

Operations Services Maintenance Agreement

Record of Meeting



Date 15 June 2022
Location Videoconference via WebEx
Attendees See Appendix 1

Agenda	
<ol style="list-style-type: none"> 1. Introduction & agenda 2. Responses to proposals from previous bargaining meeting 3. Continued discussions on proposals 4. Logistics for next meeting 	
Summary	
Introduction	OS shared the agenda for the meeting.
Responses to proposals from previous bargaining meeting	<p>AMWU (QLD) advised:</p> <ul style="list-style-type: none"> • They do not agree to OS' proposed clause 18 in its current format as they take issue with an employee being stood aside without pay for misconduct, while it is being investigated. • They do not agree to OS' proposed clause 19 and believe the issue resolution procedure should be more comprehensive, including the ability to dispute all matters in the course of employment. Alternatively, they may consider limiting the scope to matters arising under an employment contract if OS agrees to including salary escalations in the Agreement. • They maintain the principles of the incentive scheme should be included in the Agreement. • Further responses in writing can be found at Appendix 2. <p>CFMMEU advised:</p> <ul style="list-style-type: none"> • We remain apart on OS' proposed clause 5.3(a) as the CFMMEU continues to press a 35-hour week. • They are in-principle agreed with OS' proposed clause 7.6. • We remain apart on OS' proposed clause 7.7 as they don't agree with OS' Above Award Guarantee. • They are in-principle agreed with OS' proposed clause 7.12 except for wanting the inclusion of a reference to underpayments. • They take the same issue as the AMWU (QLD) with regards to OS' proposed clause 18. • We remain apart on the matters that can be disputed under OS' proposed clause 19. • They continue to press their Accident Pay clause in full and do not accept OS' proposed clause 7.15. <p>AWU advised:</p> <ul style="list-style-type: none"> • They are aligned with the CFMMEU and AMWU. • Salary escalations, issue resolution and a 35-hour week are still outstanding matters for them. <p>ETU advised:</p> <ul style="list-style-type: none"> • They support the position of the other unions. <p>AMWU (WA) advised:</p>

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	<ul style="list-style-type: none"> • They take issue with OS' proposed clauses 18 and 19 for the reasons mentioned by other unions. • Their position is for the incentive scheme to be paid quarterly. • Travel time and employees flying on R&R days continues to be a key issue for them. 	
Continued discussions on proposals	The parties continued discussions on proposals:	
	Proposal	Details of discussion
	Issue Resolution Procedure	All union bargaining representatives highlighted clause 19 as an area of importance for them. OS noted that it shared enhancements to the Issue Resolution Procedure last meeting, however, was prepared to consider further enhancements such as arbitration without the consent of both parties, if we can reach agreement. Bargaining representatives asked OS whether there was a specific area of the proposed Agreement OS is seeking agreement on. OS advised that while any potential concessions are considered in light of the total package of the Agreement, a four-year term is important to us. Bargaining representatives agreed to consider whether they would accept a four-year term in exchange for removal of the requirement for both parties to consent to arbitration.
	Public Holidays	<p>The AMWU (QLD) highlighted recognition of higher rates of pay for employees performing work on Christmas Day and Boxing Day as one of their core issues. OS noted that it has provided recognition to employees for performing work on these days via its <i>Working on 24 – 26 December Ex-Gratia Payment Policy</i>. OS sought clarity on whether the unions position was for the policy position to be included in the proposed Agreement. The AMWU (QLD) advised that their position remains that work on Christmas / Boxing Day should be strictly voluntary only, but that they would reduce their proposal for payment required from triple-time to double-time and a half (on top of the penalty rates built into an Employee's Annual Salary).</p> <p>The AMWU (WA) questioned whether OS should include information regarding which public holidays are relevant in each state / work location in the proposed Agreement. OS advised that its Above Award Guarantee requires payment for any gazetted public holiday an Employee works, relevant to their location. As an assumption, OS factors an Employee on an even-time roster working 10 public holidays per year into their Annual Salary, but should they work more than this we would have an obligation to ensure they were compensated under the Above Award Guarantee.</p>
Retention payments	The AMWU (QLD) confirmed their proposal for retention payments is the same as that put forward by an Employee Bargaining Representative (\$2000 - \$5000 retention bonus for every year with the Company paid on the day following an Employee's anniversary date). OS agreed to consider this proposal.	

