

Operations Services Production Agreement

Record of Meeting

BHP

Date 12 April 2022
Location Videoconference via Webex
Attendees See Appendix 1
Meeting Open: 10am (AEST)
Meeting Close: 11am (AEST)

Agenda

1. Introductions & agenda
2. Discussion on CFMMEU's revised proposals
3. Discussion on proposal tabled by bargaining representatives
4. Logistics for next meeting

Summary

Introduction & Agenda	All attendees introduced themselves. OS shared the agenda for the meeting.
Discussion on CFMMEU updated proposal	<p>CFMMEU (QLD)</p> <p>The CFMMEU tabled revised proposals (see Appendix 2) and a revised draft Agreement (Appendix 3).</p> <p>The CFMMEU noted specific proposals:</p> <ul style="list-style-type: none">• Revised scope seeking a National Coal Production Agreement.• 3-year Agreement term.• If OS agrees to a 35-hour week, they will not press proposals relating to removal of casual employment provisions.• OS' current wages and bonus scheme in the Agreement as a starting point.• Wage escalations of 2% on commencement and each anniversary for the life of the Agreement.• Proposals for hours of work and rosters, crib breaks, public holidays, clothing, and medicals.• Policy positions to be included in the Agreement.• Revised proposals for inclement weather, redundancy, transport and accommodation, training, and dispute resolution. <p>The CFMMEU also proposed some updated drafting on the following clauses:</p> <ul style="list-style-type: none">• Relationship with other instruments• Overtime• Annual leave• Unpaid leave• Compassionate leave• Community service leave• Individual flexibility terms• Consultation <p>OS sought to understand and clarify the CFMMEU's proposed claims and OS agreed to consider the revised proposals and will respond at the next meeting.</p>

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Discussion on bargaining representatives proposal	<p>The bargaining representatives tabled a proposal (see Appendix 4.1 and 4.2)</p> <ul style="list-style-type: none">• Payment of accrued but unused personal (sick/carer's) leave on termination of employment.• Ability to cash out accrued but unused personal (sick/carer's) leave during the course of employment (maintaining one year's entitlement). <p>OS agreed to consider the revised proposals and will respond at the next meeting.</p>
Next Meeting	<p>The next OS Production bargaining meeting has been scheduled for week commencing 23 May 2022.</p>

Actions		
OS to consider revised proposals as tabled by the CFMMEU and bargaining representatives and prepare responses and updated draft Agreement at the next meeting.	OS	23 May 2022

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Appendix 1

Attendance List	
Mitch Hughes	CFMMEU QLD
Harriet Daniels	Employee Bargaining Representative
Drew Watson	Employee Bargaining Representative
Reece Heald	Specialist Employee Relations
Lucy Bryan	Principal Employee Relations

Appendix 2

CFMMEU Document – Overview of MEU proposed OS Agreement

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Overview of MEU proposed OS Agreement

Title, Coverage and Scope:

The MEU has revised its position since the decision from FWC. MEU still maintains its position for a National Coal only Agreement (but separate agreements for Maintenance and Production).

Other Instruments

The MEU does not agree with the exclusion of the Company's policies and procedures to the extent that an issue arising from a policy can't be disputed. The MEU has agreed in principle to some wording proposed by OS and that wording has been inserted into the MEU proposed clause.

Term of Agreement

The MEU has agreed to some of the wording put forward by the Company. The exception being that the MEU does not agree to a 4 year term, and has instead proposed a 3 year term.

Type of Employment

The main outstanding items relate to the number of hours in the ordinary working week (the Company propose 38hrs, the MEU propose 35hrs), and Casual Employment. The MEU has also proposed wording that would reflect the mine the Employee is working at, would be their ordinary location of work.

The MEU proposes that if the Company agree to the MEU's proposed clauses 7.5, 7.6 and 25.6 – the MEU will agree to the terms and conditions related to the employment of Casual Employees (OS proposed clauses 5.1, 5.5 to 5.9 and 7.5 – all highlighted in the MEU proposed document – clauses 5.1, 5.6 to 5.10, and 7.4).

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Duties

The Company has previously responded to the claim put forward by the MEU, stating the claim regarding deskilling was ambiguous, but has not explained how the claim is ambiguous.

The MEU requests clarification and, at this stage, maintains its position on the entirety of MEU proposed clause 6 (some wording is agreed in principle).

