

## Comparison of the Proposed Agreement and *Whaleback Fly-in Fly-out Agreement 2013*

### Purpose

The table below summarises and explains the terms of the Operations Services Maintenance Agreement (**Proposed Agreement**) as compared with the *Whaleback Fly-in Fly-out Agreement 2013* (**Whaleback Agreement**). The table below is intended to assist in understanding how the conditions contained in the Whaleback Agreement compare to those in the Proposed Agreement.

### Context

There are employees who may be subject to an enterprise agreement that has transferred with them to the Company as part of a transfer of business under Part 2-8 of the *Fair Work Act 2009* (Cth) (**FW Act**). All of the enterprise agreements have reached their nominal expiry date, so if the Proposed Agreement is approved by the Fair Work Commission it will apply instead of any of those enterprise agreement when it commences operation.

If one of these agreements applied to you during a prior period of employment with another BHP group company or a third party contractor to BHP (**old employer**), then that agreement may still apply to your employment with the Company. The agreement would still apply to your employment if the requirements of section 311 of the FW Act are met:

- your employment with the old employer was terminated;
- within 3 months after termination, you became employed by the Company;
- the work you perform for the Company is the same or substantially the same as the work you performed for the old employer (**transferring work**);
- there is a connection between the Company and the old employer of one or more of the following types:
  - if the old employer was part of the BHP Group when you commenced employment with the Company; or
  - if the Company or another BHP Group company had previously outsourced the transferring work to your old employer or an associated entity of your old employer, and ceased to outsource that work; or
  - if the old employer or an associated entity of the old employer has outsourced the transferring work to the Company or another BHP group company; or
  - there is:
    - an arrangement between the old employer or an associated entity of the employer and the Company or another BHP group company; and
    - in accordance with that arrangement the Company or another BHP group company owns or has the beneficial use of some or all of the assets that the old employer or the associated entity of the old employer owned or had the beneficial use of and that relate to or are used in connection with the transferring work.

Further information about transfer of business is available from the Fair Work Ombudsman at <https://www.fairwork.gov.au/employment-conditions/when-businesses-change-owners>.

**Comparison table**

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>1. <b>TITLE</b></p> <p>This agreement will be known as the <i>Operations Services Maintenance Agreement</i> ("<b>Agreement</b>").</p>	<p><b>1. Title</b></p> <p>1.1. This agreement will be known as the Whaleback Fly-In Fly-Out Agreement 2013 ("<b>Agreement</b>").</p>	
<p>2. <b>COVERAGE</b></p> <p>2.1 This Agreement shall cover:</p> <p>(a) OS ACPM Pty Ltd (ACN 623 848 895) ("<b>the Company</b>"); and</p> <p>(b) Employees of the Company employed in the classifications set out in clause 6.6 of this Agreement who undertake maintenance activities on a mining operation ("<b>Employees</b>"). "Mining operation" in this clause includes Port operations in Western Australia which service mining operations.</p>	<p><b>2. Coverage</b></p> <p>2.1 This Agreement shall cover:</p> <p>(a) BHP Billiton WAIO Pty Ltd (ACN 008 852 784) (lithe Company"); and</p> <p>(b) Employees of the Company employed in the classifications set out in Schedule 1 to this Agreement who are engaged on a fly-in fly-out basis at the Whaleback Operations ("<b>Employees</b>").</p>	<p>The Proposed Agreement only covers maintenance Employees. The Whaleback Agreement has both production and maintenance classifications.</p>
<p>3. <b>RELATIONSHIP WITH OTHER INSTRUMENTS AND THE NATIONAL EMPLOYMENT STANDARDS</b></p> <p>3.1 Subject to clauses 14, 16, 17 and 25 of this Agreement, it does not incorporate the Company's policies or procedures (notwithstanding any references to any policies or procedures in this Agreement).</p> <p>3.2 While this Agreement operates in relation to an Employee, no other industrial instrument shall have effect in relation to the Employee.</p> <p>3.3 The National Employment Standards ("<b>NES</b>") 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.</p>	<p><b>3. Relationship with Other Instruments</b></p> <p>3.1 Each Employee covered by this agreement has a contract of employment which provides more favourable terms and conditions.</p> <p>3.2 The Company will continue to pay those more favourable terms and conditions. This agreement merely underpins them and provides minimum safety net terms and conditions.</p> <p>3.3 The contracts of employment are not part of this agreement.</p> <p>3.4 While this Agreement operates in relation to an Employee, no other industrial instrument shall have effect in relation to the Employee.</p>	<p>The Proposed Agreement includes a NES precedence clause. If the Whaleback Agreement applied, it does not contain a NES precedence term, however the NES still provides the minimum for Employees covered by the Whaleback Agreement.</p> <p>The Proposed Agreement incorporates specified policies although some are only incorporated for the term of the Agreement (this is discussed further where relevant to clauses of the Proposed Agreement). If the Whaleback Agreement applied, the policies, procedures and guidelines can be amended from time to time and are not incorporated into the Agreement.</p>
<p>4. <b>TERM OF AGREEMENT</b></p> <p>4.1 This Agreement will commence operating seven days after the Agreement is approved by the Fair Work Commission ("<b>FWC</b>").</p>	<p><b>4. Term of Agreement</b></p> <p>4.1 This Agreement will commence operating seven days after the Agreement is approved by the Fair Work Commission ("<b>FWC</b>").</p>	<p>The nominal term of the Whaleback Agreement has passed the nominal expiry date. If the Proposed Agreement is approved by the FWC, it will replace the Whaleback Agreement and it will not apply again.</p>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
4.2 The term of the Agreement ends on the nominal expiry date of the Agreement and will be four years after the date on which the FWC approves the Agreement.	4.2 The nominal expiry date of the Agreement will be four years after the date on which the Agreement is approved by the FWC.	
4.3 The Agreement will continue to operate past the term of the Agreement until terminated, or replaced by another agreement.	4.3 The Agreement will continue to operate past the nominal expiry date until terminated or replaced by another agreement.	
5. <b>TYPE OF EMPLOYMENT</b>	<b>5. Type of Employment</b>	
5.1 Employees may be engaged under this Agreement as Full Time Employees or Part Time Employees.	5.1 Employees may be engaged under this Agreement in any capacity, whether full time, part time, casual or for a fixed or maximum term or specified task.	The Proposed Agreement provides all time worked in excess of the rostered hours as mutually arranged for part-time Employees is paid for at the rates prescribed in clause 7.9.
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 <i>Black Coal Mining Industry Award 2020</i> would have applied but for the operation of this Agreement- an average of 35 ordinary hours per week, averaged over their roster cycle; or  (b) in the case of any other Employee – an average of 38 ordinary hours per week, averaged over a six month period.	5.2 Part time Employees will receive pro rata leave and other entitlements.  5.3 Casual Employees will be paid an additional loading of 25% of their Base Salary. This loading is paid instead of annual leave, personal/carer's leave, and notice of termination of employment, redundancy benefits and the other attributes of a full time or part time employment.	The Whaleback Agreement does not have this provision.  The Proposed Agreement does not include casual employment.  The Proposed Agreement provides for a weekly average of 38 hours averaged over a 6-month period (or 35 hours averaged over a roster cycle in the case of Coal Employees). If the Whaleback Agreement applied, it provides for 38 nominal hours averaged over a roster period for a full-time employee.
5.3 A Part Time Employee is an Employee who:  (a) is employed to work less than the following number of ordinary hours per week:  (i) in the case of an Employee to whom the <i>Black Coal Mining Industry Award 2020</i> would have applied but for the operation of this Agreement – an average of 35 ordinary hours per week, averaged over their roster cycle; or  (ii) in the case of any other Employee – an average of 38 ordinary hours per week, averaged over a six month period;  (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.	<b>9. Hours of Work</b>  9.1 The Company expects that usually an Employees work will be completed in their rostered hours.  9.2 The rostered hours of work based on the two weeks on, one week off roster are an average of 58.5 hours per week including handovers. These rostered hours are inclusive of an average of 38 nominal ordinary hours and regular additional hours each week.  [...]  9.4 A part time Employee shall not exceed 38 hours per week.  [...]	
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		