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	Apprentices and Trainees	The AMWU (QLD) expressed concern that OS' proposed clause 6.5 allows OS to decide whether apprentices and trainees are covered by the proposed Agreement. OS advised that if an apprentice or trainee is employed by OS ACPM Pty Ltd undertaking maintenance activities on a mining operation as per clause 2.1(a) then they will be subject to the Agreement. The AMWU (QLD) noted they believe the word 'may' creates confusion, but that it appears we are aligned in-principle. OS agreed to consider the drafting of clause 6.5 with respect to apprentices and trainees.
	Travel subsidies	The AMWU (QLD) advised travel remains a key issue for them. OS asked whether a travel subsidy was a revised position from that previously tabled by the AMWU (QLD). The AMWU (QLD) stated that, if it will assist with progressing negotiations, they are prepared to discuss a subsidy instead of their earlier proposal for OS to pay for Employees flights to and from work. OS agreed to consider this proposal.
	Salary escalations	Union bargaining representatives advised they are unlikely to be able to support an Agreement without salary escalations. OS advised its position has not changed, and that we continue to seek a simple, safety net Agreement with an Award +5% guarantee, with increases guaranteed insofar as they will increase relative to the annual review of minimum rates by the Fair Work Commission.
	Personal/carer's leave	OS advised that we continue to consider our position, having regard to employee feedback, as bargaining progresses. OS noted that we are hearing that Employees would like to be able to cash-out their personal/carer's (sick) leave entitlements in-service or on termination of employment. OS advised that given the current environment with COVID-19 and influenza, we see benefit in Employees having their personal leave entitlements to utilise during employment if required, however we are prepared to consider cash-out of personal leave on termination of employment if we are able to reach agreement. OS advised it would consider this benefit in line with the parameters set out in the CFMMEU's draft clause 15.3: <i>Personal/carer's leave will be paid out on termination of employment (except where the termination is a result of serious misconduct, or the employee is within probation) and is paid at an Employee's Annual Salary rate.</i> Bargaining representatives agreed to consider this proposal.
Next meeting	The parties discussed the format of bargaining, with union bargaining representatives requesting to meet face-to-face and on an intensive basis. OS advised that we operate nationally, and that WebEx has been working well to ensure all bargaining representatives have access to, and the ability to participate in, bargaining meetings. OS advised that we are open to discussing the duration of meetings; however, the meeting agenda needs to warrant the time allocated. OS highlighted that to date we seldom utilise the full duration of the time set aside for meetings, and on this basis, we do not see a need to schedule longer meetings.	

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	The next meeting has been scheduled for 25 July 2022 via WebEx (video conference).
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Actions		
Confirm meeting arrangements	OS	18 July 2022
OS to provide information on how the FWC minimum increase decision impacts OS Maintenance employees	OS	25 July 2022

Appendix 1

Attendance List	
Thomas Smyth	Saraji Mobile
Mitch Hughes	CFMMEU (QLD)
Craig Thomas	ETU
Kegan Scherf	AMWU (QLD)
David Buck	AMWU (WA)
Shane Roulstone	AWU
Rob Hannaford	Manager Maintenance
Joe Browne	Manager Maintenance
Jessica Morkel	Principal Employee Relations
Nicole Elkovich	Specialist Employee Relations

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Appendix 2 – Correspondence from Bargaining Representatives

RE: (INTERNAL) Operations Services Maintenance Agreement - Record of Meeting 120522



Kegan Scherf <kegan.scherf@amwu.org.au>

To: Morkel, Jessica; David Buck; Simon Rushworth; Glenn McLaren; Michael Wright; Paul@etuwa.com.au; Ash Bamford; Mitch Hughes; Smyth, Steve; Shane Roulstone; Lori Anderson; Cassie Baynton; Trev Spanner; terry taylor; superdanmanofsteele@hotmail.com; +22 others

Reply Reply All Forward

Wed 8/06/2022 11:27 AM

You replied to this message on 14/06/2022 4:49 PM.

Without Prejudice

Dear Jess

At the last meeting, the AMWU QLD/NT Branch undertook to review proposals from OS ACPM and provide a response in advance of the next meeting, please see below for our responses which are provided on a without prejudice basis:

Clause 5.3	AMWU QLD/NT agrees to the wording proposed in relation to part time employees.
Clause 7.6	AMWU QLD/NT agrees to the wording proposed in relation to fatigue management.
Clause 7.7	AMWU QLD/NT does not agree to the proposed calculation of overtime payments and instead asserts that clauses related to overtime must include an entitlement for performing work on Christmas Day and Boxing Day.
Clause 7.13	AMWU QLD/NT does not agree to the proposed incentive scheme wording and instead asserts that the incentive program ought to be detailed inside of the Enterprise Agreement for transparency and accountability purposes.
Clause 12.1	AMWU QLD/NT is considering this proposal.

As we understand it, this is the totality of the proposals put to the AMWU QLD/NT Branch to date by BHP and therefore constitutes the Union providing a response to each outstanding proposal.

If this is incorrect, please do let me know and we will provide additional responses in writing after we have genuinely considered them.

Logistics of Bargaining

At the last meeting, we further undertook to review our position on a number of claim items in an effort to bring about conclusion of negotiations. We are undertaking this exercise though we feel that the current format of bargaining is not conducive to making adequate progress on these points.

We would like to, again, propose that a series of meetings is convened on an intensive basis and held in-person for attendees who would like to attend in-person with the usual Webex facilities for those who cannot. The AMWU is prepared to consider paying for our delegates to attend these meetings at our own expense in a further gesture to make the proposal amenable to OS.

It is our strongly held view that we are likely to make more progress in this format than through Webex meetings that occur every 4-6 weeks.

We ask you to provide a response to this proposal at the next meeting.

