

Date 26 May 2022
Location Videoconference via Webex
Attendees See Appendix 1
Meeting Open: 10am (AEST)
Meeting Close: 11:30am (AEST)

Agenda

1. Introduction & agenda
2. Responses to proposals from previous bargaining meeting
3. Bargaining representatives' positions
4. Logistics for next meeting

Summary

Introduction & Agenda	OS shared the agenda for the meeting.	
Responses to proposals from previous bargaining meeting	OS responded to the revised proposals tabled by the CFMMEU at the last bargaining meeting (set out below).	
	Amended CFMMEU Proposal	Response
	Title, coverage and scope	<p>OS MCAP Pty Ltd (OS) has a national business in production works across Minerals Australia. OS' position has not changed, and OS does not agree to product-based agreements.</p> <p>OS presses a single national Agreement for the workforce that covers production business across Australia to focus on a single discipline and best enables OS to provide the greatest consistency and certainty to customers.</p> <p>For these reasons, OS does not accept this proposal and presses the whole of its proposed draft clause 2.</p>
	Incorporating reference to policies in clause 3	<p>With reference to policies, those referred to (but not incorporated in) the Agreement:</p> <ol style="list-style-type: none"> 1. Apply to other OS or BHP employees which are not covered by the proposed scope of the Agreement. 2. Provide benefits that are significantly above competitors 3. Provide benefits that are significantly above the reference awards 4. Allow OS to make changes as circumstances change. <p>The proposal to include policies in the Agreement prevents OS (or BHP) from amending policies in response to changes in the market. That's a flexibility OS does not agree to remove.</p> <p>Further OS presses its drafting of clause 3 and does not accept the drafting proposed by the CFMMEU in clause 3.1.</p> <p>For these reasons, OS does not accept this proposal and presses the whole of its proposed draft clause 3.</p>
	Term of Agreement	<p>OS maintains its current position for a four-year term Agreement as permitted by the <i>Fair Work Act 2009 (Cth)</i> to meet its objective of making a simple, safety net Agreement that will provide the greatest certainty for Employees.</p> <p>For these reasons, OS does not accept this proposal.</p>
	Type of Employment	<p>OS partially accepts the union's proposed drafting the Part Time clause and proposes to amend the current draft as follows:</p> <p><i>5.3 A Part Time Employee is an Employee who</i></p> <p>(a) <i>is not a Casual Employee and is employed to work less than the following number of ordinary hours per week:</i></p> <p style="padding-left: 40px;">(1) <i>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</i></p> <p style="padding-left: 40px;">(2) <i>in the case of any other Employee – an average of 35 ordinary hours per week, averaged over their roster cycle.</i></p> <p>(b) <i>has reasonably predictable hours of work; and</i></p> <p>(c) <i>receives, on a pro rata basis, equivalent pay and conditions to those of Full Time Employees who do the same kind of work.</i></p> <p>OS believes OS' proposed draft clause as currently drafted (including the new Part Time clause) covering full time and part time employees, fairly reflects the industry conditions for:</p> <ul style="list-style-type: none"> • The potential needs of OS' customers in current deployment locations; and • Competitors <p>OS' proposed draft clause as presently drafted does not leave those employees worse off compared to the reference awards – being the <i>Black Coal Mining Industry Award</i> and <i>Mining Industry Award</i>.</p> <p>OS does not agree to the wording requiring OS to nominate a mine as the ordinary work location for an employee. This will place restrictions on offering employees ongoing mobile employment.</p> <p>With reference to casual employment, OS maintains its commitment to providing permanent jobs wherever possible - OS does not currently employ any casual employees. However, OS wants to retain the flexibility its competitors have to employ casuals should it be appropriate to do so in the future.</p> <p>Accordingly, OS does not accept the unions' proposals.</p>

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	Duties	<p>The unions' amendment to its drafting of clause 6.1 does not make the proposed clause any clearer. It does not meet OS' objective of making a simple, safety net Agreement that will provide the greatest certainty for Employees.</p> <p>The CFMMEU asked for clarification of OS' position on the union's proposal relating to deskilling which OS says is too broad and ambiguous.</p> <p>OS is aware of disputes raised under another BHP EA alleging 'deskilling'. The Fair Work Commission has commented on the ambiguity of the term. That has not been resolved.</p> <p>OS considers that the union is using the proposed clause to prevent multi-skilling. OS doesn't wish to include a term that does either.</p> <p>It is important for OS to retain the right to allocate work in a simple uncomplicated way so OS can meet dynamic changes in customers' needs.</p> <p>Accordingly, OS does not accept this proposal.</p>
	Wages	<p>With regards to classifications, OS believes its clause provides a simple classification structure that:</p> <ol style="list-style-type: none"> 1. Adequately captures employees' classifications. 2. Reflects the multi-skilling OS wants to offer employees and customers; and 3. Avoids multiple discrete classifications that would increase payroll complexity and is not aligned with OS' objectives for an agreement. <p>With regards to including current salary rates in the Agreement, OS seeks to make a simple, safety net Agreement by not including specific and numerous rosters and salaries. OS' proposed draft clause:</p> <ul style="list-style-type: none"> • reflects the size and scale of the OS business today, working across several different locations on many different roster arrangements. Attempting to capture all current arrangements would be too complex and reduce flexibility (for both OS and OS employees) in the future. • does not leave employees worse off compared to the reference awards – being the <i>Black Coal Mining Industry Award</i> and <i>Mining Industry Award</i>. <p>Further, OS is required to meet Award minimum wage rates. OS' draft proposed Agreement proposes an Above Award Guarantee of 105%. There is no single salary (outside of ensuring we meet the Award minimums) that is paid to all employees.</p> <p>For these reasons, OS does not accept the union's proposal.</p>
	Overpayments and Underpayments	<p>OS partially accepts the union's proposal regarding overpayments and proposes the following amended clause 7.12 be inserted in the agreement:</p> <p><i>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 authorised by the Employee to deduct and retain any overpayments from the Employee's pay, including from termination payments, to the fullest extent permitted by law and section 324 of the Fair Work Act.</i></p> <p>OS maintains that it is not necessary to have Agreement provisions for alleged underpayments and does not accept this proposal.</p>
	Bonus	<p>The Short-Term Incentive (STI) Scheme is a BHP Scheme which provides benefits and flexibilities for individual recognition, and which can respond to market and best practice developments. The proposal to include details of the STI Scheme in the Agreement prevents OS from amending the Scheme, should BHP decide to or need to amend the scheme for market or best practice changes.</p> <p>For these reasons, OS does not accept this proposal.</p>
	Overtime	<p>OS partially accepts the union's proposal regarding overtime and proposes the following clauses be inserted below the current clause 7.5:</p> <p><i>7.6 When un-rostered overtime work is necessary it must, wherever reasonably practicable, be arranged so that Employees have at least 10 consecutive hours off work between work on successive working days.</i></p> <p><i>7.7 In calculating overtime for the Above Award Guarantee, each shift is to be treated separately.</i></p> <p>Additionally, OS has drafted a further clause that deals with call backs.</p> <p><i>7.8 Call Back</i></p> <p><i>(a) An Employee who is recalled to work overtime after leaving the workplace (whether the Employee was notified before or after leaving the workplace) will be paid for at least four hours work at the rate under clause 7.4, for each time the Employee is recalled.</i></p> <p><i>(b) The provisions of sub-clause (a) do not apply in the following cases:</i></p> <ol style="list-style-type: none"> <i>(1) where it is customary for an Employee to return to the workplace to perform a specific job outside the Employee's ordinary working hours;</i> <i>(2) where the overtime is continuous (subject to a reasonable meal break) with the end or start of ordinary working time; or</i> <i>(3) to a second or subsequent call out if that call out is made before completion of the first call-out.</i> <p><i>(c) Overtime worked on a call-back of less than four hours will not be regarded as overtime for the purposes of a rest period if the actual time worked is less than four hours on any recall or on each of any recalls.</i></p>
	Superannuation	<p>With reference to the CFMMEU's proposal regarding Mine Super being the default fund, OS notes that it already has available to employees a Company default fund.</p> <p>In any event, the superannuation stapling reforms make a default fund less relevant, and employees can choose to nominate Mine Super as their preferred fund.</p> <p>For these reasons, OS does not accept this proposal.</p>
	Hours of Work and Rosters	<p>With regards to including current rosters in the Agreement, OS is seeking to make a simple safety net agreement, not including multiple rates, rosters and salaries.</p> <p>OS' proposed clause as presently drafted reflects the size and scale of the OS business today and that OS works</p>