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>be as agreed in writing between the Company and the Part Time Employee from time to time.</p> <p>5.5 All time worked in excess of the rostered hours as mutually arranged will be un-rostered overtime and paid for at the rates prescribed in clause 7.9.</p> <p>5.6 Employees may be engaged for a fixed term or specified task. Such Employees are not entitled to notice of termination or redundancy pay on expiry of the fixed term or completion of the specified task, unless required by the <i>Fair Work Act 2009</i> (Cth) ("<b>FW Act</b>").</p>		
<p>6. <b>DUTIES</b></p> <p>6.1 Employees are required to undertake all duties as reasonably directed by the Company that are within their skill and competence and, where required by law, authorised, and in accordance with safe working practices.</p> <p>6.2 Employees will undertake training aimed at maintaining, enhancing or broadening their work skills and work performance as required by the Company and will teach work skills to others as required.</p> <p>6.3 Notwithstanding anything to the contrary in a contract of employment, all Employees covered by this Agreement are employed to work at deployments within a hub as directed by the Company from time to time. The relevant hubs are:</p> <p>(a) Queensland Hub which includes all mining operations in Queensland at which the Company provides services now or in the future;</p> <p>(b) Western Australia Hub which includes all mining operations in Western Australia at which the Company provides services now or in the future;</p> <p>(c) South Australia Hub which includes all mining operations in South Australia at which the Company provides services now or in the future; and</p> <p>(d) Any other region the Company designates as a new hub in the future.</p> <p>6.4 At least 14 days' notice, unless otherwise agreed between the Company and the Employee concerned, will be provided where an Employee is required by the Company to change deployment within their hub. Terms and conditions of employment will be</p>	<p><b>6. Duties</b></p> <p>6.1 Employees are required to undertake all duties as directed by the Company that are within their skill and competence in accordance with safe working practices.</p> <p>6.2 Employees will undertake training aimed at maintaining, enhancing or broadening their work skills and work performance as required by the Company and will teach work skills to others as required.</p> <p>6.3 Organisational requirements may necessitate Employees transferring to other positions, operations, or locations. Reasonable notice will be provided in these circumstances and terms and conditions of employment will be reviewed in light of any change in responsibilities.</p>	<p>The Proposed Agreement provides that:</p> <ul style="list-style-type: none"> <li>• all Employees covered by this Agreement work at deployments within a hub as directed by the Company from time to time;</li> <li>• transfer between hubs will be made only with agreement with the Employee;</li> <li>• unless otherwise agreed, 14 days' notice will be given where an Employee is require to change deployment within their hub.</li> </ul> <p>If the Whaleback Agreement applied:</p> <ul style="list-style-type: none"> <li>• Employees can be transferred to other positions, operations or locations with the business; and</li> <li>• movement between locations or positions will be made with reasonable notice.</li> </ul>