Inclusion of Apprentices

In addition, it is unclear to the AMWU what the status of the coverage of apprentices is in relation to the proposed enterprise agreement.

At present, Clause 6.5 simply states:

Trainees and Apprentices may be employed by the Company under this Agreement.

You would no doubt be aware that apprentices are currently performing work on black coal operations in the State of Queensland, and we are instructed that they are being informed by line leaders that the Enterprise Agreement does not apply to them despite them being able to contribute to the EA through "State of the Nation" meetings and through email feedback to BHP directly.

Our view is that Clause 6.5 is entirely ambiguous, and we propose that the clause be amended to definitively include trainees and apprentices. We feel this will also avoid complications in pre-approval steps if the Enterprise Agreement ever makes it as far as the Fair Work Commission.

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Outstanding Claims

The Union remains firmly of the view that the following matters must be incorporated into the Enterprise Agreement in some way:

1. Salary escalations; and
 2. Travel subsidies; and
 3. Retention payments; and
 4. Enhancements to the DSP; and
 5. Recognition of higher rates of pay for employees performing work on Christmas Day and Boxing Day.
- Whilst our other claims remain on foot, our members have identified these as core issues which they feel need to be addressed.

Next Steps

We remain deeply concerned that BHP is simply "surface bargaining" and is simply embarking upon an exercise wherein it keeps bargaining alive whilst maintaining the status quo in perpetuity, we suggest that this is for its own commercial benefit.

In an era where inflation is running at 5.1%, the Reserve Bank is increasing interest rates and cost of living pressures are compounding, BHP has a clear moral and commercial obligation to be the good corporate citizen it proclaims to be and start making some genuine concessions, as we and other parties have.

Anything less will simply fuel the frustration of our members, which will likely result in industrial disharmony on black coal mining operations.

We look forward to meeting with you on the 15th and understanding your position on the points we have raised and hopefully seeing some progress from BHP.

Kind regards

Kegan Scherf • Industrial Advocate
Australian Manufacturing Workers' Union

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BHP

RE: (INTERNAL) Operations Services Maintenance Agreement - Record of Meeting 120522



Morkel, Jessica

To [Kegan Scherf](#); [David Buck](#); [Simon Rushworth](#); [Glenn McLaren](#); [Michael Wright](#); [Paul@etuwa.com.au](#); [Ash Bamford](#); [Mitch Hughes](#); [Smyth, Steve](#); [Shane Roulstone](#); [Lori Anderson](#); [Cassie Baynton](#); [Trev Spanner](#); [terry taylor](#); [superdanmanofsteele@hotmail.com](#); **+22 others**

[Reply](#) [Reply All](#) [Forward](#) [...](#)

Tue 14/06/2022 4:50 PM

[i](#) You forwarded this message on 14/06/2022 5:02 PM.

Classification: Internal

Dear Kegan

Thank you for your email below.

There are several comments I cannot let go unanswered, specifically your suggestion that:

- the table in your email is the totality of the proposals put to the AMWU QLD/NT Branch to date by BHP and therefore constitutes the Union providing a response to each outstanding proposal;
- it is unclear to the AMWU what the status of the coverage of apprentices is in relation to the proposed enterprise agreement;
- the current format of bargaining is not conducive to making adequate progress on the union's points; and
- BHP is simply "surface bargaining" and is simply embarking upon an exercise wherein it keeps bargaining alive whilst maintaining the status quo in perpetuity, for its own commercial benefit.

AMWU responses to current discussions

Your table does provide a reply to some matters in the agreement that have been the subject of recent discussions.

We do not have the AMWU responses to OS proposals tabled during the last bargaining meeting on

- a new clause 18 – stand aside and stand down, and
- revisions to the issue resolution procedure (which is now clause 19).

I invite the AMWU to also provide a response to those proposals, in addition to the outstanding response on clause 12.1.

Inclusion of apprentices

We do not accept that there is any ambiguity in clause 6.5 regarding apprentices. If an apprentice or trainee is employed by OS ACPM undertaking maintenance activities on a mining operation as per clause 2.1(a) then they will be subject to the agreement. The above award guarantee applies to them as it does to any employee covered by the proposed EA.

If you can provide the information about the operations where apprentices are being informed by line leaders that the Enterprise Agreement does not apply to them I will ensure it is addressed.

Logistics of bargaining/surface bargaining

OS rejects the comments you have made in your email that OS is "surface bargaining" or attempting to delay reaching an agreement, or that the current format of bargaining is not conducive to making adequate progress on your core issues.

OS has been engaging with and responding to the claims put forward by the unions since bargaining commenced. Your concern is not whether OS is responding to your claims on your members "core issues", but that OS is not responding as you would like. Put simply your concern is that OS has a different position on the core issues, and won't make concessions or reach agreement on your proposals for those core issues. It is not required to.

We remain of the view that bargaining is occurring effectively in its current format and that meetings should continue to be held via WebEx. We think the current format provides the best opportunity for all representatives to participate in discussions, particularly given the number of different locations in which they are based.

Kind regards

Jess