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		<p>across several different locations on different roster arrangements. Attempting to capture all current arrangements would be too complex and reduce flexibility (for both OS and employees) in the future.</p> <p>Introducing new rosters only by agreement may limit OS' flexibility to respond to changes in the market, potentially making OS uncompetitive and less appealing to the Assets where OS is deployed. Such restrictions may also hinder OS 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.</p> <p>Specifying start and finish places or requiring start and finish places to be by agreement is misaligned with the OS model in that employees are employed to work within a hub, rather than a particular site or designated 'ordinary location'. Specifying start and finish places may also reduce OS' flexibility to meet operational requirements for the sites at which OS is (or may be) deployed.</p> <p>For these reasons, OS does not accept these proposals.</p>
	Crib Breaks	<p>OS' previous response proposed some wording on this clause which was rejected.</p> <p>OS expects that work will be performed during working hours, other than in meal and rest breaks.</p> <p>Locations for breaks and any travel time to the break location depend on work location and are best managed by supervisors and their teams on site.</p> <p>As such, OS does not agree to include additional entitlements to paid travel time to break locations in the Agreement.</p>
	Public Holidays	<p>OS' position has not changed. OS pays market competitive salaries, which the 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. In addition, OS works 24/7 rosters. To meet our plans and commitments to our customers, we need rostered shifts to continue over Christmas and Boxing Day.</p> <p>For these reasons, OS does not accept this proposal.</p>
	Annual Leave	<p>With regards to deduction of leave based on ordinary hours, OS works multiple different rosters, across multiple locations. Some of these rosters deduct leave using ordinary hours, and others using actual hours. To reconfigure this would involve significant administrative burden and effort.</p> <p>For these reasons, OS does not accept this proposal.</p>
	Personal/Carer's Leave	<p>At this stage, OS is agreeable to amending its personal leave clause for personal leave to be paid out on termination of employment in accordance with Award provisions where the Award would otherwise apply to an employee (but for the Agreement applying).</p> <p>However, OS continues to consider whether it can agree to some form of cashing out of personal leave in other circumstances such as in-service or on termination of employment (where not already covered by an Award).</p>
	Unpaid Leave	<p>The OS Employee Handbook provides that where employees have exhausted paid leave entitlements, or where special circumstances exist, the Company may approve unpaid leave at its discretion.</p> <p>As this is a matter dealt with by policy, OS does not agree to this proposal.</p>
	Compassionate Leave	<p>OS maintains their position and current drafting.</p> <p>As mentioned before, the OS Employee Handbook provides that where employees have exhausted paid leave entitlements, or where special circumstances exist, the Company may approve unpaid leave at its discretion.</p> <p>OS does not accept this proposal.</p>
	Parental Leave	<p>With reference to policies, those referred to (but not incorporated in) the Agreement:</p> <ol style="list-style-type: none"> 1. Apply to other OS or BHP employees who are not covered by the proposed scope of the Agreement. 2. Can provide benefits that are significantly above competitors 3. Provide benefits that are significantly above the reference awards 4. Allow OS to make changes as circumstances change <p>The proposal to include policies in the Agreement also prevents OS from amending policies in response to changes in the market. That's a flexibility OS does not wish to remove.</p> <p>For these reasons, OS does not accept this proposal.</p>
	Long Service Leave	<p>OS has proposed a simple draft long service leave clause which provides the entitlement in accordance with applicable legislation.</p> <p>It reflects the NES and industry conditions of competitors.</p> <p>OS agrees in principle to add a new clause at 15.3 which outlines "<i>Long service leave is paid at an Employee's Annual Salary rate</i>".</p> <p>Other than the amendments OS has made at 15.3, OS does not agree to any further changes to this clause.</p>
	Community Service Leave	<p>OS maintains their position and current drafting.</p> <p>As mentioned before, the OS Employee Handbook provides that where employees have exhausted paid leave entitlements, or where special circumstances exist, the Company may approve unpaid leave at its discretion.</p> <p>OS does not accept this proposal.</p>
	Family and Domestic Violence Leave	<p>With reference to policies, those referred to (but not incorporated in) the Agreement:</p> <ol style="list-style-type: none"> 1. Apply to other OS or BHP employees which are not covered by the proposed scope of the Agreement. 2. Provide benefits that are significantly above competitors 3. Provide benefits that are significantly above the reference awards 4. Allow OS to make changes as circumstances change. <p>The proposal to include policies in the Agreement also prevents OS from amending policies in response to changes in the market. That's a flexibility OS does not wish to remove.</p> <p>For these reasons, OS does not accept this proposal.</p>
	Disputes Procedure	<p>The CFMEU proposal would reduce flexibility for OS to address matters internally. OS believes the clause as drafted balances the rights of the employer and employee, sets out a fair issue resolution process and is consistent with OS' objective to deal with matters at the local level to the maximum extent possible. For these</p>

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		reasons, OS does not accept this proposal.
	Individual Flexibility Term	In line with OS' objective of seeking to make a simple, safety net agreement with employees, in the current draft OS has adopted the model clause as set out in the <i>Fair Work Act 2009</i> . Accordingly, OS does not accept this proposal.
	Consultation	OS believes the clause as currently drafted adequately deals with consultation by referring to the process to be followed that is prescribed in model consultation term in the <i>Fair Work Regulations 2009</i> . Accordingly, OS does not accept this proposal.
	Redundancy	<p>The CFMMEU proposal conflicts with the OS business and employment model and point of hire approach which provides as much certainty as possible to employees about ongoing employment and enables OS to place employees at an alternate site in the event of changes to resourcing at sites within their hub. The CFMMEU proposal also adds unnecessary cost by mandating VRs where employment and the need for the employee exists within the hub, and external to the hub if they desire.</p> <p>OS believes the clause as currently drafted adequately addresses redundancy including providing severance pay which is largely consistent with that proposed.</p> <p>For these reasons, OS does not accept this proposal.</p>
	Accident Pay	<p>OS is agreeable to including a clause to deal with Accident Pay.</p> <p><i>7.10 Without limiting clause 3.1, the Company has an Accident Pay Policy that may be amended by the Company from time to time Provided that accident pay for any Employee will not be less than the Employee would receive if an accident pay clause in a modern award applied to that employee, but for this agreement.</i></p> <p>OS has drafted wording to ensure Employees will not fall below the relevant reference Award. Otherwise, OS maintains its position that Accident Pay is addressed in a policy which provides for more generous provisions than that in the reference Awards.</p>
	Stand Down	<p>We have considered the drafting and have further drafting for your consideration. We propose the following stand down clause be inserted as a new clause 18 of the Agreement:</p> <p>18. STAND ASIDE AND STAND DOWN</p> <p><i>18.1 The Company can stand aside an Employee:</i> <i>a) With or without pay for full or partial refusal of duty; or</i> <i>b) With or without pay for neglect of duty; or</i> <i>c) With or without pay for misconduct, while it is being investigated.</i></p> <p><i>18.2 If the Company stands aside an Employee without pay for neglect of duty or misconduct and the Company determines after an investigation that the Employee did not neglect their duty or did not engage in any misconduct (as the case may be), the Company will pay the Employee the full amount of remuneration they would have received in respect of the period for which they were stood aside.</i></p> <p><i>18.3 The Company may stand down an Employee without pay during a period in which the Employee cannot usefully be employed because of one of the following circumstances:</i> <i>a) Industrial action</i> <i>b) A breakdown of machinery or equipment if the Company cannot reasonably be held responsible for the break down; or</i> <i>c) An interruption to work for any cause for which the Company cannot reasonably be held responsible.</i></p> <p><i>18.4 Employees who have been stood down under the circumstances described in clause 18.3 above may request to take accrued annual or long service leave entitlements. Approval is at the Company's discretion.</i></p> <p><i>Any Employee stood down under clause 18.3 will continue to have their service recognised for the purposes of "continuous service".</i></p>
	Transport and Accommodation	<p>The self-funded flights which have been recently made available to OS employees to fly in/out of Moranbah at a set price are on flights which are managed by BMA, not OS. This means OS is unable to guarantee there will not be changes to this arrangement in future.</p> <p>OS is currently managing self-funded flights to/from Emerald, and this flight is operated at OS cost.</p> <p>OS wishes to retain discretion to amend these arrangements. For example, this could include:</p> <ol style="list-style-type: none"> 1. In the event of BMA making a change which impacts OS. 2. Changing market conditions and ongoing reviews in line with the budget cycle. 3. Based on flight availability. <p>With respect of a residential allowance in lieu of utilising village accommodation, supply of village accommodation forms part of the contractual arrangement between OS and the Assets. OS is not in a position to 'liquidate' the costs associated with village accommodation and pay this to employees as an allowance.</p> <p>Further, it is a fundamental feature of the OS model that employees are able to live where they choose. With this in mind, OS does not agree to provide an allowance for employees who elect to live in a particular location.</p>
	Inclement Weather	<p>Mines at which OS operates have inclement weather arrangements addressed via safety and health management systems. Inserting Agreement provisions adds inflexibility to existing processes that impact on OS' ability to respond to an inclement weather event based on its individual circumstances. This primarily includes having employees who are at work during inclement weather complete alternative tasks such as training.</p> <p>Where employees cannot get to work due to inclement weather, they can use accrued annual leave if they desire. For these reasons, OS does not accept this proposal.</p>
	Training	<p>OS proposes new drafting to address the overtime claim where an employee is directed to undertake training outside of their normal shift pattern.</p> <p><i>7.9 Where the Company directs an Employee to undertake training outside of the Employee's normal shift patterns, either:</i></p> <p>(a) The Employee will be given time off in lieu for the period of the training delivery; or</p>