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<p>reviewed in light of any change of responsibilities in the event of a transfer, but will remain at least as beneficial as set out in this Agreement.</p> <p>6.5 Transfer between hubs will be by agreement with the Employee.</p>																		
<p><b>6. DUTIES</b></p> <p>...</p> <p>6.6 Employees will be placed in one of the following classifications:</p> <table border="1" data-bbox="208 485 848 965"> <thead> <tr> <th>Classification</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>Trainees</td> <td>Employees employed under a training contract under state VET legislation.</td> </tr> <tr> <td>Apprentices</td> <td>For the avoidance of doubt, trainees and apprentices principally engaged at the Company's FutureFit Academies are not covered by this Agreement.</td> </tr> <tr> <td>Non Trades</td> <td>Non trade-qualified technicians undertaking maintenance work.</td> </tr> <tr> <td>Trades</td> <td>Trade-qualified technicians undertaking maintenance work.</td> </tr> </tbody> </table> <p>6.7 An Employee's classification under clause 6.6 does not limit the duties that an Employee may be required to perform in accordance with clause 6.1.</p>	Classification	Description	Trainees	Employees employed under a training contract under state VET legislation.	Apprentices	For the avoidance of doubt, trainees and apprentices principally engaged at the Company's FutureFit Academies are not covered by this Agreement.	Non Trades	Non trade-qualified technicians undertaking maintenance work.	Trades	Trade-qualified technicians undertaking maintenance work.	<p><b>Schedule 1</b></p> <p><b>1. Classifications and Base Salaries</b></p> <p>1.1 The Base Salary for each classification is set out below.</p> <p>1.2 Employees will be placed in the classification relevant to their responsibilities. This placement does not limit the duties an Employee may be required to perform as set out in Clause 6 of this agreement. The classification an Employee holds will be reviewed where the responsibilities of the Employee change on an ongoing basis.</p> <p>1.3 Apprentices and trainees will be paid at least the amounts prescribed in the relevant modern award.</p> <table border="1" data-bbox="920 735 1545 1276"> <thead> <tr> <th>Classifications</th> <th>Description</th> <th>Minimum Base Salary</th> </tr> </thead> <tbody> <tr> <td>Non Trades</td> <td>Operations support roles Including sampling, blasting, assisting drilling and operating fixed plant.  Operating heavy mobile equipment or shot firing.  Non trade qualified technicians including service persons, trades assistants, belt splicing and maintaining, crane operators, riggers, dog men, scaffolders and lubrication services.</td> <td>\$76,600</td> </tr> </tbody> </table>	Classifications	Description	Minimum Base Salary	Non Trades	Operations support roles Including sampling, blasting, assisting drilling and operating fixed plant.  Operating heavy mobile equipment or shot firing.  Non trade qualified technicians including service persons, trades assistants, belt splicing and maintaining, crane operators, riggers, dog men, scaffolders and lubrication services.	\$76,600	<p>As noted above, the Whaleback Agreement has both production and maintenance classifications.</p>
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	Trades	Trade qualified technicians, including electrical, mechanical, boilermaker welding, carpentry, plumbing and refrigeration. Any trades engaged to perform dual trade roles would be entitled to a higher minimum rate.	\$88,200	
<p><b>7. REMUNERATION</b></p> <p>7.1 Employees will be paid an annual fixed cash reward for their roster (“<b>Annual Salary</b>”).</p> <p>7.2 The Annual Salary includes compensation for:</p> <p>(a) all allowances (unless otherwise prescribed by this Agreement), disabilities, skills; and</p> <p>(b) any other loadings, penalties, overtime or other payments that would have been applicable to rostered hours in the applicable roster under the relevant modern award. This includes compensation for working on rosters which cover weekends, public holidays, and day/afternoon/night shifts.</p> <p>7.3 The Annual Salary is set out in the Employee’s contract of employment, as amended from time to time. The commencement of this Agreement does not have the effect of reducing the Annual Salary payable to any Employee under their contract of employment for their roster and in operation immediately prior to commencement of this Agreement. During the term of this Agreement, an Employee’s Annual Salary:</p> <p>(a) will not be reduced, unless the Employee changes to a roster or a position with a different Annual Salary; and</p> <p>(b) subject to clause 7.3(c), will be reviewed annually as part of the Company’s reward process, with outcomes to be determined at Company discretion and payable from the first pay period on or after 15 September each year;</p> <p>(c) between 1 July and 15 September each year, will increase by a total of at least 4% on the Annual Salary paid to the Employee for their roster position on 30 June of that year inclusive of:</p>	<p><b>7. Remuneration</b></p> <p>7.1 Employees will be paid an annualised salary (“Total Salary”). The Total Salary is the sum of an Employee’s Base Salary, Work Allowance and Night Shift Allowance (if applicable). The Total Salary is based on a two weeks on, one week off roster, for the classifications covered by this Agreement, the Work Allowance and Night Shift Allowance are set out in Schedule 1 to this Agreement.</p> <p>7.2 An Employee’s Total Salary is set to reflect all of the requirements of the job including rostered hours, consideration for unscheduled additional hours required from time to time based on the Employee’s position and consideration for all aspects of working at site operations. It also takes into account the Employee’s skills, experience, and training, compensation for working on shift rosters which cover public holidays, night shift and any other applicable allowances or payments.</p> <p>7.3 Salaries are reviewed annually and are adjusted at the Company’s discretion to take into account the Company’s performance, the employee’s individual performance and industry salary movements generally.</p> <p>...</p> <p>7.8 Apprentices and trainees will be paid at least the amounts prescribed in the relevant modern award.</p> <p><b>22. Better off overall</b></p> <p>It is the intention that the provisions of this agreement will, in the case of every Employee covered by it, exceed those prescribed under the relevant modern award and the National Employment Standards.</p> <p><b>Schedule 1</b></p>	<p>Under the Proposed Agreement, the Annual Salary is contained in an employee’s contract of employment as varied from time to time and:</p> <ul style="list-style-type: none"> <li>will not decrease unless there is a change of position or roster with a lower salary.</li> <li>will not be less than the Above Award Guarantee under the Proposed Agreement, which is calculated using the formula set out in Appendix 1;</li> <li>will increase by a total of at least 4% of the Annual Salary paid to the Employee, inclusive of any increase to Annual Salary due to an increase in the Above Award Guarantee following the FWC’s annual wage review and the Company’s annual reward review process.</li> </ul> <p>If the Whaleback Agreement applied, it provides salaries for specific positions and rosters are stated in Schedule 1 to the Whaleback Agreement.</p> <p>Both Agreements cover trainees and apprentices. If the Whaleback Agreement applied, trainees and apprentices will be paid in accordance with the relevant modern award. Under the Proposed Agreement these Employees would be provided an Annual Salary that is not less than the Above Award Guarantee.</p>		

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<p>(i) any increase to Annual Salary required due to an increase in the Above Award Guarantee following the Fair Work Commission's annual wage review (usually effective 1 July); and</p> <p>(ii) the outcome of the Company's annual reward review process (effective in September).</p> <p>7.4 For the avoidance of doubt the 4% total increase each year is a minimum for an individual employee and not a maximum. A higher increase may be paid to individual employees:</p> <p>(a) based on the Company's assessment of individual performance of any employee;</p> <p>(b) where required to meet the Above Award Guarantee.</p> <p>7.5 The minimum Annual Salary payable under this Agreement to an Employee for working any roster will be not less than the Above Award Guarantee. An Employee's Annual Salary may be higher than required by the Above Award Guarantee.</p> <p>7.6 For the purposes of this Agreement:</p> <p>(a) subject to clause 7.9, the "Above Award Guarantee" is a guarantee that the Annual Salary payable to every Employee will be at least the amount calculated, using the relevant modern award rates and the additional 5% loading, in accordance with Appendix 1;</p> <p>(b) 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>7.7 The Company will notify Employees of the Above Award Guarantee for their roster:</p> <p>(a) on commencement of employment;</p> <p>(b) on any change of roster or position; and</p> <p>(c) between 1 and 15 July each year.</p> <p>7.8 For the purpose of calculating an Employee's Above Award Guarantee under this Agreement,</p> <p>(a) The calculation will be based on the assumptions and formula in Appendix 1;</p>	<p>[See extract of rates in row above]</p> <p><b>2. Work Allowance and Night Shift Allowance</b></p> <p>For the currently applicable roster of 7 days on, 7 nights on, 7 days off (or two weeks on, one week off), the:</p> <p>(a) Work Allowance is an amount equal to 32.5% of an Employee's Base Salary; and</p> <p>(b) Night Shift Allowance is an amount equal to 3% of an Employee's Base Salary.</p>	

