (b) Regardless of length of employment, the minimum payment due to Employees under clause 21.2(a) is four weeks' pay.

21.3 Exemption

The Company is not liable for the payment in clauses 21.2 if the Company obtains, or causes to be made available for the Employee, work:

- (a) that the Employee is competent to perform;
- (b) in a position that carries the same or a higher classification rate of pay than the Employee's previous position;
- (c) that can reasonably be regarded as permanent; and
- (d) allows the Employee to reside in the same general locality as the Employee's previous residence.

21.4 Variation of severance pay

Despite anything in this clause, the Company may make application to the FWC to be granted relief from the obligation to make a payment pursuant to clause 21.2.

22. Termination of Employment

- 22.1 An Employee may resign from his or her employment with the Company by giving one week's written notice to the Company.
- 22.2 Subject to clause 22.3, the Company may terminate the employment of a Full Time or Part Time Employee by giving the Employee four weeks' written notice or by payment by the Company in lieu of all or part of that notice.
- 22.3 The Company may employ any Full Time or Part Time Employee on probation. In that case, the period of probation will begin on the commencement of employment and will continue for such period as is notified by the Company in advance in writing. During the period of probation, the Company may terminate the probationary Employee's employment by giving one week's written notice or payment by the Company in lieu of all or part of that notice.
- 22.4 The period of notice to be given by the Company to Full Time or Part Time

Employees under clause 22.2 shall increase by one week if the Employee is over 45 years old and has completed more than two years continuous service with the Company.

22.5 The Company may terminate the employment of a Casual Employee by giving one hour's notice of termination or payment by the Company in lieu of that notice.

22.6 The Company may dismiss an Employee without notice for any serious misconduct, and in such case the Employee's remuneration shall be payable only up to the time of dismissal.

23. Better off overall

It is the intention that every Employee covered by this Agreement will be better off overall than if a relevant modern award applied to their employment, including by means of the Above Award Guarantee.

24. No further claims

This Agreement is a comprehensive and full settlement of all Employee enterprise bargaining claims for the duration of this Agreement unless otherwise permitted by the *Fair Work Act 2009* (Cth).

PROPOSED AGREEMENT

Signatories

Signed for and on behalf of **OS MCAP Pty Ltd**

Name

Date

Position/Explanation of authority

Address

Signed for and on behalf of **Employees**

Name

Date

Position/Explanation of authority

Employee Representative

Address