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		(b) The Company may elect to make payment to the Employee in accordance with Overtime rates for the period of the training delivery. With regards to the remainder of the claim, this proposal is not in line with OS’ objective of making a simple, safety net agreement. OS has a custom and practice of reimbursing training and license costs where the training and / or license is required for an employee to fulfil their role. OS considers this custom and practice is working, and therefore is not required in the proposed Agreement. Accordingly, OS does not accept this proposal.		
	Work Clothing	OS’ position has not changed. This matter is 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 as a result of their work clothing getting excessively soiled in the course of their role, they should speak with their Line Leader. For these reasons, OS does not accept this proposal.		
	Medicals	This is a matter dealt with in accordance with the applicable state safety legislation where relevant. It does not need to be dealt with in the Agreement. For this reason, OS does not accept this proposal.		
	Representatives	OS’ draft proposed issue resolution procedure set out in clause 18 makes clear where an employee is entitled to a support person / representative. For matters outside of the issue resolution procedure in the proposed Agreement, employees are offered and entitled to have a support person (which may be a union representative) in appropriate circumstances. Subject to Right of Entry requirements where applicable OS recognises that union officials/delegates may act in the capacity of support person / representative. We consider this issue is already adequately provided for and, on this basis, OS does not accept this proposal.		
Discussion on bargaining representatives proposals	Employee Bargaining Representatives <ul style="list-style-type: none">• Discussion on proposal to cash out personal (sick) leave clause and the recent employee petition.• Proposal for more regular bargaining meetings.• Concerns around competitive jobs market and retention at OS.• Discussion that Public Holidays is a critical claim to employees. OS should seek to find volunteers to work on public holidays (Christmas and Boxing Day only).• Concerns that OS is not living up to it Employee Value Proposition – lack of mastery and critical skills.• Shared some concerns about employee awareness of the OS Handbook and the policies.• Seeking a more comprehensive agreement that includes the OS Employee Handbook. CFMMEU <ul style="list-style-type: none">• Noted they were disappointed with OS’ responses and that in their view, it appears OS does not want to get an Agreement voted up.• The CFMMEU has moved on a number of claims/proposals of BHP OS and that has not been reciprocated by BHP OS.• CFMMEU has nothing further to add in response to OS’ position.• CFMMEU believes OS’ position on a number of claims are already provided for under the relevant Modern Award.• CFMMEU believes OS’ current proposed OS Production Enterprise Agreement will not be voted up by employees. AWU <ul style="list-style-type: none">• Echoed CFMMEU sentiment that they were generally disappointed with OS’ responses.• The AWU is looking forward to Labour Government passing the new <i>Same Job, Same Pay Bill</i> in Parliament.• AWU requested a copy of the PDS provided to new BHP OS employees on commencement in relation to Plum.• AWU believe that under Plum, some BHP OS employees are \$50,000 worse off compared to an Industry Superannuation Fund based on an assessment completed approximately 2 years ago.			
Next Meeting	The next OS Production bargaining meeting has been scheduled for week commencing 20 June 2022.			
Actions	Action	Responsible	Date	
	Share information regarding BHP’s default superannuation fund	Lucy Bryan	20 June 2022	
	Confirm first aid requirements	Lucy Bryan	20 June 2022	
	Circulate updated draft of Operations Services Production Agreement.	Lucy Bryan	20 June 2022	

Appendix 1 – Attendance List

Attendance List	
Shane Roulstone	AWU QLD
Mitch Hughes	CFMMEU QLD
Danielle Annand	Employee Bargaining Representative
Brodie Allen	Employee Bargaining Representative
Drew Watson	Employee Bargaining Representative
Tim Witney	Manager Production
Lucy Bryan	Principal Employee Relations
Reece Heald	Specialist Employee Relations

Appendix Two: Operations Services Production Agreement Bargaining Overlay as at 26 May 2022

Note: Proposals and responses highlighted in green represent an amended proposal or response when compared to the previous bargaining overlay document published on 25 November 2021.

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

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
Title			
1	This agreement will be known as the <i>Operations Services Production Agreement</i> ("Agreement").	This enterprise agreement will be known as the Operations Services Production Coal Agreement ("Agreement")	<p>CFMMEU wants: a reference to coal.</p> <p>OS Response: OS MCAP Pty Ltd (OS) has a national business in production works across Minerals Australia. OS' position has not changed, and OS does not agree to product-based agreements.</p>
Coverage			
2.1	Subject to clause 2.2, this Agreement shall cover: (d) OS MCAP Pty Ltd (ACN 626 224 655) ("the Company"); and (e) 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").	<p>This Agreement will cover and apply to:</p> <p>(a) OS MCAP Pty Ltd (ACN 626 224 655)</p> <p>(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</p> <p>(c) The Unions provided each one becomes covered by this Agreement pursuant to section 183 of the Fair Work Act 2009 (Cth).</p>	<p>CFMMEU want: a national Coal Production Agreement.</p> <p>OS Response: OS presses a single national Agreement for the workforce that covers production business across Australia to focus on a single discipline and best enables OS to provide the greatest consistency and certainty to customers.</p> <p>For these reasons, OS does not accept this proposal and presses the whole of its proposed draft clause 2.</p>
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.		<p>CFMMEU: Not supportive of site specific agreements. This should be the agreement that applies wherever OS is deployed.</p> <p>AWU: Seeking wording to guarantee any site specific agreement would not see Employees worse off.</p> <p>OS Response: OS maintains inclusion of this clause to allow for the flexibility to make site specific enterprise agreements where necessary.</p>
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).		<p>OS Response: With reference to policies, those referred to (but not incorporated in) the Agreement:</p> <p>5. Apply to other OS or BHP employees which are not covered by the proposed scope of the Agreement.</p> <p>6. Provide benefits that are significantly above competitors</p> <p>7. Provide benefits that are significantly above the reference awards</p> <p>8. Allow OS to make changes as circumstances change.</p>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
			<p>The proposal to include policies in the Agreement prevents OS (or BHP) from amending policies in response to changes in the market. That's a flexibility OS does not agree to remove.</p> <p>Further OS presses its drafting of clause 3 and does not accept the drafting proposed by the CFMMEU in clause 3.1.</p> <p>For these reasons, OS does not accept this proposal and presses the whole of its proposed draft clause 3.</p>
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.	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).	CFMMEU: want removal of "subject to clause 2.2"
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.	<p>All Unions: Seeking a 3 year term</p> <p>AWU: seeking the requirement to commence bargaining 6 months before nominal expiry commencing renegotiation</p> <p>OS response: OS maintains its current position for a four-year term Agreement as permitted by the Fair Work Act 2009 (Cth) to meet its objective of making a simple, safety net Agreement that will provide the greatest certainty for Employees.</p> <p>For these reasons, OS does not accept this proposal.</p>
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.	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.	<p>CFMMEU: Proposed that if OS agrees to a 35-hour week, it will agree to including references to casual employment within the Agreement.</p> <p>OS response:</p> <p>a. OS believes OS' proposed draft clause as currently drafted covering full time and part time Employees, fairly reflects the industry conditions for:</p> <ul style="list-style-type: none">The potential needs of OS' customers in current deployment locationsCompetitors <p>b. OS' proposed draft clause as presently drafted does not leave those Employees worse off compared to the reference awards – being the Black Coal Mining Industry Award and Mining Industry Award.</p> <p>c. OS does not agree to wording requiring OS to nominate a mine as the ordinary work location for an Employee. This will place restrictions on offering Employees ongoing mobile employment.</p> <p>d. With reference to casual employment, OS maintains its commitment to providing permanent jobs wherever possible – OS does not currently employ any casual employees.</p>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
			<p>However, OS wants to retain the flexibility its competitors have to employ casuals should it be appropriate to do so in the future.</p> <p>e. Accordingly, OS does not accept the unions' 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>	<p>5.2</p> <p>A full-time Employee is an Employee who has been engaged to work 35 ordinary hours per week, averaged over a roster cycle.</p>	<p>All unions: want reference to 35 hours per week, not 38 hours.</p> <p>OS Response:</p> <p>a. OS believes OS' proposed draft clause as currently drafted covering full time and part time Employees, fairly reflects the industry conditions for:</p> <ul style="list-style-type: none"> The potential needs of OS' customers in current deployment locations Competitors <p>b. OS' proposed draft clause as presently drafted does not leave those Employees worse off compared to the reference awards – being the <i>Black Coal Mining Industry Award</i> and <i>Mining Industry Award</i>.</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>5.3</p> <p>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>	<p>All unions: want reference to:-</p> <ul style="list-style-type: none"> proportional benefits and 35 hours not 38. <p>CFMMEU: want overtime for work in excess of agreed hours</p> <p>OS response</p> <p>a. OS believes OS' proposed draft clause as currently drafted covering full time and part time Employees, fairly reflects the industry conditions for:</p> <ul style="list-style-type: none"> The potential needs of OS' customers in current deployment locations Competitors <p>b. OS' proposed draft clause as presently drafted does not leave those Employees worse off compared to the reference awards – being the <i>Black Coal Mining Industry Award</i> and <i>Mining Industry Award</i>.</p> <p>c. OS has previously agreed to change part time employee provisions to guarantee that part time employees will be better off overall against the reference Awards.</p>
5.3 (b)	<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>(d) 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>		
5.5	<p>All time worked in excess of the hours as mutually arranged will be overtime.</p>	<p>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.</p>	
5.6	<p>A Casual Employee is an Employee who is engaged and paid as a Casual Employee.</p>	<p>5.6</p> <p>A Casual Employee is an Employee who is engaged and paid as a Casual Employee.</p>	

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
5.7 to 5.9	<p>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.</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>5.8 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.</p> <p>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.</p> <p>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.</p>	<p>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.</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>5.8 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.</p> <p>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.</p> <p>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.</p>	<p>All unions: all references to casual employment be removed from EA.</p> <p>CFMMEU: If OS accepts claims in CFMMEU proposed EA, unions are willing to drop opposition to casualls.</p> <p>OS position:</p> <p>a. With reference to casual employment, OS maintains its commitment to providing permanent jobs wherever possible – OS does not currently employ any casual employees. However, OS wants to retain the flexibility its competitors have to employ casualls should it be appropriate to do so in the future.</p> <p>b. Accordingly, OS does not accept this proposal.</p>
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.	6.1 Employees are required to undertake all duties as reasonably directed by the provided they are competent and authorised. The Company will not allocate work in a way that promotes deskilling	<p>All unions: want a reference to</p> <p>a. Work trained, authorised and assessed to perform</p> <p>b. No promoting deskilling</p> <p>CFMMEU: have asked for clarification on OS' position on the union's proposal relating to deskilling which OS says is too broad and ambiguous.</p> <p>OS position:</p> <p>a. The clause relating to deskilling is too broad and ambiguous.</p> <p>b. The unions' amendments to its drafting of clause 6.1 do not make the proposed clause any clearer. It does not meet OS' objective of making a simple, safety net Agreement that will provide the greatest certainty for our Employees.</p> <p>c. With reference to deskilling being ambiguous, OS is aware of disputes raised under another BHP EA alleging 'deskilling'. The Fair Work Commission has commented on the ambiguity of the term deskilling. That matter has not been resolved.</p> <p>d. OS considers that the union is using the proposed clause to prevent multi-skilling. OS does not wish to include a term that does either.</p>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties						
			<div>e. It is important for OS to retain the right to allocate work in a simple, uncomplicated way so OS can meet dynamic changes in customers' needs.</div> <div>Accordingly, OS does not accept this proposal.</div>						
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.	6.2 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.	<div>CFMMEU wants to:</div> <div><div>a. delete reference to training others; and</div><div>b. include wording for notice of two weeks when training is away from their ordinary work location as defined in union scope clause.</div><div>c. include wording for payments when training is away from work location</div></div> <div>AWU wants to:</div> <div><div>a. limit training to 'other OS employees'</div></div> <div>OS Response:</div> <div><div>a. Its position on a simple and safety net structure of the agreement is already clear</div><div>b. We believe the current clause 6.2 adequately covers the provision of, and support for, training. In addition to this, OS 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.</div><div>c. We do not consider that there is any requirement for the proposed agreement to be more prescriptive than already drafted. For this reason, OS does not accept this proposal.</div></div>						
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.	6.3 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.	<div>CFMMEU:</div> <div><div>a. Do not agree to any transfer, anywhere.</div></div> <div>AWU:</div> <div><div>a. not opposed to transfers</div><div>b. provided there is adequate protection for Employees (ie by agreement)</div></div> <div>OS Response:</div> <div><div>a. The OS business model and our point of hire approach enables OS to transfer Employees 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.</div><div>b. 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.</div><div>c. For the reasons outlined above, OS does not accept this proposal.</div></div>						
6.4	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></td><td></td><td></td></tr></table>	Operation Coverage	Classification	Description				6.5 Trainees and Apprentices may be employed by the Company under this Agreement. 7. Wages	<div>OS Response:</div> <div>With regards to classifications, OS believes its clause provides a simple classification structure that:</div> <div>1. Adequately captures employees' classifications.</div>
Operation Coverage	Classification	Description							