Proposed Agreement		Whaleback Agreement		Additional comments on differences
<p>(b) the minimum modern award pay level for Trades and Non-Trades employees upon which an individual Employee's Above Award Guarantee will be calculated under Appendix 1 is as follows:</p>				
<b>Agreement classification of Employee</b>		<b>Minimum award pay level</b>		
		<i><b>Black Coal Mining Industry Award covered Employees</b></i>	<i><b>Mining Industry Award covered Employees</b></i>	
Non Trades		Mine Worker	Level 4	
Trades	All tradespersons principally performing work on Light Vehicle maintenance and repairs	Mine Worker - Advanced	Level 6	
	Other tradespersons 0-2 years trade qualified experience	Mine Worker - Advanced	Level 6	
	Other tradespersons after 2 years trade qualified experience	Mine Worker - Specialised	Level 7	
<p>(c) This clause 7.8 does not apply to Apprentices and Trainees. The Above Award Guarantee for Apprentices and Trainees will be based on the minimum modern</p>				



Proposed Agreement	Whaleback Agreement	Additional comments on differences
award pay rate appropriate to their year of apprenticeship or traineeship.		
<p>7.9 <b>Un-rostered overtime</b></p> <p>(a) Any un-rostered overtime worked by Employees will be paid at:</p> <p>(i) other than on public holidays, at double the Above Award Guarantee hourly roster rate for each hour of un-rostered overtime; and</p> <p>(ii) on public holidays, at triple the Above Award Guarantee hourly roster rate for each hour of un-rostered overtime.</p> <p>(b) The Above Award Guarantee hourly roster rate for the purpose of calculating the un-rostered overtime rate will not be less than the rate calculated by dividing the Above Award Guarantee that is payable for the Employee's roster by the number of rostered hours per annum for the Employee's roster. The commencement of this Agreement does not have the effect of reducing the un-rostered overtime rate currently paid to any Employee for their roster and in operation immediately prior to commencement of this Agreement.</p> <p>(c) Alternatively, an 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.</p>	<p><i>No equivalent provision.</i></p>	<p>Under the Proposed Agreement, where the Employee is required to work "un-rostered" overtime, they will be paid double the Above Award Guarantee hourly roster rate for un-rostered overtime and triple the hourly rate for unrostered overtime on public holidays. Rostered overtime is factored into the Above Award Guarantee at the relevant Award rates +5% under the Proposed Agreement.</p>
<p>7.10 Where un-rostered overtime work is necessary it must be arranged so that Employees have at least 10 consecutive hours break between work on successive shifts.</p>		
<p>7.11 In calculating overtime, each shift is to be treated separately.</p>		
<p>7.12 <b>Call back</b></p> <p>(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 7.9, for each time the Employee is recalled.</p>		