Wages

The MEU has proposed an alternative classification structure for consideration. The MEU also proposes fixed wage increases and disagrees with the Company's proposed "Above Award Guarantee" approach, and is waiting for the Company to respond to the proposal put forward that the Company insert the current rates (as they are now) into the proposed agreement as a starting point.

Bonus

The MEU has proposed to the Company that current Bonus structure and rates are inserted into the agreement as a starting point and are waiting for the Company to respond.

Overtime

Some of the wording in this clause is agreed, the MEU have provided revised clauses for consideration – which are similar to the wording in the OS handbook.

Superannuation

The only outstanding point is the default fund. The MEU proposes that Mine Super is the default fund.

Hours of Work and Rosters

The MEU has proposed clauses that provide for adequate notice to be given in the event that an Employee is required to change their place on a roster or shift. The MEU has also reflected the 35 ordinary hour week. The MEU has proposed clauses that require the Company to seek agreement if the Company want to change rosters and/ or start finish times. The MEU has also proposed that the current rosters being worked by BHP OS are included in the proposed agreement.

Crib Breaks. Public Holidays

The MEU maintains its position in relation to these 2 proposed clauses.

Annual Leave

The majority of this clause is agreed, the outstanding points relate to the proposed wording the MEU put forward to clarify how leave is deducted from accruals. The MEU removed the proposed clause for Unpaid leave within this claim and has included it in a different proposed clause.

Personal Carer's Leave

The MEU has withdrawn the claim for an extra day of P/C Leave where travel in excess of 400km is required. The MEU removed the proposed clause for Unpaid leave within this claim and has included it in a different proposed clause. The MEU removed the proposed clause that defined what P/C leave was and how it applied. The MEU maintains its claim for P/C leave entitlements to be paid out on termination of employment.

Unpaid Leave

The MEU proposes a new clause that deals with Unpaid Leave.

Parental Leave

The MEU has proposed to the Company that the Company insert its policy on Parental Leave into the proposed agreement.

Compassionate Leave and Community Service Leave

The MEU had proposed more prescriptive clauses than what the Company has proposed. The MEU are prepared to agree to the Company's proposed wording (inserted into the MEU's proposed clauses 17 and 20 and highlighted), if the Company are prepared to agree to the MEU's proposed clauses 16 and 19

Long Service Leave

The MEU maintains its position on this clause.

Family and Domestic Violence Leave

This clause is agreed in principle – but the MEU further propose that the relevant policy the Company refer to is also included in the proposed agreement.

Disputes Procedure

The MEU had originally proposed a more extensive disputes procedure, and has revised it's position a few times in an attempt to reach agreement. Most of the steps in the proposed clause are agreed, the outstanding items are what matters can be disputed and arbitration.

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The MEU maintains that if the Company propose a minimum agreement that relies on policies outside of the agreement to govern the terms and conditions of employment, then Employees should have the ability to challenge any decisions made that they disagree with and/ or are impacted by, and have the matter resolved by a third party with a binding decision. Employees should also have the option of a representative at each step (not just a support person). The MEU have proposed another alternative for consideration.

If the Company agree to the proposed clause MEU have put forward, the MEU will withdraw its claim for a separate Representative clause (clause 34 of MEU proposed agreement). The MEU will also agree to the step proposed by the Company in the proposed disputes procedure (OS proposed clause 18.6). These clauses (22.1, 22.6, 22.8 and 22.9) are highlighted.

Individual Flexibility Term and Consultation

The MEU proposes that both model terms are included in the agreement and have put them into the MEU proposed agreement.

Redundancy

The MEU has revised it's proposed clause and proposed an alternative in the MEU proposed agreement. In an attempt to reach agreement, the MEU has also included some of the wording proposed by the Company.

Accident Pay

The MEU maintains its position on this clause

Stand Down

The MEU maintains the position outlined in the MEU proposed document.

The MEU has withdrawn it's proposed "Paid Suspension" clause and inserted additional wording into its proposed clause 28. Stand Down

Transport and Accommodation

The MEU has proposed a revised clause for consideration.

Inclement Weather

The MEU maintains the proposal (which has been revised since the initial claim) as contained in the MEU proposed agreement.

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Training

The MEU has revised its claim and proposes an alternative clause in the MEU proposed document.