Clause No.	Proposed OS Production Agreement			CFMMEU Proposed Agreement	Status of Bargaining Parties						
	<table><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>	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.		<p>7.1 Classification Structure</p> <p>Employees covered by this agreement will be paid an annualized salary according to the following classifications:</p> <ul style="list-style-type: none">• 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)	<p>2. Reflects the multi-skilling OS wants to offer employee and customers; and</p> <p>3. Avoids multiple discrete classifications that would increase payroll complexity and is not aligned with OS’ objectives for an agreement.</p> <p>With regards to including current salary rates in the Agreement, OS seeks to make a simple, safety net Agreement by not including specific and numerous rosters and salaries. OS’ proposed draft clause:</p> <ul style="list-style-type: none">• reflects the size and scale of the OS business today, working across several different locations on many different roster arrangements. Attempting to capture all current arrangements would be too complex and reduce flexibility (for both OS and OS employees) in the future.• does not leave employees worse off compared to the reference awards – being the <i>Black Coal Mining Industry Award</i> and <i>Mining Industry Award</i>. <p>Further, OS is required to meet Award minimums wage rates. OS’ draft proposed Agreement proposes an Above Award Guarantee of 105%. There is no single salary (outside of ensuring we meet the Award minimums) that is paid to all employees.</p> <p>For these reasons, OS does not accept the union’s proposal.</p>
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 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</p>	<p>7.2 Annual Increases</p> <p>During the life of the Agreement, the rates of pay will be increased in the first full pay period following each year anniversary of the commencement date as follows:</p> <p>1st Anniversary – 2%</p> <p>2nd Anniversary – 2%</p> <p>7.3 Rates</p> <p>Employees covered by this agreement will be paid the following rates: (MEU proposed that the Company insert what they current pay into the draft document as a starting point).</p>		<p>CFMMEU:</p> <p>a. Wage increases of 2% on commencement and each anniversary</p> <p>b. Current salaries in the Agreement as a starting point.</p> <p>AWU: Proposes to:</p> <p>a. 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).</p> <p>b. Minimum yearly increases</p> <p>Employee Bargaining Representative: Seeking</p> <p>a. Minimum yearly increases of 3%, 3% and 4%</p> <p>OS Response:</p> <p>1. The inclusion of salary rates:</p> <p>a. With regards to including current salary rates in the Agreement, OS seeks to make a simple, safety net Agreement by not including specific and numerous rosters and salaries. OS’ proposed draft clause:</p> <ul style="list-style-type: none">• reflects the size and scale of the OS business today, working across several different locations on many							

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
	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>different roster arrangements. Attempting to capture all current arrangements would be too complex and reduce flexibility (for both OS and OS employees) in the future.</p> <ul style="list-style-type: none"> • does not leave employees worse off compared to the reference awards – being the <i>Black Coal Mining Industry Award</i> and <i>Mining Industry Award</i>. <p>b. Further, OS is required to meet Award minimum wage rates. OS' draft proposed Agreement proposes an Above Award Guarantee of 105%. There is no single salary (outside of ensuring we meet the Award minimums) that is paid to all Employees.</p> <p>c. Its position on a simple and safety net structure of the agreement is already clear</p> <p>d. OS 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</p> <p>e. 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>f. Employees can access their contract of employment to understand their individual salary and any applicable allowances including night shift loading that might apply.</p> <p>2. OS position on wage increases is:</p> <p>a. 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.</p> <p>b. All OS 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.</p>
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.		
		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.	<p>OS 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 CFMMEUs proposed clause 10.1. Accordingly, OS does not accept this proposal.</p>
		<p>8.3. In calculating overtime each shift is to be treated separately.</p> <p>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.</p>	<p>OS response:</p> <p>OS partially accepts the union's proposal regarding overtime and proposes the following clauses be inserted below current clause 7.4:</p> <p>7.5 When un-rostered overtime work is necessary it must, wherever reasonably practicable, be arranged so that</p>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
			<p>Employees have at least 10 consecutive hours off work between work on successive working days</p> <p>7.6 In calculating overtime for the Above Award Guarantee, each shift is to be treated separately.</p> <p>CFMMEU clarified that each <u>shift</u> is to be treated separately</p> <p>OS Response: OS considers that clause 7.4 adequately captures how unrostered overtime is calculated. Accordingly, OS does not accept this proposal.</p>
7.7	<p>7.7 Call Back</p> <p>(d) An Employee who is recalled to work overtime after leaving the workplace (whether the Employee was notified before or after leaving the workplace) will be paid for at least four hours work at the rate under clause 7.4, for each time the Employee is recalled.</p> <p>(e) The provisions of sub-clause (a) do not apply in the following cases:</p> <p>(4) where it is customary for an Employee to return to the workplace to perform a specific job outside the Employee's ordinary working hours;</p> <p>(5) where the overtime is continuous (subject to a reasonable meal break) with the end or start of ordinary working time; or</p> <p>(6) to a second or subsequent call out if that call out is made before completion of the first call-out.</p> <p>(f) Overtime worked on a call-back of less than four hours will not be regarded as overtime for the purposes of a rest period if the actual time worked is less than four hours on any recall or on each of any recalls.</p>	<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> <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>OS Response: OS has drafted a clause that deals with call backs.</p>
7.8	<p>7.8 Where the Company directs an Employee to undertake training outside of the Employee's normal shift patterns, either:</p> <p>(c) The Employee will be given time off in lieu for the period of the training delivery; or</p> <p>(d) The Company may elect to make payment to the Employee in accordance with Overtime rates for the period of the training delivery.</p>	<p>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.</p> <p>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.</p>	<p>[ER LEGAL: Do we need a response here?]</p>
7.9	<p>Casual Employees will be paid as follows:</p> <p>(a) An hourly rate, plus an additional and distinct casual loading of 25% for each of their rostered hours of work.</p> <p>(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.</p> <p>(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%.</p> <p>(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</p>	<p>5.6 A Casual Employee is an Employee who is engaged and paid as a Casual Employee</p> <p>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 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>5.8 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</p>	<p>CFMMEU: has proposed that if OS agrees to a 35-hour week, it will agree to including references to casual employment within the Agreement.</p> <p>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</p> <p>OS response:</p> <ul style="list-style-type: none"> the clause as currently drafted to include casuals fairly reflects the industry conditions for OS' customers. To remove access to casuals across coal and non-coal operations may reduce OS' ability to be competitive.

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	<p>benefits and any other benefits of full time or part time employment.</p> <p>(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.</p> <p>(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.</p>	<p>employment. The Company must respond within four weeks of receiving such notice whether it consents or it refuses the election, but must not unreasonably refuse.</p> <p>5.9 Where it is agreed that the regular Casual Employee would 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>5.10 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.</p>	<ul style="list-style-type: none"> Accordingly, OS maintains inclusion of this clause
7.10	Remuneration will be paid at intervals determined by the Company (up to monthly), and is currently fortnightly in arrears.	7.5 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.	<p>CFMMEU:</p> <ul style="list-style-type: none"> maintain position that words 'up to monthly' be removed. <p>AWU:</p> <ul style="list-style-type: none"> Propose 'payment will be fortnightly in arrears' <p>OS response:</p> <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>
7.11	Payment will be by electronic funds transfer to a bank account in Australia nominated by the Employee.		
7.12	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.	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.	<p>OS Response:</p> <p>OS employees are eligible to participate in the OS Short Term Incentive (STI) Scheme. The STI Scheme is a BHP Scheme which provides benefits and flexibilities for individual recognition, and which can respond to market and best practice developments. The proposal to include details of the STI Scheme in the Agreement prevents OS from amending the Scheme, should BHP decide to or need to amend the scheme for market or best practice changes.</p> <p>With regards to the proposed retention bonus, OS seeks to understand how this proposal relates to STI. For example, is it in replacement of, in addition to, the current STI?</p> <p>Other than seeking further information regarding the proposed retention bonus.</p> <p>OS does not accept this proposal.</p> <p>AWU seek:</p> <ul style="list-style-type: none"> the detail on the Company Incentive Scheme to be included in the body of the Agreement. <p>CFMMEU propose:</p> <ul style="list-style-type: none"> to have the bonus policy included into the body of the