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>(b) The provisions of sub-clause (a) do not apply in the following cases:</p> <p>(i) where it is customary for an Employee to return to the workplace to perform a specific job outside of the Employee's ordinary working hours; or</p> <p>(ii) where the overtime is continuous (subject to a reasonable meal break) with the end or start of ordinary working time.</p> <p>(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.</p> <p>7.13 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>7.14 Annual Salary will be averaged over a year and paid fortnightly in arrears.</p> <p>7.15 Payment will be by electronic funds transfer to a bank account in Australia nominated by the Employee.</p> <p>7.16 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.</p> <p>7.17 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 FW Act.</p>	<p><b>7. Remuneration</b></p> <p>7.4 Remuneration will be paid at intervals determined by the Company (up to monthly), and is currently fortnightly in arrears.</p> <p>7.5 Payment will be by electronic funds transfer to a bank account in Australia nominated by the Employee.</p> <p>7.6 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.</p> <p>7.7 Where an overpayment of wages 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 shall be entitled to deduct and retain any overpayments from the Employee's pay, including from termination payments, to the fullest extent permitted by law.</p>	<p>Both Agreements provide for fortnightly pay, and contemplate an incentive program that eligible Employees can participate in.</p>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>7.18 Without limiting clause 3.1, the Company has a policy that provides for accident pay and 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><b>12. Personal/Carer's Leave</b> ...</p> <p>12.4 Where an Employee has exhausted his or her accrued paid personal/carer's leave entitlement and requires further personal leave because of a serious illness or injury affecting the Employee, the Company in Its discretion may provide salary continuation to the Employee in accordance with the Company's policies as amended from time to time.</p>	<p>The Proposed Agreement provides that accident pay will be in accordance with Company policy, as amended from time to time, but cannot be less than any accident pay scheme in the relevant modern award. While the <i>Black Coal Mining Industry Award 2020</i> has an accident pay scheme that is guaranteed by this clause as a minimum, the <i>Mining Award 2020</i> does not have an accident pay scheme.</p> <p>The Whaleback Agreement provides for discretionary salary continuation only in accordance with Company policy.</p>
<p>7.19 <b>Electrical Licences</b></p> <p>Where the Company requires an Employee to obtain to maintain a HV Switching or State Electrical Licence, the Company will reimburse the Employee for:</p> <p>(a) the cost of the licence; and</p> <p>(b) the cost of any required training course that has been approved in advance by the Company.</p>	<p><i>No equivalent provision.</i></p>	<p>Under the Proposed Agreement, the cost of electrical licences will be reimbursed by the Company.</p> <p>Reimbursement of electrical licence cost is not provided for in the Whaleback Agreement.</p>
<p>8. <b>SUPERANNUATION</b></p> <p>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.</p> <p>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.</p> <p>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 in order to pay this amount into the Employee's nominated superannuation fund.</p> <p>8.4 Employee Superannuation Co-Contribution is offered at the discretion of the Company to participating Employees, who have completed a written election application, on the following conditions:</p>	<p><b>8. Superannuation</b></p> <p>8.1 Employees are allowed a personal choice of complying superannuation fund, however for the purposes of this Agreement the Company shall use the BHP Billiton Superannuation Fund's Defined Contribution Division ("BHPB Fund") as the Company's default superannuation fund. Should an Employee elect not to choose their own complying superannuation fund, the BHPB Fund shall be used. The Company reserves the right to change its default fund at any time.</p> <p>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.</p> <p>8.3 The Company may make additional contributions on each Employee's behalf dependent upon the Employee's own contribution in accordance with the Company's policies as amended from time to time.</p> <p>8.4 An Employee can request and the Company may agree that the Employee will forgo part of their Total Salary otherwise payable under this Agreement and in lieu pay this amount into the Employee's nominated superannuation fund.</p>	<p>Both the Proposed Agreement and the Whaleback Agreement provide for Employee co-contributions in accordance with Company policy. The Proposed Agreement contains more detailed provisions relating to co-contributions.</p>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>(a) Subject to subclause (c), The Company may, at its discretion, review, vary or cease the Employee Co-Contribution Policy at any time. This includes where there are changes in Australian Taxation Office practice, tax rulings, legislation or legislative interpretation.</p> <p>(b) The Employee may cease Employee Co-Contribution at any time by 30 days' notice and submitting a completed election form.</p> <p>(c) The Company may cease Co-Contribution at any time by 30 days' notice.</p> <p>(d) Company and Employee Co-Contributions will cease during periods of unpaid leave unless otherwise agreed by the Company.</p> <p>(e) Company and Employee Co-Contributions are calculated in accordance with the Employee Co-Contribution Policy, as amended from time to time.</p> <p>(f) All contributions will only be paid into one superannuation fund for each Employee. Contributions made to and earnings received from a superannuation fund must be preserved in the fund until the Employee reaches preservation age or meet any other legislative and fund criteria allowing the release of superannuation benefits.</p> <p>(g) Company and Employee Co-Contributions will incur tax at the rate under the taxation legislation applicable at the time.</p>		
<p><b>9. HOURS OF WORK</b></p> <p>9.1 The Company expects that an Employee's work will usually be completed in their rostered hours. Employees may be required to work reasonable un-rostered overtime.</p> <p>9.2 A rostered shift includes shift handovers to be completed as directed at the start and end of the shift.</p> <p>9.3 An Employee's rostered hours of work are inclusive of an Employee's ordinary hours and rostered overtime each week.</p> <p>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</p>	<p><b>9. Hours of Work</b></p> <p>9.1 The Company expects that usually an Employees work will be completed in their rostered hours.</p> <p>9.2 The rostered hours of work based on the two weeks on, one week off roster are an average of 58.5 hours per week including handovers. These rostered hours are inclusive of an average of 38 nominal ordinary hours and regular additional hours each week.</p> <p>9.3 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</p>	<p>Under the Proposed Agreement, unless the Company and the Employee agree otherwise, the Company must provide:</p> <ul style="list-style-type: none"> <li>• notice of one week if it changes the Employee's place on a roster; and</li> <li>• notice of at least 7 days before it implements any change to the ordinary starting or finishing times on the roster or the starting and finishing places on a site unless there are operational reasons requiring a shorter notice period to be given; or</li> </ul>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>of the workplace and the roster arrangements. The Annual Salary is calculated on the basis that Employees will work these hours.</p> <p>9.5 The Company shall determine each Employee's roster, including the days and hours of work, and starting and finishing times and places from time to time, and may change any such rosters, days and hours of work or starting and finishing times and places, provided that:</p> <p>(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;</p> <p>(b) the Company will provide an Employee with one week's notice of any change to an Employee's place on a roster, unless otherwise agreed with the Employee;</p> <p>(c) before implementing any change to ordinary starting and finishing times for an Employee's roster or a change to starting and finishing places on a site, the Company will provide at least 7 days' notice of the change, unless:</p> <p>(i) the Company and the Employee otherwise agree;</p> <p>(ii) there are operational requirements that require a shorter period of notice to be given; or</p> <p>(iii) the Employee is moving permanently from a non-continuous day roster to a rotating continuous roster, in which case the reference to 7 days is to be taken as 14 days.</p> <p>(d) For the avoidance of doubt, clause 24.1(b) applies to a change to the regular roster or ordinary hours of work of Employees.</p>	<p>arrangements. The Total Salary Is set on the basis that Employees will work these hours.</p> <p>9.4 A part time Employee shall not exceed 38 hours per week.</p> <p>9.5 Circumstances may require that Employees work reasonable additional hours outside their rostered hours to ensure that the full requirements of their role are met. This has been taken into account in setting the Total Salary.</p> <p>9.6 The Company shall determine each Employee's start and finish times, shifts, roster cycles and Additional Hours. The Company may change the Employee's start and finish times, shifts, roster cycles and Additional Hours (including the number of hours worked on each shift) and Introduce new roster cycles and/or shifts. Where a new roster is Introduced, the Work paid in respect of that roster will be calculated using the same principles used to calculate the Work Allowances set out in this Agreement.</p> <p>9.7 The Company operates commute work patterns. The Company may change the commute work patterns. The Company may introduce or change these commute work patterns in the future in consultation with affected Employees.</p> <p>[...]</p>	<ul style="list-style-type: none"> <li>if the Employee is moving from a non-continuous day roster to a rotating continuous roster, 14 days' notice (not 7) is required.</li> </ul> <p>If the Whaleback Agreement applied, the Company is able to change commute work patterns 'in consultation with affected Employees', but changes to Employee start and finish times, shifts, roster cycles and additional hours are not subject to any express notice period.</p>
<p>9.6 Employees are entitled to paid meal and rest breaks of 30 minutes for every 5 hours worked. The meal break and rest breaks shall be taken at times prescribed by the Company having regard to safety, operational and production requirements. Employees will not be required to work more than 5 hours without a meal and rest break. Reasonable time taken to travel to or from the area designated by the Company for crib will be counted as time worked and will not be counted as part of the paid meal break.</p>	<p>9.8 Hours of Work</p> <p>Employees are entitled to meal and rest breaks comprising 2 x 30 minute breaks 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>	<p>If the Whaleback Agreement applied the meal/rest breaks are longer for shifts less than 10 hours.</p>
<p>10. <b>PUBLIC HOLIDAYS</b></p> <p>10.1 The following days are public holidays:</p>	<p><b>10. Public Holidays</b></p>	<p>The Proposed Agreement contains additional provisions regarding public holiday work as</p>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<ul style="list-style-type: none"> <li>(a) New Year's Day</li> <li>(b) Australia Day</li> <li>(c) Good Friday</li> <li>(d) Easter Saturday (for Employees rostered to work ordinary hours on that day)</li> <li>(e) Easter Sunday</li> <li>(f) Easter Monday</li> <li>(g) Anzac Day</li> <li>(h) Sovereign's Birthday</li> <li>(i) Christmas Day</li> <li>(j) Boxing Day</li> <li>(k) any additional day observed by the local community and gazetted at the place of work as a holiday</li> <li>(l) any day gazetted in addition or in lieu of one of these holidays.</li> </ul>	<p>The roster cycle in use will require Employees to work on a public holiday from time to time. Employees acknowledge that this is reasonable based on the Company's operational requirements. The Total 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 R&amp;R.</p>	<p>compared with the Whaleback Agreement, including clauses explaining the Company's position about the reasonableness of its request that employees work on public holidays. These matters remain subject to the NES. The Proposed Agreement also provides that Above Award Guarantee Annual Salaries will include compensation for 11 public holidays worked.</p> <p>The Proposed Agreement also provides that Above Award Guarantee Annual Salaries will include compensation for 11 public holidays worked.</p>
<p>10.2 The Company provides continuous maintenance services to mining operations, and continues work across rosters for 24/7, 365/6 days a year shift coverage. It rosters shifts for all Employees and continues operating throughout public holiday periods to support safe and productive continuity of operations. As part of this Agreement:</p> <ul style="list-style-type: none"> <li>(a) The Company notifies Employees of their roster in advance, so Employees know: <ul style="list-style-type: none"> <li>(i) the public holidays that fall within their rostered working time; and</li> <li>(ii) the two non-rostered public holidays each year that will not fall within their rostered working time. These days will be determined by the Employee's roster and are not required to be the same for any Employees.</li> </ul> </li> <li>(b) The Company guarantees Above Award Guarantee Annual Salaries that include compensation for 11 public holidays worked.</li> </ul>		