Work Clothing

The MEU maintains the proposal in the MEU proposed document

Medicals

The MEU has provided a revised proposed clause in the MEU proposed agreement.

Representatives

If the Company agree to the MEU proposed changes to the disputes procedure, the MEU will withdraw this claim/ clause (as highlighted – clause 34 of the MEU proposed document).

Appendix 3

CFMMEU Document – MEU Updated Draft Proposal Document – March 2022

MEU Updated Draft Proposed Document – March 2022

Green: Agreed in principle

Operations Services Production Coal Agreement 2022

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1. Title

- 1.1. This enterprise agreement will be known as the Operations Services Production Coal Agreement ("the Agreement")

2. Coverage

- 2.1. This Agreement will cover and apply to:
- a) OS MCAP Pty Ltd (ACN 626 224 655);
 - b) The Employees of OS MCAP Pty Ltd who perform work covered by Schedule A of the Black Coal Mining Industry Award 2010 and who are engaged in a classification in this Agreement undertaking production activities in the black coal mining industry ("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).

3. Relationship with Other Instruments and the National Employment Standards

- 3.1. This Agreement is a comprehensive and full settlement of all Employees enterprise bargaining claims for the duration of this Agreement unless otherwise permitted by the Fair Work Act 2009 (Cth).
- 3.2. 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 will be three 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. At the time of engagement, the Company will outline which mine that the Employee is engaged at to carry out their duties, and that mine will be the Employee's ordinary location of work.

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- 5.2. A full-time Employee is an Employee who has been engaged to work 35 ordinary hours per week, averaged over a roster cycle.
- 5.3. A Part Time employee is an employee who:
- a) works less than an average of 35 hours per week, averaged over their roster cycle;
 - b) has reasonably predictable hours of work; and
 - c) receives, on a pro rata basis, equivalent pay and conditions to those of full time employees who do the same kind of work.
- 5.4. Each Part Time Employee's rostered hours of work, including the days 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. All time worked in excess of the rostered hours as mutually arranged will be overtime and paid for at the rates prescribed in clause 8 – Overtime.
- 5.6. A Casual Employee is an Employee who is engaged and paid as a Casual Employee.
- 5.7. 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.
- 5.8. 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.
- 5.9. 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.
- 5.10. 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 provided they are competent and authorised. The Company will not allocate work in a way that promotes deskilling.
- 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 other Employees covered by this Agreement, as required.

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- 6.3. 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 for time spent travelling. Consultation and notice of a minimum of two weeks will be provided in these circumstances.
- 6.4. Where the notice required by clause 6.3 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.
- 6.5. Trainees may be employed by the Company under this Agreement.
- 6.6. An Employee's classification under clause 7.1 does not limit the duties that an Employee may be required to perform in accordance with clause 6.1.

7. Wages

7.1. Classification Structure

Employees covered by this agreement will be paid an Annualised Salary according to the following classifications:

- Production Employee – Level 1 (less than 2 years' experience in the industry)
- Production Employee – Level 2 (more than 2 years' experience but less than 5 years' experience in the industry).
- Production Employee – Level 3 (more than 5 years' experience in the industry)

7.2. Annual Increases

During the life of the Agreement, the rates of pay will be increased in the first full pay period following each yearly anniversary of the commencement date as follows:

1st Anniversary - 2%
2nd Anniversary - 2%

7.3. Rates

Employees covered by this agreement will be paid the following rates: (MEU proposed that the Company insert what they currently pay into the draft document as a starting point).

7.4. 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 this purpose of this clause 7.4, 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

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- 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 7.4 (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 125% 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.

7.5. Payment

Payment will be by electronic funds transfer to a bank account in Australia nominated by the Employee. Remuneration will be paid at intervals determined by the Company (up to fortnightly) and is currently fortnightly in arrears.

7.6. Overpayments and Underpayments

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.

Overpayments will be deducted by a reasonable amount, as agreed between the Company and Employee, over a reasonable period of time. The Company commits to ensuring the provisions of section 324 of the Fair Work Act are followed.

The Company commits that where there is an acknowledged underpayment to an Employee or Employees this will be rectified and paid to the effected Employees 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.

8. Overtime

- 8.1. 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.

- 8.2. 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.

- 8.3. In calculating overtime each shift is to be treated separately.

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

9. Bonus

The MEU has proposed that as a starting point, the Company insert into the agreement the current bonus model and structure that is currently applied.