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
			<p>Agreement</p> <ul style="list-style-type: none"> however would require further discussion around the timing (ie requirement to be Employed by 01 September to qualify for payment) <p>OS Response: OS 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.</p>
7.13	<p>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 authorised by the Employee to deduct and retain any overpayments from the Employee's pay, including from termination payments, to the fullest extent permitted by law and section 324 of the <i>Fair Work Act 2009 (Cth)</i>.</p>	<p>7.6 Overpayments and Underpayments</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>OS position:</p> <p>a. OS partially accepts the union's proposal regarding overpayments and proposes the following amended clause 7.12 be inserted in the agreement:</p> <p><i>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 authorised by the Employee to deduct and retain any overpayments from the Employee's pay, including from termination payments to the fullest extent permitted by law and section 324 of the Fair Work Act 2009 (Cth).</i></p> <p>OS maintains that it is not necessary to have Agreement provisions for alleged underpayments and does not accept this proposal.</p>
7.14	<p>Without limiting clause 3.1, the Company has an Accident Pay Policy that may be amended by the Company from time to time Provided that accident pay for any Employee will not be less than the Employee would receive if an accident pay clause in a modern award applied to that employee, but for this agreement.</p>	<p>27 Accident Pay</p> <p>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:</p> <p>Payment to be made during incapacity</p> <p>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:</p> <p>a) Until such incapacity ceases; or</p> <p>b) Until the expiration of a period of 78 weeks from the date of injury;</p> <p>whichever event shall first occur, even if the Company terminates the Employee's employment within the period.</p> <p>Meaning of Accident Pay</p> <p>27.3. For the purposes of this clause, "accident pay" means:</p> <p>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.</p> <p>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).</p>	<p>OS response:</p> <p>OS has suggested wording to ensure Employees will not fall below the relevant reference Award. Otherwise, OS maintains its position that Accident Pay is addressed in a policy which provides for more generous provisions than that in the reference Awards.</p>

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		<p>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>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.</p> <p>When not entitled to payment</p> <p>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.</p> <p>Redemptions</p> <p>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.</p> <p>Damages independent of the Acts</p> <p>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.</p> <p>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.</p> <p>Occupational Health & Safety and Workers' Compensation</p> <p>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.</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>	<p>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 und will be Mine Super.</p>	<p>OS Response:</p> <p>With reference to the CFMMEU's proposal regarding Mine Super being the default fund, OS notes that it already has available to employees a Company default fund. In any event, the superannuation stapling reforms make a default fund less relevant, and Employees can nominate Mine Super if this is their preferred fund.</p> <p>OS revised position:</p> <p>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.</p> <p>CFMMEU position: default fund to be MineSuper AWU position: default fund to be AustralianSuper</p> <p>OS Response:</p> <p>OS has updated this clause to ensure consistency with the superannuation reforms:</p>

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			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 <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.	11.2 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.	CFMMEU position: <ul style="list-style-type: none">Ordinary hours of work include handovers AWU’s position: <ul style="list-style-type: none">Ordinary hours of work include handovers OS Response: Propose to remove 'excluding handovers' Handovers must be completed as directed at start and end of shift 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.
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.		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	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.	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 at 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	OS Response: <ul style="list-style-type: none">With regards to including current rosters in the Agreement, OS is seeking to make a simple safety net agreement, not including multiple rates, rosters and salaries.OS' proposed clause as presently drafted reflects the size and scale of the OS business today and that OS works across several different locations on different roster arrangements. Attempting to capture all current arrangements would be too complex and reduce flexibility (for both OS and employees) in the future.Introducing new rosters only by agreement may limit OS' flexibility to respond to changes in the market, potentially making OS uncompetitive and less appealing to the Assets

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		<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>11.7. The Company may only introduce a new roster following consultation, and with the agreement of the majority of affected employees.</p> <p>11.8 The MEU proposes that the current roster/s being worked are inserted into this clause of the proposed agreement.</p>	<p>where OS is deployed. Such restrictions may also hinder OS meeting operational requirements for the sites at which OS is (or may be) deployed.</p> <p>d. 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.</p> <p>e. Specifying start and finish places or requiring start and finish places to be by agreement is misaligned with the OS model in that employees are employed to work within a hub, rather than a particular site or designated 'ordinary location'. Specifying start and finish places may also reduce OS flexibility to meet operational requirements for the sites at which OS is (or may be) deployed.</p> <p>For these reasons, OS does not accept these proposals.</p> <p>AWU also seek:</p> <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 workplace For 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 day For FIFO EEs travelling from work to home on the last day of a work cycle, work is considered to have ceased for paid purposes when the EE has boarded the departing aircraft <p>OS has:</p> <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) <p>CFMMEU will provide their position in respect of hours of work S&F, and rosters by/at the next meeting</p> <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>OS Response:</p> <p>9.5(a)</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>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
			<p>OS does not agree to the proposed amendments to this clause.</p> <ul style="list-style-type: none"> • AWU raise the same claims • OS 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>OS 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 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> <p>OS Response:</p> <p>9.5(b)</p> <ul style="list-style-type: none"> • AWU raise the same claims • OS 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>OS 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 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>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
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>Crib breaks</p> <p>12.1 An Employee is entitled to meal break of 30 minutes without deduction from pay for each 5 hours worked during rostered hours. This period will be counted as time worked.</p> <p>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.</p> <p>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.</p>	<p>CFMMEU want: time taken to travel to or from the crib room counted as time worked but not counted as part of the meal break.</p> <p>OS Response: With reference to time taken to travel to or from the crib room being counted as work time, OS expects that work will be performed during working hours, other than in meal and rest breaks. Locations for breaks and any travel time to the break location depend on work location and are best managed by supervisors and their teams on site. As such, OS does not agree to include additional entitlements to paid travel time to break locations in the agreement.</p> <p>AWU: supports the claim</p> <p>OS response:</p> <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>OS 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>AWU also claim:</p> <ul style="list-style-type: none"> All breaks to be counted as time worked <p>OS response:</p> <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.
Public holidays			

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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. 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>13.1. 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>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>13.7. Work performed in excess of ordinary hours on a public holiday is to be paid at the rate of treble time.</p>	<p>OS Response: OS' position has not changed. OS pays market competitive salaries, which the 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. In addition, OS 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, OS does not accept this proposal.</p> <p>OS response:</p> <ul style="list-style-type: none"> o Its position on a simple and safety net structure of the agreement is already clear o The NES prescribes public holidays for the relevant work location. o the EA does not need to do so. <p>Unions want:</p> <ul style="list-style-type: none"> o Christmas / Boxing Day to be non-working days unless employees volunteer. o Travel obligations for mid-swing days off to be determined <p>OS response:</p> <ul style="list-style-type: none"> o 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. o For these reasons, OS does not agree to the proposal. <p>CFMMEU provided revised proposal on 13/10:</p> <ul style="list-style-type: none"> o 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). o CFMMEU to provide proposed wording for OS to consider o Unions want overtime rates specified in the agreement <p>OS response:</p> <ul style="list-style-type: none"> o OS 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. o For these OS does not agree to the proposal
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	<p>An Employee who:</p> <p>(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</p> <p>(b) works a roster which requires ordinary shifts on public holidays and not less than 272 ordinary hours per year on Sundays,</p> <p>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.</p>		

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11.4	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.	CFMMEU wants Deduction of leave based on ordinary hours OS Response: With regards to deduction of leave based on ordinary hours, OS works multiple different rosters, across multiple locations. Some of these rosters deduct leave using ordinary hours, and others using actual hours. To reconfigure this would involve significant administrative burden and effort.
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			
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.		
12.1	Personal/carer's leave entitlement will be provided for in accordance with the NES, provided that: (a) Full Time and Part Time Employees will be credited their annual entitlement to personal/carer's leave under the NES on commencing employment and then on each anniversary of commencement; (b) Personal leave accruals for any Employee will not be less than the Employee would have received under a clause in a modern award that would have applied to that Employee but for this Agreement; (c) Where an Employee would have received payment of personal leave on termination of employment in accordance with a clause in a modern award that would have applied to that Employee but for this Agreement, payment will be made by the Company equivalent to the monetary payment an Employee would have received under the modern award.	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 entitlement to personal/carer's leave under the NES on commencing employment and then on each anniversary of commencement. 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.	CFMMEU wants: <ul style="list-style-type: none">Sick leave paid out on termination of employment.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 caredistinction for sick and carers leave AWU want: <ul style="list-style-type: none">15 day paid leave entitlementwant 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 OS response: <ul style="list-style-type: none">OS is agreeable to amend it's personal leave clause for personal leave to be paid out on termination of employment in accordance with Award provisions where the Award would otherwise apply to an employee (but for the Agreement applying).However, OS continues to consider whether it can agree to some form of cashing out of personal leave in other circumstances such as in-service or on termination of employment (where not already covered by an Award).OS 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. OS 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.OS 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 OS Manager

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12.2	Personal/carer's leave is paid at an Employee's Annual Salary rate.		
Compassionate leave			
13.1	Compassionate leave entitlements will be provided for in accordance with the NES.	17.1 Compassionate leave entitlements will be provided for in accordance with the NES.	<p>CFMMEU want:</p> <p>a. Has proposed to accept OS' clause if OS agrees to its LSL and unpaid leave clauses</p> <p>OS Response:</p> <p>OS maintains position and drafting.</p> <p>OS does not accept the CFMEU's LSL and unpaid leave clause.</p> <p>CFMMEU and AWU want:</p> <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 <p>OS response:</p> <ul style="list-style-type: none">The minimum entitlement to Compassionate Leave is in accordance with the NES.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 OS 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.	17.2 Compassionate leave is paid at the Employee's Annual Salary rate.	<p>CFMMEU want:</p> <p>a. Has proposed to accept OS' clause if OS agrees to its LSL and unpaid leave clauses</p> <p>OS Response:</p> <p>OS maintains position and drafting.</p> <p>OS does not accept the CFMMEU's LSL and unpaid leave clause.</p> <p>CFMMEU want wording to ensure:</p> <ul style="list-style-type: none">Leave payment includes bonus <p>OS Response:</p> <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 policyOS agrees to update the drafting of clause 13 to include that Compassionate Leave will be paid at an Employee's Annual Salary RateThis will not include bonus because bonus is a variable and periodic payment
Parental leave			
14	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	Current policy provision to be substance of Agreement clause.	<p>CFMMEU want:</p> <p>a. The current policy provision to be fixed and included in the agreement clause</p> <p>OS Response:</p> <p>a. With reference to policies, those referred to (but not incorporated in) the Agreement.</p>