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>(c) Where an Employee is rostered to work one or more public holidays during the course of a year, the Company is requesting the Employee to work those days and the Company believes this is a reasonable request, in light of its workplaces, its operational requirements, its business requirements, the work performed by Employees, and the remuneration structure.</p> <p>(d) The FW Act provides a right for an Employee to refuse the request, if having regard to section 114 of the NES:</p> <p>(i) the request by the Company is unreasonable; or</p> <p>(ii) a refusal by the Employee is reasonable.</p> <p>(e) If an Employee who is requested to work by their roster, wishes to refuse that request to work, they should communicate this refusal and their reasons, in writing, to their supervisor in accordance with the BHP Working Public Holidays Policy as amended from time to time.</p> <p>(f) This sub-clause does not apply to an Employee on a period of pre-approved leave on the public holiday.</p> <p>(g) No separate payment will be made where a public holiday falls during a non-rostered day.</p>		
<p>11. <b>ANNUAL LEAVE</b></p> <p>11.1 Annual leave entitlements will be provided for in accordance with the NES.</p> <p>11.2 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.</p> <p>11.3 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><b>11. Annual Leave</b></p> <p>11.1 Employees (other than casual Employees) whose roster:</p> <p>a) does not require them to regularly work on Sundays and public holidays are entitled to five (5) weeks of paid annual leave per year; and</p> <p>b) requires them to regularly work on Sundays and public holidays and/or who are described as 'shift workers' for the purposes of the National Employment Standards,</p> <p>are entitled to six (6) weeks of paid annual leave per year.</p> <p>11.2 Leave is to be taken in accordance with applicable minimum legislated standards that apply to Employees, Individual contracts of employment and the Company's policies as amended from time to time. This may include the ability to "cash out" amounts of leave to the maximum extent permitted by applicable minimum legislated standards.</p>	<p>Under the Proposed Agreement a shiftworker entitled to an additional week of annual leave is an Employee who:</p> <ul style="list-style-type: none"> <li>over the roster cycle, may be rostered to work shifts on any of the seven days of the week); or</li> <li>works a roster which requires ordinary shifts on public holidays and not less than 272 ordinary hours per year on Sundays.</li> </ul> <p>If the Whaleback Agreement applied, a shiftworker entitled to an additional week of annual leave is an Employee whose roster requires them to regularly work on Sundays and public holidays and/or who are described as 'shiftworkers' for the purposes of the NES.</p>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<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> <p>11.4 Annual leave taken during employment or paid out on termination of employment is paid at an Employee's Annual Salary rate.</p> <p>11.5 An Employee and the Company may agree for the Employee to "cash out" amounts of annual leave provided that:</p> <ul style="list-style-type: none"> <li>(a) the cashing out would not result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks;</li> <li>(b) each occasion of cashing out is by a separate agreement in writing between the Company and the Employee; and</li> <li>(c) cashed out annual leave is paid at the Employee's Annual Salary rate.</li> </ul> <p>11.6 The Company may shut down all or part of its operation for a particular period (<b>Temporary Shutdown Period</b>) and require affected Employees to take leave during that period provided:</p> <ul style="list-style-type: none"> <li>(a) unless a shorter period is agreed, the Company must give the affected Employees 28 days' written notice (or as soon as reasonably practicable for any Employee who is engaged after the notice is given to other Employees);</li> <li>(b) an affected Employee may elect to cover the temporary shutdown period by taking one, or a combination of two or more, of the following: <ul style="list-style-type: none"> <li>(i) paid annual leave if the Employee has accrued an entitlement to such leave;</li> <li>(ii) leave without pay;</li> <li>(iii) if agreed by the Company, annual leave in advance;</li> </ul> </li> <li>(c) if the Employee does not make an election, or leave in advance is not agreed, that covers the whole of the Temporary Shutdown Period, then the Company may reasonably direct the Employee in writing to take a period of paid annual leave to which the Employee has accrued an entitlement; and</li> </ul>		



Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>(d) if a temporary shutdown period includes a day or part-day that is a public holiday and would have been a working day for the Employee had the Employee not been on leave in accordance with this sub-clause, the Employee is taken not to be on leave on that day or part-day.</p>		
<p>12. <b>PERSONAL/CARER'S LEAVE</b></p> <p>12.1 Personal/carer's leave entitlement will be provided for in accordance with the NES and the relevant modern award, provided that:</p> <p>(a) Employees will be credited with their annual entitlement to personal/carer's leave under the NES and in accordance with the relevant modern award;</p> <p>(b) personal/carer's 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;</p> <p>(c) accrued but untaken 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, or where personal/carer's leave transfers to a new employer) and is paid at the Employee's Annual Salary rate.</p> <p>12.2 Personal/carer's leave is paid at an Employee's Annual Salary rate.</p>	<p><b>12. Personal Carer's Leave</b></p> <p>12.1 Employees (other than casual Employees) are entitled to 10 days of paid personal/carer's leave per year of continuous service which accumulates from year to year.</p> <p>12.2 Personal/carer's leave may be taken:</p> <p>a) because the Employee is not fit for work because of an illness or injury affecting the Employee or</p> <p>b) to provide care or support to a member of the Employee's immediate family or household because of an illness, injury or unexpected emergency affecting that person.</p> <p>12.3 Employees (including casual Employees) are entitled to 2 days of unpaid carer's leave on each occasion when a member of the Employee's immediate family or household requires care or support because of an illness or injury or unexpected emergency affecting that person. An Employee may not take unpaid carer's leave if the Employee could instead take paid personal/carer's leave.</p> <p>12.4 Where an Employee has exhausted his or her accrued paid personal/carer's leave entitlement and requires further personal leave because of a serious illness or injury affecting the Employee, the Company in its discretion may provide salary continuation to the Employee in accordance with the Company's policies as amended from time to time.</p> <p>12.5 Personal/carer's leave accrues and must be taken subject to the terms of the National Employment Standards and the Company's policies as amended from time to time.</p>	<p>Under the Proposed Agreement:</p> <ul style="list-style-type: none"> <li>personal leave is paid at an Employee's Annual Salary rate; and</li> <li>untaken but accrued personal leave to be paid out upon termination (except in specified circumstances).</li> </ul> <p>If the Whaleback Agreement applied, there is no such pay out of untaken but accrued personal leave.</p>
<p>13. <b>COMPASSIONATE LEAVE</b></p> <p>13.1 Compassionate leave entitlements will be provided for in accordance with the NES.</p> <p>13.2 Compassionate leave is paid at an Employee's Annual Salary rate.</p>	<p><b>13. Compassionate Leave</b></p> <p>13.1 Employees are entitled to at least 2 and up to 5 days of paid compassionate leave on each occasion when:</p> <p>(a) a member of the Employee's immediate family or household contracts or develops a personal illness</p>	<p>If the Whaleback Agreement applied, it provides:</p> <ul style="list-style-type: none"> <li>up to 5 days of Compassionate Leave per occasion.</li> </ul> <p>Under the Proposed Agreement:</p>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
	<p>that poses a serious threat to his or her life, in order to provide care and support to that person;</p> <p>(b) a member of the Employee's immediate family or household sustains a personal injury that poses a serious threat to his or her life, in order to provide care or support that person or dies.</p> <p>13.2 Compassionate leave must be taken subject to the terms of the National Employment Standards and the Company's policies as amended from time to time.</p>	<ul style="list-style-type: none"> <li>• Employees receive 2 days per occasion in accordance with the NES; and</li> <li>• Employees are paid at their Annual Salary rate.</li> </ul>
<p>14. <b>PARENTAL LEAVE</b></p> <p>14.1 Subject to clause 14.2, Employees are entitled to parental leave at least in accordance with the BHP Group Parental Leave Australia Policy, as amended from time to time.</p> <p>14.2 The entitlements under clause 14.1 will not be less than:</p> <p>(a) the NES;</p> <p>(b) for the term of this Agreement, the entitlements in the Policy as at commencement of the Agreement.</p>	<p><b>14. Parental Leave</b></p> <p>14.1 Employees with at least 3 months' continuous service are entitled to parental leave in accordance with the National Employment Standards and the Company's policies as amended from time to time. Parental leave is available to male and female Employees, and applies equally for both births and adoptions of children under the age of 16 years.</p> <p>14.2 The "Primary Caregiver" (as that term is defined in the Company's policies as amended from time to time) is entitled to 18 weeks' paid parental leave then up to 34 weeks' unpaid leave prior to returning to work.</p> <p>14.3 A "Secondary Caregiver" (as that term is defined In the Company's policies as amended from time to time) is entitled to 1 week of paid leave upon the birth of a child or the adoption of a child under the age of 16 years.</p> <p>14.4 Primary Caregiver benefits can be split between parents if they both work for the Company.</p>	<p>Under the Proposed Agreement parental leave is paid in accordance with the BHP Group Parental Leave Australia Policy, the entitlements of which will never be less than the NES. The BHP Group Parental Leave Australia Policy currently provides for 18 weeks paid parental leave. This cannot be reduced for the term of the Proposed Agreement.</p> <p>The Whaleback Agreement also provides for 18 weeks' paid parental leave.</p> <p>Under both the Proposed Agreement and the Whaleback Agreement, employees are entitled to additional periods of leave including unpaid leave in accordance with Company policy and the NES.</p>
<p>15. <b>LONG SERVICE LEAVE</b></p> <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 in accordance with their normal pay periods.</p>	<p><b>15. Long Service Leave</b></p> <p>15.1 Employees are entitled to 13 weeks of paid long service leave after completing ten years continuous service with the Company.</p> <p>15.2 Employees are entitled to take pro rata long service leave of 6.5 weeks after completing the first five years of continuous service with the Company.</p> <p>15.3 Part time Employees accrue long service leave on a pro-rata basis.</p> <p>15.4 Long Service leave accrues and must be taken subject to relevant legislation and the Company policies as amended from time to time.</p>	<p>If the Whaleback Agreement applied, Employees accrue long service leave at the rate of 13 weeks / 10 years of continuous service and Employees can take pro-rata long service leave of 6.5 weeks after 5 years of continuous service.</p> <p>Under the Proposed Agreement, long service leave:</p> <ul style="list-style-type: none"> <li>• in QLD accrues at a higher rate for employees subject to the coal long service leave scheme;</li> <li>• in WA accrues at the lower rate of 8.667 weeks of long service leave after 10 years of service;</li> </ul>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
		<ul style="list-style-type: none"> <li>in SA accrues at the same rate of 13 weeks of long service leave after 10 years of service.</li> </ul>
<p>16. <b>COMMUNITY SERVICE LEAVE</b></p> <p>16.1 Subject to clause 16.2, community service leave entitlements are provided for in accordance with the BHP Group Public Service Leave - Australia Policy, as amended from time to time.</p> <p>16.2 The entitlements under clause 16.1 will not be less than:</p> <p>(a) the NES;</p> <p>(b) for the term of this Agreement, the entitlements in the Policy as at the commencement of this Agreement.</p>	<p><b>16. Community Service Leave</b></p> <p>The Company recognises leave for community service, jury service and defence force reserves in accordance with the applicable minimum legislated standards and the Company's policies and amended from time to time.</p>	<p>Both Agreements provide for community service leave in accordance with the NES and Company policies.</p>
<p>17. <b>LEAVE TO DEAL WITH FAMILY AND DOMESTIC VIOLENCE</b></p> <p>17.1 Subject to clause 17.2, paid family and domestic violence leave is provided for in the BHP Group Family and Domestic Violence Support Policy, as amended from time to time.</p> <p>17.2 The entitlements under clause 17.1 will not be less than:</p> <p>(a) the NES;</p> <p>(b) for the term of this Agreement, the entitlements in the Policy as at the commencement of this Agreement.</p>	<p><i>No equivalent provision. The NES would apply.</i></p>	<p>The Proposed Agreement provides that family and domestic violence leave will be provided in accordance with the NES and Company policy.</p> <p>The Whaleback Agreement does not include an equivalent provision, so the NES entitlement would apply.</p>
<p>18. <b>LEAVE WITHOUT PAY</b></p> <p>18.1 An Employee who has exhausted all leave entitlements may make a written application for leave without pay stating the reasons, and the proposed commencement and completion dates. Leave without pay, and its duration, may be granted at the Company's sole discretion. Leave without pay under this clause does not count as service.</p>	<p><i>No equivalent provision.</i></p>	<p>The Proposed Agreement provides that an Employee can apply to the Company to take unpaid leave where they have exhausted all leave entitlements.</p> <p>While not provided in the Whaleback Agreement, there is nothing that would prevent employees from applying for unpaid leave under the Whaleback Agreement.</p>
<p>19. <b>INCLEMENT WEATHER</b></p>	<p><i>No equivalent provision.</i></p>	<p>The Proposed Agreement provides for arrangements in circumstances of inclement weather. The Whaleback Agreement does not include an equivalent provision.</p>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>19.1 Arrangements in the event of severe wet weather or a cyclone are dealt with in the relevant Asset or site policy, as amended from time to time.</p> <p>19.2 Where Employees cannot get to work due to severe wet weather or a cyclone, they are enabled to utilise accrued annual leave if they desire.</p>		
<p>20. <b>ACCOMMODATION AND TRAVEL</b></p> <p>20.1 For the term of this Agreement, the following arrangements will apply.</p> <p>20.2 <b>In this clause:</b></p> <p>(a) <b>Local Area</b> means the area within a radius of the site at which an Employee is working from which it is reasonably practical to drive from the Employee's residence in and out of that site for each shift in accordance with any fatigue management plan requirements for the site;</p> <p>(b) <b>Local Employee</b> means any Employee who resides within the Local Area;</p> <p>(c) <b>Commute Employee</b> is an Employee who lives outside a radius of the site at which they are working and from which it is not reasonably practical to drive from the Employee's residence in and out of that site for each shift, but from which it is reasonably practical to drive in and out of that site for each swing in accordance with any journey management plan requirements for the site;</p> <p>(d) <b>Non-Local Employee</b> means any other Employee that is not a Local Employee or Commute Employee.</p> <p>20.3 <b>Employment in a hub</b></p> <p>Employees are employed to work at deployments within a hub as directed by the Company from time to time. As a result, Employees are not employed to work in a single location or site and are able to choose where to reside.</p> <p>20.4 <b>Local Employees Benefits</b></p> <p>(a) Subject to this clause 20.4, Local Employees will travel to and from the site in their own time and at their own expense each day that they are required to perform work.</p>	<p><i>No equivalent provision.</i></p>	<p>The Proposed Agreement sets out detailed arrangements applying to benefits for Employees depending on where they reside, and various travel and accommodation allowances.</p> <p>The Whaleback Agreement does not include an equivalent provision.</p>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>(b) Local Employees will be paid a local allowance of \$8,000 per year paid in equal fortnightly instalments included in their regular pay, for each fortnight work, including non-rostered overtime, is performed as required or an Employee is on paid leave.</p> <p>(c) Where the Company requires Local Employees to travel daily to and from the site from a designated location and by a designated means, such transport will be at the Company's cost, and will not affect payment of the allowance in clause 20.4(b).</p> <p>(d) This clause does not apply if an Employee accepts other housing arrangements with the Company.</p>		
<p>20.5 <b>Commute Employees Benefits</b></p>		
<p>(a) Subject to clause 20.7, the Company will provide Commute Employees at the Company's cost, with single person's village or other accommodation during the rostered swing of work. The type and location of the accommodation is at the Company's discretion, and if an Employee chooses not to stay in the accommodation provided the Employee will be responsible for their own accommodation at their own expense.</p> <p>(b) The Company will provide Commute Employees at its cost with:</p> <p>(i) road transport to and from the site from the accommodation each day that they perform work as directed;</p> <p>(ii) a travel allowance of \$5,000 per year paid in equal fortnightly instalments included in their regular pay, for all incidental costs incurred in travelling to and from their residence to their accommodation to perform work, including non-rostered overtime, as required. This allowance will be included in regular pay for each fortnight work is performed as required or an Employee is on paid leave.</p> <p>(c) Where the Company requires Commute Employees to commute to and from the accommodation by a designated means, such transport will be at the Company's cost and will not affect payment of the allowance in clause 20.5(b).</p>		