10. Superannuation

- 10.1. Employees are allowed a personal choice of a 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 Mine Super.

10.2. The Company's contributions on behalf of employees will be in accordance with the Superannuation Guarantee (Administration) Act 1992, as varied from time to time.

10.3. An employee can request, and the Company may agree, that the employee will forego part of their Annual Salary otherwise payable under this Agreement and in lieu pay this amount into the Employee's nominated superannuation fund.

11. Hours of Work and Rosters

11.1. The Company expects that an Employee's work will usually be completed in their rostered hours.

11.2. Rosters and hours of work will be based on an average of 35 ordinary hours per week, averaged over a roster cycle. Shifts will include an effective handover at the start and end of each shift.

11.3. An Employee's rostered hours of work are inclusive of an Employee's ordinary hours and rostered overtime each week.

11.4. 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.

11.5. Start and finish times and places will be agreed between the Company and the majority of affected Employee's. Employees will present themselves ready to start their rostered shift, at the prescribed start time and location.

11.6. The Company may require an Employee or Employees to change shift or their place on the roster. Where this occurs, the Employee must receive:

- a) one week's notice of any change is given to the Employee, or four weeks' notice of any change where the Employee will be changing to a non-continuous shift roster; or
- b) where less notice is given, the Employee will be paid at overtime rates for all work from the time of change of shift until that notice period would have expired.

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11.7. The Company may only introduce a new roster following consultation, and with the agreement of the majority of affected employees.

11.8. The MEU proposes that the current roster/s being worked are inserted into this clause of the proposed agreement.

12. Crib Breaks

12.1. Employees are entitled to meal and rest breaks of 30 minutes without deduction from pay for each five hours worked during rostered hours. This period will be counted as time worked.

12.2. An Employee will not be required to work for more than five hours without a meal break. The meal and rest breaks shall be taken at times prescribed by the Company having regard to safety, operational and production requirements.

12.3. Time taken to travel to or from the place designated area for crib will be counted as time worked but will not be counted as part of the meal break.

13. Public Holidays

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

- a) New Year's 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

13.2. 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.

13.3. 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.

13.4. 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.

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- 13.5. Where Employees (who would have been rostered on) decide not to volunteer as outlined in clauses 13.3 and 13.4, and that employee is a FIFO Employee, the Company will arrange return flights for that Employee (Employee's usual flight route) at no cost to the Employee.
- 13.6. 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.
- 13.7. Work performed in excess of ordinary hours on a public holiday is to be paid at the rate of treble time.

14. Annual Leave

- 14.1. Annual leave entitlements be provided for in accordance with the NES.
- 14.2. Employees (other than Casual Employees) are entitled 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.
- 14.3. 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 shift worker for the purpose of the NES and entitled annually to an additional week of annual leave in addition to clause 12.2, being a cumulative total of 6 weeks.
- 14.4. Annual leave taken during employment and paid out on termination of employment is paid at an Employee's Annual Salary rate.
- 14.5. Deduction of leave entitlements is based on the ordinary hour component of the employee's shift.
- 14.6. 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.
- 15. Personal/ Carer's Leave
 - 15.1. 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

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entitlement to personal/ carer's leave under the NES on commencing employment and then on each anniversary of commencement.

15.2. Personal/ carer's leave is paid at an Employee's Annual Salary rate.

15.3. 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.

16. Unpaid Leave

16.1. In the event an employee has exhausted their annual leave and personal/ carer's leave entitlement the employee may take unpaid leave as required on each permissible occasion.

16.2. Approved unpaid leave in accordance with this provision will not break an Employee's continuity of service.

17. Compassionate Leave

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

17.2. Compassionate leave is paid at the Employee's Annual Salary rate.

18. Parental Leave

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

19. Long Service Leave

19.1. Conditions relating to long service leave are governed by Federal Legislation (Coal Mining Industry Long Service Leave Administration Act 1992 (Cth)) as amended from time to time.

19.2. Employees accrue long service leave at the of 13 weeks for periods of qualifying service that add up to 8 years in the Coal Mining Industry, as defined by the Legislation (Coal Mining Industry (LSL) Legislation Amendment Act 2011).

19.3. An Employee is to be paid for LSL at the Employee's Annual Salary rate in accordance with their normal pay period at the time the leave is to be taken.