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	caregivers. This clause does not affect the operation of those policies, as amended from time to time.		<ol style="list-style-type: none"> 1. apply to other OS or BHP employees which are not covered by the proposed scope of the Agreement. 2. Can provide benefits that are significantly above competitors 3. Provide benefits that are significantly above the reference awards 4. Allow OS to make changes as circumstances change. <p>b. The proposal to include policies in the Agreement also prevents OS from amending policies in response to changes in the market. That's a flexibility OS does not wish to remove.</p> <p>c. For these reasons, OS does not accept this proposal.</p> <ul style="list-style-type: none"> The entitlement to paid parental leave is derived from a wider BHP Group policy and OS 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, OS does not accept the proposal
Long service leave			
15	<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>15.3 Long service leave is paid at an Employee's Annual Salary rate.</p>	<p>19.1 Conditions relating to long service leave ("LSL") are governed by Federal Legislation (Coal Mining Industry Long Service Leave Administration Act 1992 (Cth)) as amended from time to time.</p> <p>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).</p> <p>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.</p>	<ul style="list-style-type: none"> OS response OS has proposed a simple draft long service leave clause which provides the entitlement in accordance with applicable legislation. It reflects the NES and industry conditions of competitors. OS agreed in principle to add a new clause at 15.3 which outlines "Long service leave is paid at an Employee's Annual Salary rate". Other than the amendments OS has made at 15.3, OS does not agree to any further changes to this clause. <p>AWU seeking:</p> <ul style="list-style-type: none"> Accrual at 7 years <p>CFMMEU seek wording:</p> <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 paid at Annual Salary rate in accordance with normal pay period at the time leave is to be taken. <p>OS response:</p> <ul style="list-style-type: none"> For simplicity, OS has proposed a long service leave clause which provides the entitlement in accordance with 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 OS has agreed to revise its position to include that 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 For these reasons, OS does not accept the remainder of this proposal.

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
Community Service Leave			
16	Community service leave entitlements will be provided for in accordance with the NES.	20.1 Community service leave entitlements will be provided for in accordance with the NES.	<p>CFMMEU has proposed to accept OS' clause if OS accepts its LSL and unpaid leave clauses.</p> <p>OS Response:</p> <p>OS maintains position and drafting.</p> <p>OS does not accept the CFMEU's LSL and unpaid leave clause.</p>
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: 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.</i></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> <p>An Employee must comply with clause 17 to access the entitlement.</p>		
Note in 17.1	<p><i>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</i></p>		<p>CFMMEU and AWU want: the current policy provision for paid leave to be included in the Agreement clause</p> <p>OS response:</p> <p>a. With reference to policies, those referred to (but not incorporated in) the Agreement:</p> <ol style="list-style-type: none"> 1. apply to other OS or BHP employees which are not covered by the proposed scope of the Agreement. 2. Provide benefits that are significantly above competitors 3. Provide benefits that are significantly above the reference awards 4. Allow OS to make changes as circumstances change. <p>b. The proposal to include them in the Agreement also prevents OS from amending policies in response to changes in the market. That's a flexibility OS does not wish to remove.</p> <p>c. For these reasons, OS does not accept this proposal.</p> <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, OS does not accept the proposal.
Stand Aside and Stand Down			
18	<p>18.1 The Company can stand aside an Employee:</p> <p>(a) With or without pay for full or partial refusal of duty; or</p> <p>(b) With or without pay for neglect of duty; or</p> <p>(c) With or without pay for misconduct, while it is being investigated.</p>	<p>28.1. 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>OS Response:</p> <ul style="list-style-type: none"> ○ OS has considered the drafting and have further proposed drafting for consideration. ○ OS proposes that a new clause be inserted that deals with stand down and stand aside.

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
	<p>18.2 If the Company stands aside an Employee without pay for neglect of duty or misconduct and the Company determines after an investigation that the Employee did not neglect their duty or did not engage in any misconduct (as the case may be), the Company will pay the Employee the full amount of remuneration they would have received in respect of the period for which they were stood aside.</p> <p>18.3 The Company may stand down an Employee without pay during a period in which the Employee cannot usefully be employed because of one of the following circumstances:</p> <p>(a) Industrial action</p> <p>(b) A breakdown of machinery or equipment if the Company cannot reasonably be held responsible for the break down; or</p> <p>(c) An interruption to work for any cause for which the Company cannot reasonably be held responsible.</p> <p>18.4 Employees who have been stood down under the circumstances described in clause 18.3 above may request to take accrued annual or long service leave entitlements. Approval is at the Company's discretion.</p> <p>18.5 Any Employee stood down under clause 18.3 will continue to have their service recognised for the purposes of "continuous service"</p>	<p>d) if the Employee cannot be usefully employed in the Employee's usual classification because of industrial action.</p> <p>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:</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>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.</p> <p>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.</p> <p>28.5 Any Employee stood down under this clause will continue to have their service recognised for the purposes of "continuous service".</p> <p>28.6 Employees stood down, or stood aside, pending an investigation will be paid as if at work during the investigation.</p>	<p>CFMMEU want:</p> <ul style="list-style-type: none"> Stand down clause included in the Agreement. <p>OS response:</p> <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. OS does not accept the proposal.
Issue Resolution Procedure			
19.1	<p>18.1 This clause sets out the process for resolving issues which relate to:</p> <p>(a) a matter arising under this Agreement; or</p> <p>(b) the NES.</p>	<p>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.</p>	<p>OS Response:</p> <p>This proposal would reduce flexibility for OS to address matters internally. OS believes the clause as drafted balances the rights of the employer and employee, sets out a fair issue resolution process and is consistent with OS' objective to deal with matters at the local level to the maximum extent possible.</p> <p>CFMMEU and AWU want:</p> <ul style="list-style-type: none"> all matters of employment to be included <p>AWU also seeks:</p> <ul style="list-style-type: none"> Status quo until dispute resolved FWC decision binding on parties and those bound by Agreement <p>OS response:</p> <ul style="list-style-type: none"> OS 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, OS 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, OS does not accept this proposal.
19.2 – 19.5	<p>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.</p> <p>18.3 If the issue remains unresolved, it may be referred for discussion between the Employee and the Employee's Superintendent.</p> <p>18.4 If the issue is still not resolved, it may be referred for discussion between the Employee and the Employee's Departmental Manager</p> <p>18.5 Discussions in accordance with clauses 18.2, 18.3 and 18.4 will be held as soon as reasonably practicable.</p>		

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
19.6	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.	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.	OS Response: This proposal would reduce flexibility for OS to address matters internally. OS believes the clause as drafted balances the rights of the employer and employee, sets out a fair issue resolution process and is consistent with OS' objective to deal with matters at the local level to the maximum extent possible. CFMMEU want: Exceptions where the matter affects majority of Employees OS response: <ul style="list-style-type: none"> OS 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, OS 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, OS does not accept this proposal.
19.7	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.		
19.7 & 19.8	18.7 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.	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.	OS Response: This proposal would reduce flexibility for OS to address matters internally. OS believes the clause as drafted balances the rights of the employer and employee, sets out a fair issue resolution process and is consistent with OS' objective to deal with matters at the local level to the maximum extent possible. CFMMEU seek: <ul style="list-style-type: none"> ditional payment for Employees to attend proceedings in the FWC OS response: <ul style="list-style-type: none"> OS 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, OS 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, OS does not accept this proposal.
Individual flexibility			
20	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.	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:	CFMMEU wants model IFA term OS Response <ol style="list-style-type: none"> In line with OS' objective of seeking to make a simple, safety net agreement with Employees, OS will adopt the model clause as set out in the <i>Fair Work Act 2009</i>. Accordingly, OS does not accept this proposal. CFMMEU seeks: to limit the flexibility options OS response: <ul style="list-style-type: none"> In line with our objective of seeking to make a simple, safety net agreement with our employees, OS will adopt the model clause as set out in the <i>Fair Work Act 2009</i>. Accordingly, OS does not accept this proposal.