20. Community Service Leave

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

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21. Leave to deal with Family and Domestic Violence

21.1. Entitlement to unpaid leave

Unless otherwise agreed, and 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.

21.2. Taking unpaid leave

An Employee may take unpaid leave to deal 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.

21.3. Notice and evidence requirements

(a) An Employee must notify the Company as soon as practicable of the taking of leave under clause 21, and the expected period of leave.

(b) If required by the Company, the Employee must give the Company evidence that would satisfy a reasonable person that the leave taken is for the purpose specified in clause 21.2.

(c) An Employee must comply with clause 21 to access the entitlement

22. Dispute Resolution Procedure

22.1. It is the intention of the parties that all issues arising out of the interpretation or application of this Agreement, in relation to the National Employment Standards or in relation to an employee's disciplinary related matter (or disciplinary outcome) or in relation to the application of any Company policy, shall be dealt with at the local level to the maximum extent possible. Other issues, such as those arising in the course of employment, may be dealt with under this procedure by mutual agreement.

22.2. Where an issue under clause 22.1 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.

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

22.4. If the issue is still not resolved, it may be referred for discussion between the Employee and the Employee's Departmental Manager.

22.5. Discussions in accordance with clauses 22.2, 22.3 and 22.4 will be held as soon as reasonably practicable.

22.6. By agreement, the Company and the Employee may bypass any of the steps in clauses 22.3 and 22.4 in the interests of a speedy resolution of the issue.

22.7. If the steps in clauses 22.2, 22.3 and 22.4 have genuinely been exhausted (with the exception of the processes in clauses 22.3 or 22.4 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.

22.8. Where conciliation has been exhausted and the dispute remains unresolved, either party may refer the matter to the FWC for arbitration.

22.9. Either the Employee or the Company may have a representative (which can also include a Union Official), to assist at any stage of the process.

23. Individual Flexibility Term

23.1. The Company and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of a term of this Agreement if:

a) The arrangement deals with 1 or more of the following matters:

- i. arrangements about when work is performed;
- ii. overtime rates;
- iii. penalty rates;
- iv. allowances;
- v. leave loading; and

b) the arrangement meets the genuine needs of the Company and Employee in relation to 1 or more of the matters mentioned in paragraph (a) of clause 23.1; and

c) the arrangement is genuinely agreed to by the Company and the Employee

23.2. The Company must ensure that the terms of the individual flexibility arrangement:

1. Are about permitted matters under section 172 of the Fair Work Act 2009; and
2. Are not unlawful terms under section 194 of the Fair Work Act 2009;
3. Result in the Employee being better off overall than the Employee would be if no arrangement was made.

23.3. The Company must ensure that the individual flexibility arrangement:

1. Is in writing; and
2. Includes the name of the Employer and Employee; and
3. Is signed by the Employer and Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
4. Includes details of:
 - i. The terms of the Agreement that will be varied by the arrangement; and
 - ii. How the arrangement will vary the effect of the terms; and
 - iii. How the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
5. States the day on which the arrangement commences.

23.4. The Company must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

- 23.5. The Company or Employee may terminate the individual flexibility arrangement;
1. By giving no more than 28 days written notice to the other party to the arrangement; or
 2. If the Company and the Employee agree in writing – at any time.

24. Consultation

- 24.1. This term applies if the Company:

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

24.2. *Major Change*

For a major change referred to in paragraph 23.1 a):

- (a) the Company must notify the relevant Employees of the decision to introduce the major change; and
- (b) subclauses 23.3 to 23.9 apply.

- 24.3. The relevant Employees may appoint a representative for the purposes of the procedures in this term.

- 24.4. If:
- (a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - (b) the Employee or Employees advise the employer of the identity of the representative;

the Company must recognise the representative.

- 24.5. As soon as practicable after making its decision, the Company must:

- (a) discuss with the relevant Employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the Employees; and
 - (iii) measures the Company is taking to avert or mitigate the adverse effect of the change on the Employees; and
- (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the Employees; and
 - (iii) any other matters likely to affect the Employees.