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
		<p>1. Are about permitted matters under section 172 of the Fair Work Act 2009; and</p> <p>2. Are not unlawful terms under section 194 of the Fair Work Act 2009;</p> <p>3. Result in the Employee being better off overall than the Employee would be if no arrangement was made.</p> <p>23.3 The Company must ensure that the individual flexibility arrangement:</p> <p>1. Is in writing;</p> <p>2. Includes the name of the Employer and the Employee; and</p> <p>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</p> <p>4. Includes details of:</p> <p>i. The terms of the Agreement that will be varied by the arrangement; and</p> <p>ii. How the arrangement will vary the effect of the terms; and</p> <p>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</p> <p>d. States the day on which the arrangement commences.</p> <p>23.4 The Company must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.</p> <p>23.5 The Company or the Employee may terminate the individual flexibility arrangement:</p> <p>1. By giving no more than 28 days written notice to the other party to the arrangement; or</p> <p>2. If the Company and the Employee agree in writing – at any time.</p>	
Management of change / Consultation			
20	<p>In the event that the Company makes:</p> <p>(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</p> <p>(b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees,</p> <p>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.</p>	<p>24 Consultation</p> <p>24.1 This term applies if the Company:</p> <p>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</p> <p>(b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.</p> <p>24.2. Major Change</p> <p>For a major change referred to in paragraph 23.1a):</p> <p>(a) the Company must notify the relevant Employees of the decision to introduce the major change; and</p> <p>(b) subclauses 23.3 to 23.9 apply.</p> <p>24.3. The relevant Employees may appoint a representative for the purposes of the procedures in this term.</p> <p>24.4. If:</p> <p>(a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and</p> <p>(b) the Employee or Employees advise the employer of the identity of the representative;</p> <p>the Company must recognise the representative.</p> <p>24.5. As soon as practicable after making its decision, the Company must:</p> <p>(a) discuss with the relevant Employees:</p>	<p>CFMMEU want:</p> <p>a. model clause inserted (rather than just referenced) in Agreement.</p> <p>OS response</p> <p>a. OS believes the clause as currently drafted adequately deals with consultation by referring to the process to be followed that is prescribed in model consultation term in the <i>Fair Work Regulations 2009</i>.</p> <p>b. Accordingly, OS does not accept this proposal.</p> <p>OS advise that insufficient detail has been provided for us to consider and respond to this proposal.</p> <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>OS Response:</p> <p>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>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
		<p>(i) the introduction of the change; and</p> <p>(ii) the effect the change is likely to have on the Employees; and</p> <p>(iii) measures the Company is taking to avert or mitigate the adverse effect of the change on the Employees; and</p> <p>(b) for the purposes of the discussion—provide, in writing, to the relevant employees:</p> <p>(i) all relevant information about the change including the nature of the change proposed; and</p> <p>(ii) information about the expected effects of the change on the Employees; and</p> <p>(iii) any other matters likely to affect the Employees.</p> <p>24.6. However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.</p> <p>24.7. The Company must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.</p> <p>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.</p> <p>24.9. In this term, a major change is likely to have a significant effect on Employees if it results in:</p> <p>(a) the termination of the employment of Employees; or</p> <p>(b) major change to the composition, operation or size of the Company's workforce or to the skills required of Employees; or</p> <p>(d) the alteration of hours of work; or</p> <p>(e) the need to retrain Employees; or</p> <p>(f) the need to relocate Employees to another workplace; or</p> <p>(g) the restructuring of jobs.</p> <p>24.10. <i>Change to regular roster or ordinary hours of work</i></p> <p>For a change referred to in paragraph 23.1 b):</p> <p>(a) the Company must notify the relevant Employees of the proposed change; and</p> <p>(b) subclauses 23.11 to 23.15 apply.</p> <p>24.11. The relevant Employees may appoint a representative for the purposes of the procedures in this term.</p> <p>24.12. If:</p> <p>(a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and</p> <p>(b) the Employee or Employees advise the employer of the identity of the representative;</p> <p>the Company must recognise the representative.</p> <p>24.13. As soon as practicable after proposing to introduce the change, the Company must:</p> <p>(a) discuss with the relevant Employees the introduction of the change; and</p> <p>(b) for the purposes of the discussion—provide to the relevant Employees:</p>	

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
		<p>(i) all relevant information about the change, including the nature of the change; and</p> <p>(ii) information about what the Company reasonably believes will be the effects of the change on the Employees; and</p> <p>(iii) information about any other matters that the Company reasonably believes are likely to affect the Employees; and</p> <p>(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).</p> <p>24.14. However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.</p> <p>24.15. The Company must give prompt and genuine consideration to matters raised about the change by the relevant Employees.</p> <p>24.16. In this term: relevant Employees means the Employees who may be affected by a change referred to in clause 21.1.</p>	
Redundancy			
22.1	<p>Definition of redundancy</p> <p>(a) An Employee is made redundant where an Employee's employment is terminated at the Company's initiative:</p> <p>(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</p> <p>(ii) because of insolvency or bankruptcy of the Company.</p> <p>This clause does not apply to Employees engaged for a fixed term or a specified task or to Casual Employees.</p>		
	N/A	<p>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.</p> <p>Where a reduction in Employees is required, the following steps will apply:</p> <p>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.</p> <p>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.</p> <p>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:</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;</p> <p>d) cases where unsatisfactory performance has been identified and is being managed;</p>	<p>OS response</p> <p>a. The CFMMEU proposal conflicts with the OS business and employment model and point of hire approach which provides as much certainty as possible to Employees about ongoing employment and enables OS to place Employees at an alternate site in the event of changes to resourcing at sites within their hub. The CFMMEU and AWU proposal also adds unnecessary cost by mandating VRs where employment and the need for the employee exists within the hub, and external to the hub if they desire.</p> <p>b. OS believes the clause as currently drafted adequately addresses redundancy including providing severance pay which is largely consistent with that proposed.</p> <p>c. For these reasons, OS does not accept this proposal.</p> <p>CFMMEU seeks:</p> <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 <p>AWU wants: voluntary redundancies in the first instance.</p> <p>OS response:</p> <ul style="list-style-type: none"> has already responded to the CFMMEU's proposed clause regarding Redundancy on 15 March 2021. OS position on this does not change in light of the alternative wording

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
			<div>proposed by the CFMMEU.</div> <ul style="list-style-type: none">the OS business model and our basis of hire approach enables OS 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 OSenabling VRs where alternative employment opportunities exist would increase costs.We believe the clause as currently drafted adequately addresses redundancy including providing severance pay which is largely consistent with that proposed.For these reasons, OS does not accept this proposal.
22.2(a)	Severance Payment 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.	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.	CFMMEU want <ul style="list-style-type: none">maximum 30 weeks cap removed.
22.(2)(b)	Regardless of length of employment, the minimum payment due to Employees under clause 21.2(a) is four weeks’ pay.		
22.3	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.		
22.4	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			
23.1	An Employee may resign from his or her employment with the Company by giving one week’s written notice to the Company.		
23.2	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.		
23.3	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.	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	CFMMEU and AWU seek: <ul style="list-style-type: none">Period of probation should be capped at ‘up to 6 months’ OS response: OS proposes if the bargaining reps consider their position and cease to press all other claims in respect of this clause it will insert an amended clause. <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>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
			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.
23.4	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.		
23.5	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.	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.	CFMMEU want: <ul style="list-style-type: none">6 hours' notice of termination or payment in lieu.Does not want reference to casuals in the EAAgrees only if their proposal at 5.3b is accepted
23.6	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.	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.	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. E.g. failure to turn up to shift on time – it is serious, but not gross. OS Response: OS does not see any need to making this change as 'serious misconduct' is already defined in the Fair Work Regulations 2009. 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
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		CFMMEU and AWU: <ul style="list-style-type: none">oppose on the basis of their position on a comprehensive EA OS Response: <ul style="list-style-type: none">OS 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: <ul style="list-style-type: none">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 Fair Work Act 2009 (Cth).		
Other claims			
	N/A	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	OS Response: OS has proposed drafted clause at 7.14 OS has drafted wording to ensure Employees will not fall below the relevant reference Award. OS Response: <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

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
		<p>b) Until the expiration of a period of 78 weeks from the date of injury, 27.3. whichever event shall first occur, even if the Company terminates the Employee's employment within the period.</p> <p>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 [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 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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>payments:</p> <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 <i>Black Coal Mining Industry Award</i>. Its position on a simple and safety net structure of the agreement is already clear <p>OS does not accept the proposal.</p> <p>CFMMEU provided updated proposal on 13/10:</p> <ul style="list-style-type: none"> proposed clause 20.4 – amend to include the words "normal weekly wage" <p>AWU also claims:</p> <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 <p>OS response:</p> <ul style="list-style-type: none"> OS 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 <p>OS does not accept the proposal.</p>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
	N/A	<p>28 Stand down</p> <p>28.1. 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>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:</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>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.</p> <p>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.</p> <p>28.5 Any Employee stood down under thus clause will continue to have their service recognised for the purposes of "continuous service".</p> <p>28.6 Employees stood down, or stood aside, pending an investigation will be paid as if at work during the investigation.</p>	<p>OS Response:</p> <p>We have considered the drafting and have further drafting for your consideration. We propose the following stand down clause be inserted as a new clause 18 of the Agreement:</p> <p>OS response:</p> <ul style="list-style-type: none"> o This proposal is not in line with our objective of seeking to make a simple, safety net agreement o Stand down is already covered by the Act. o OS does not accept the proposal.
	N/A	<p>29 Transport and Accommodation</p> <p>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.</p> <p>Transport</p> <p>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).</p> <p>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).</p> <p>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.</p> <p>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.</p> <p>Accommodation</p> <p>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.</p>	<p>OS Response:</p> <p>The self-funded flights which have been recently made available to OS employees to fly in/out of Moranbah at a set price are on flights which are managed by BMA, not OS. This means OS is unable to guarantee there will not be changes to this arrangement in future.</p> <p>OS is currently managing self-funded flights to/from Emerald, and this flight is operated at OS cost.</p> <p>OS wishes to retain discretion to amend these arrangements. For example, this could include:</p> <ol style="list-style-type: none"> 1. In the event of BMA making a change which impacts OS. 2. Changing market conditions and ongoing reviews in line with the budget cycle. 3. Based on flight availability. <p>With respect a residential allowance in lieu of utilising village accommodation, supply of village accommodation forms part of the contractual arrangement between OS and the Assets. OS is not in a position to 'liquidate' the costs associated with village accommodation and pay this to employees as an allowance.</p> <p>Further, it is a fundamental feature of the OS model that employees are able to live where they choose. With this in</p>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
		<p>29.7. Employees who reside in the local community will be paid an allowance of \$120.00, per week.</p>	<p>mind, OS does not agree to provide an allowance for employees who elect to live in a particular location.</p> <p>AWU seeks:</p> <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 village to the mine; Residential allowance payable Where an employee works extended hours affecting ability to access company supplied transport, company will arrange alternate transport. <p>Employee Bargaining Representative seeks:</p> <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 OS employees (not just FIFO) <p>OS response:</p> <ul style="list-style-type: none"> These proposals would significantly increase costs and put our competitiveness at significant risk. OS offers competitive remuneration and flexible living options to our employees and does not operate a fly in, fly out model. the OS business model and our point of hire approach enables OS 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 OS. Employees can make the choice themselves for where they live. Prospective OS employees are advised to carefully consider this prior to accepting employment with OS. Where OS 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, OS 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.

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
			<p>OS Response:</p> <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>
	N/A	<p>30 Inclement Weather</p> <p>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.</p> <p>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.</p>	<p>OS Response:</p> <p>Mines at which OS operates have inclement weather arrangements addressed via safety and health management systems. Inserting Agreement provisions adds inflexibility to existing processes that impact on OS' agility to respond to an inclement weather event based on its individual circumstances. This primarily includes having employees who are at work during inclement weather complete alternative tasks such as training.</p> <p>Where employees cannot get to work due to inclement weather, they are enabled to utilised accrued annual leave if they desire. For these reasons, OS does not accept this proposal.</p> <p>AWU also claims:</p> <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 <p>OS response:</p> <ul style="list-style-type: none"> ○ Its position on a simple and safety net structure of the agreement is already clear ○ OS 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. <p>For these reasons, OS does not accept these proposals.</p>
	N/A	<p>31 Training</p> <p>31.1 The company shall provide the relevant training and payment for the renewal of statutory licenses for all employees required to utilize such licenses in the course of their normal employment with the company.</p>	<p>OS response</p> <p>OS proposes new drafting to address the overtime claim where an employee is directed to undertake training outside of their normal shift pattern.</p>

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
		<p>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.</p> <p>31.3 If training is conducted on a rostered shift, there shall be no loss if pay for that day even if the course is of a shorter duration and it is not reasonably practicable to return to duty.</p>	<p>7.9 Where the Company directs an Employee to undertake training outside of the Employee's normal shift patterns, either:</p> <p>(a) The Employee will be given time off in lieu for the period of the training delivery; or</p> <p>(b) The Company may elect to make payment to the Employee in accordance with Overtime rates for the period of the training delivery.</p> <p>With regards to the remainder of the claim, this proposal is not in line with OS' objective of making a simple, safety net agreement. OS has a custom and practice of reimbursing training and license costs where the training and / or license is required for an employee to fulfil their role. OS considers this custom and practice is working, and therefore is not required in the proposed Agreement.</p> <p>Accordingly, OS does not accept this proposal.</p>
	N/A	<p>32 Work Clothing</p> <p>32.1. 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>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 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>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.</p>	<p>OS Response:</p> <p>OS' position has not changed.</p> <p>This matter is 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.</p> <p>Where an employee requires additional PPE as a result of their work clothing getting excessively soiled in the course of their role, they should speak with their Line Leader. For these reasons, OS does not accept this proposal.</p> <p>OS response:</p> <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. <p>For these reasons, OS does not accept this proposal.</p>
	N/A	<p>33 Medicals</p> <p>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.</p> <p>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</p>	<p>OS Response:</p> <p>This is a matter dealt with in accordance with the applicable state safety legislation where relevant. It does not need to be dealt with in the Agreement. For this reason, OS does not accept this proposal.</p> <p>AWU Claim:</p> <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

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
		<p>worked after an updated statutory health assessment form has been received by the Company.</p> <p>33.3. The Company will ensure that all necessary costs are met prior to an Employee attending a Statutory Health Assessment.</p>	<p>GP)</p> <p>OS response:</p> <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 OS works across, and the Agreement covers, different jurisdictions in Australia. <p>For this reason, OS does not accept this proposal.</p>
	N/A	<p>34 Representatives</p> <p>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.</p> <p>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.</p>	<p>CFMMEU have proposed to remove this clause if OS agrees to its amendments to the dispute procedure.</p> <p>OS position:</p> <p>a. OS' draft proposed issue resolution procedure set out in clause 18 makes clear that an employee is entitled to a support person / representative. For matters outside of the issue resolution procedure in the proposed Agreement, employees are offered and entitled to have a support person (which may be a union representative) in appropriate circumstances.</p> <p>b. Subject to Right of Entry requirements where applicable OS recognises that union officials/delegates may act in the capacity of support person / representative.</p> <p>c. We consider this is already adequately provided for and, on this basis, OS does not accept this proposal.</p>
Other proposals raised by Bargaining Representatives			
			<p>Additional AWU claim:</p> <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 <p>OS response:</p> <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, OS does not accept this proposal.
			<p>Additional Employee Bargaining Representative claim:</p> <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 <p>OS Response:</p> <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, OS does not agree to have the terms of such

Clause No.	Proposed OS Production Agreement	CFMMEU Proposed Agreement	Status of Bargaining Parties
			<div>incorporated into the proposed Agreement.</div> <div><div></div><div>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.</div></div> <div><div></div><div>For these reasons, OS does not accept this proposal.</div></div>

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 0, 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 0, 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:

- (a) is not a Casual Employee and is employed to work less than the following number of ordinary hours per week:
 - (1) 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
 - (2) in the case of any other Employee – an average of 35 ordinary 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 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 All time worked in excess of the hours as mutually arranged will be 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 0.

- 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 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 0 does not limit the duties that an Employee may be required to perform in accordance with clause 0.

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 0(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 0(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 When un-rostered overtime work is necessary it must, wherever reasonably practicable, be arranged so that Employees have at least 10 consecutive hours off work between work on successive working days.

7.6 In calculating overtime for the Above Award Guarantee, each shift is to be treated separately.

7.7 **Call Back**

- (a) An Employee who is recalled to work overtime after leaving the workplace (whether the Employee was notified before or after leaving the workplace) will be paid for at least four hours work at the rate under clause 7.4, for each time the Employee is recalled.

- (b) The provisions of sub-clause (a) do not apply in the following cases:
 - (1) where it is customary for an Employee to return to the workplace to perform a specific job outside the Employee's ordinary working hours;
 - (2) where the overtime is continuous (subject to a reasonable meal break) with the end or start of ordinary working time; or
 - (3) to a second or subsequent call out if that call out is made before completion of the first call-out.
- (c) Overtime worked on a call-back of less than four hours will not be regarded as overtime for the purposes of a rest period if the actual time worked is less than four hours on any recall or on each of any recalls.

7.8 Where the Company directs an Employee to undertake training outside of the Employee's normal shift patterns, either:

- (a) The Employee will be given time off in lieu for the period of the training delivery; or
- (b) The Company may elect to make payment to the Employee in accordance with Overtime rates for the period of the training delivery.

7.9 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 0, 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 0(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 0(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.

- 7.10 Remuneration will be paid at intervals determined by the Company (up to monthly), and is currently fortnightly in arrears.
- 7.11 Payment will be by electronic funds transfer to a bank account in Australia nominated by the Employee.
- 7.12 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.
- 7.13 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 authorised by the Employee to deduct and retain any overpayments from the Employee's pay, including from termination payments, to the fullest extent permitted by law and section 324 of the *Fair Work Act 2009 (Cth)*.
- 7.14 Without limiting clause 3.1, the Company has an Accident Pay Policy that may be amended by the Company from time to time. Provided that accident pay for any Employee will not be less than the Employee would receive if an accident pay clause in a modern award applied to that employee, but for this agreement.

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 0, 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. Provided that:

- (a) Full Time and Part Time Employees will be credited with their annual entitlement to paid personal/carers' leave under the NES on commencing employment and then on each anniversary of commencement;
- (b) personal leave accruals for any Employee will not be less than the Employee would have received under a clause in a modern award that would have applied to that employee but for this Agreement;
- (c) where an Employee would have received payment of personal leave on termination of employment in accordance with a clause in a modern award that would have applied to that employee but for this Agreement, payment will be made by the Company equivalent to the monetary payment an Employee would have received under the modern award.

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. Stand Aside and Stand Down

18.1 The Company can stand aside an Employee:

- (a) With or without pay for full or partial refusal of duty; or
- (b) With or without pay for neglect of duty; or
- (c) With or without pay for misconduct, while it is being investigated.

18.2 If the Company stands aside an Employee without pay for neglect of duty or misconduct and the Company determines after an investigation that the Employee did not neglect their duty or did not engage in any misconduct (as the case may be), the Company will pay the Employee the full amount of remuneration they would have received in respect of the period for which they were stood aside.

18.3 The Company may stand down an Employee without pay during a period in which the Employee cannot usefully be employed because of one of the following circumstances:

- (a) Industrial action
- (b) A breakdown of machinery or equipment if the Company cannot reasonably be held responsible for the break down; or
- (c) An interruption to work for any cause for which the Company cannot reasonably be held responsible.

18.4 Employees who have been stood down under the circumstances described in clause 18.3 above may request to take accrued annual or long service leave entitlements. Approval is at the Company's discretion.

18.5 Any Employee stood down under clause 18.3 will continue to have their service recognised for the purposes of "continuous service".

19. Issue Resolution Procedure

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

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

19.2 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.

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

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

19.5 Discussions in accordance with clauses 18.2, 18.3 and 18.4 will be held as soon as reasonably practicable.

19.6 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.

19.7 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.

19.8 Either the Employee or the Company may have a representative to assist at any stage of this process.

20. 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.

21. 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.

22. Redundancy

22.1 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.

22.2 Severance payment

- (a) Except where clause 0 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 22.2(a) is four weeks' pay.

22.3 Exemption

The Company is not liable for the payment in clauses 22.2 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.

22.4 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 22.2.

23. Termination of Employment

- 23.1 An Employee may resign from his or her employment with the Company by giving one week's written notice to the Company.
- 23.2 Subject to clause 0, 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.
- 23.3 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.
- 23.4 The period of notice to be given by the Company to Full Time or Part Time Employees under clause 0 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.
- 23.5 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.
- 23.6 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.

24. 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.

25. 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).

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