- 24.6. However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 24.7. The Company must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- 24.8. If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Company, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
- 24.9. In this term, a major change is likely to have a significant effect on Employees if it results in:
- (a) the termination of the employment of Employees; or
 - (b) major change to the composition, operation or size of the Company's workforce or to the skills required of Employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retrain Employees; or
 - (f) the need to relocate Employees to another workplace; or
 - (g) the restructuring of jobs.
- 24.10. *Change to regular roster or ordinary hours of work*
- For a change referred to in paragraph 23.1 b):
- (a) the Company must notify the relevant Employees of the proposed change; and
 - (b) subclauses 23.11 to 23.15 apply.
- 24.11. The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 24.12. If:
- (a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - (b) the Employee or Employees advise the employer of the identity of the representative;
- the Company must recognise the representative.
- 24.13. As soon as practicable after proposing to introduce the change, the Company must:
- (a) discuss with the relevant Employees the introduction of the change; and

(b) for the purposes of the discussion—provide to the relevant Employees:

- (i) all relevant information about the change, including the nature of the change; and
- (ii) information about what the Company reasonably believes will be the effects of the change on the Employees; and
- (iii) information about any other matters that the Company reasonably believes are likely to affect the Employees; and

(c) invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

- 24.14. However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 24.15. The Company must give prompt and genuine consideration to matters raised about the change by the relevant Employees.
- 24.16. In this term:
- relevant Employees means the Employees who may be affected by a change referred to in clause 21.1.

25. Redundancy

25.1. An Employee is made redundant where an Employee's employment is terminated at the Company's initiative:

1. 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 turnover of labour; or
2. 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

- 25.2. 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.

Where a reduction in Employees is required, the following steps will apply:

1. 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.
2. 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.

- 25.3. After all the above steps have been taken the company may implement forced redundancies. To ensure that the Company can continue to operate in the most productive and efficient manner all Employees from within the work area where a

surplus exists will be interviewed to determine the Employees to be retained or retrenched. The selection method for forced redundancies will take into consideration the following:

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

Severance payment

- 25.4. Except where clause 24.5 applies, when terminations of employment occur due to redundancy the Employees terminated are entitled to severance pay equal to three weeks' pay (at the rate that the Employee would have received if at work) for each completed year of service.

- 25.5. Regardless of length of employment, the minimum payment due to Employees under clause 24.3 is four weeks' pay.

25.6. Exemption

The Company is not liable for the payment in clauses 24.4 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 higher classification rate of pay than the Employee's previous position;
- c) That can be reasonably regarded as permanent; and
- d) Allows the Employee to reside in the same general locality as the Employee's previous residence

- 25.7. Despite anything in this clause, the Company may make application to the FWC to be granted relief from the obligation to make payment pursuant to clause 24.3.

26. Termination of Employment

- 26.1. An Employee may resign from his or her employment with the Company by giving one week's written notice to the Company.

- 26.2. Subject to clause 25.3, the Company may terminate the employment of a Full Time or Part Time Employee by giving the Employee four week's written notice or by payment by the Company in lieu of all or part of that notice.

- 26.3. 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 not extend past 6 months. 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

26.4. The period of notice to be given by the Company to Full Time or Part Employee's under clause 25.2 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.

26.5. The Company may terminate the employment of a Casual Employee by giving 6 hours' notice of termination or payment by the Company in lieu of that notice.

26.6. 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.

27. Accident Pay

27.1. 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

27.2. 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;

whichever event shall first occur, even if the Company terminates the Employee's employment within the period.

Meaning of Accident Pay

27.3. 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 normal weekly wage plus Bonus.
- b) For a further period of 39 weeks, a weekly payment representing 80% of the Employee's normal weekly wage 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.

Pro-rata payments

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

When not entitled to payment

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

Redemptions

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

Damages independent of the Acts

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

Calculation of period

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

Occupational Health & Safety and Workers' Compensation

- 27.9. 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.

28. Stand down

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

- a) Refusal of duty; or
- b) Neglect of duty; or
- c) Misconduct; or
- d) if the Employee cannot be usefully employed in the Employee's usual classification because of industrial action.

- 28.2. In addition to the circumstances outlined above, the Company may stand down an Employee during any period in which the Employee cannot usefully be employed because of one of the following circumstances:

- a) a break down of machinery or equipment that has lasted for more than four consecutive working days, if the Company cannot reasonably be held responsible for the break down; or
- b) a stoppage of work for any cause that has lasted for more than fourteen consecutive working days for which the Company cannot reasonably be held responsible.

Operations Services Production Agreement

Record of Meeting

- 28.3. 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.
- 28.4. 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.
- 28.5. Any Employee stood down under this clause will continue to have their service recognised for the purposes of "continuous service".
- 28.6. Employees stood down, or stood aside, pending an investigation will be paid as if at work during the investigation.

29. Transport and Accommodation

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

Transport

- 29.2. For employees who commute, the company will provide transport outside working hours in line with the nominated commute work patterns (at a reduced rate – last Maintenance EA meeting it was discussed offering cheaper flights to Employees – insert relevant policy/ wording).
- 29.3. 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).
- 29.4. Employees are required to arrive at the nominated time(s) and location(s) (determined by the company) to access the company-supplied transport.
- 29.5. 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.

Accommodation

- 29.6. 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.
- 29.7. Employees who reside in the local community will be paid an allowance of \$120.00, per week.

30. Inclement Weather

- 30.1. Payment and release from work arrangements in the event of severe wet weather or a cyclone are dealt with in the relevant mine's policy, as amended from time to

time. However, as a minimum, where the SSE decides to shut down the Mine in the event of a cyclone or other severe wet weather event occurring at the Mine site within an impending 24 hour period, all employees rostered on to work will be given the option to be sent home or to camp where safe to do so, at no loss of earnings for the remainder of their rostered shift and until the Mine is re-opened.

- 30.2. Payment in relation to clause 26.1 will not extend past 5 consecutive rostered shifts and will also apply to circumstances where employees cannot access the mine (due to severe weather– e.g., flooded roads) using their normal mode and route of travel.

31. Training

- 31.1. The Company shall provide the relevant training and payment for the renewal of statutory licenses for all Employees required to utilise such licenses in the course of their normal employment with the Company.
- 31.2. 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.
- 31.3. 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.

32. Work Clothing

- 32.1. On commencement of employment, an Employee is entitled to an initial work clothing allocation as follows:
- a) Five shirts and five pairs of trousers;
 - b) One pair of safety boots;
 - c) One winter style jacket and one lighter style jacket (Jackets); and
 - d) Prescription safety glasses as required (including spare glasses).
- 32.2. Items listed in this clause will be replaced on a fair wear and tear basis. However, Employees will be entitled to an additional five 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.
- 32.3. 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.

33. Medicals

- 33.1. 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.

- 33.2. 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.
- 33.3. The Company will ensure that all necessary costs are met prior to an Employee attending a Statutory Health Assessment.

34. Representatives

- 34.1. An Employee may nominate a representative of their choice to represent them in relation to matters arising under this Agreement or in the course of their employment. That representative may change from time to time.
- 34.2. 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.

Operations Services Production Agreement

Record of Meeting

BHP

Appendix 4.1

New proposal tabled by an employee Bargaining Representative

Email from an Employee Bargaining Representative dated 7 April 2022

Bryan, Lucy

From: Brodie Allen <[REDACTED]>
Sent: Thursday, 7 April 2022 11:52 AM
To: Bryan, Lucy
Cc: Allen, Brodie
Subject: Sick leave petition - EBA OS Production
Attachments: BHP OS SL petitions.pdf

Lucy, please find attached copies of a petition circulated amongst OS Production employees relating to the payout of accrued Sick leave upon termination or the ability to cash out accruals during service. The fact that 99% of all employees who were canvassed, indicated their support for this issue by signing the petition is indicative of the importance workers place upon of this issue. I would appreciate this matter being included in the agenda for the next EA meeting on April 12th 2022

Regards,

Brodie Allen.

M: [REDACTED]

Appendix 4.2

New proposal tabled by an employee Bargaining Representative

Attachment to email from an Employee Bargaining Representative dated 7 April 2022

BHP Operations Services

We the undersigned, being employees of BHP Operations Service (MCAP & ACPM) are aware that absenteeism impacts upon our ability to access annual and Long Service Leave, as well as our ability to achieve the full potential of our deployment. To assist with these concerns, we are asking BHP to reconsider the current policy relating to the forfeiture of any accrued Sick Leave on termination and the inability to cash out in service. We believe that the negotiation of an EA for Operations Service workers presents the ideal circumstance to deliver this change to the benefit of all parties and therefore call upon BHP to engage with our representatives to this end.

Note: There followed 114 pages of signatures, however for privacy reasons we will not publish personal employee details (home addresses).