20.6	<b>Non-Local Employees Benefits</b>		
	<p>(a) Subject to clause 20.7 the Company at its cost, will provide Non-Local Employees with:</p> <ul style="list-style-type: none"> <li>(i) single person's village or other accommodation during the rostered swing of work. The type and location of the accommodation is at the Company's discretion. If an Employee chooses not to stay in the accommodation provided, the Employee will be responsible for their own accommodation at their own expense;</li> <li>(ii) air transport between: <ul style="list-style-type: none"> <li>(A) the transport departure points in (C) to (E) below; or</li> <li>(B) any other departure point(s) nominated by the Company from time to time,</li> </ul> <p>and the nominated provincial airport and return, to meet the Employee's roster.</p> <p>At the commencement of this Agreement the transport departure points are:</p> <ul style="list-style-type: none"> <li>(C) for the Queensland Hub – Brisbane;</li> <li>(D) For the Western Australia Hub – Perth;</li> <li>(E) For the South Australia Hub – Adelaide;</li> </ul> </li> <li>(iii) road transport to and from the site from the accommodation each day that they perform work; and</li> <li>(iv) road transport between the provincial airport nominated by the Company and the single person's village or other accommodation and return.</li> </ul> <p>(b) The Company can require Employees to travel under this sub-clause by a designated means, timetables, and carriers.</p>		
20.7	<b>Conditions of travel and accommodation</b>		
	<p>(a) Only one of subclauses 20.4 , 20.5, or 20.6 will apply. An Employee must provide a written request to their</p>		

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<p>Supervisor at least 28 days prior to any change in status under those clauses.</p> <p>(b) The benefits apply for:</p> <ul style="list-style-type: none"> <li>(i) each week the Employee works in accordance with the directions of the Company or is on paid leave; and</li> <li>(ii) the term of this Agreement.</li> </ul> <p>(c) The allowances applicable under this clause:</p> <ul style="list-style-type: none"> <li>(i) are divisible flat payments and do not compound for overtime or any penalty;</li> <li>(ii) apply pro rata for Part Time Employees in accordance with clause 5.3.</li> </ul> <p>(d) All travel and rest time under this clause is non-working time.</p> <p>(e) Employees who choose to use the accommodation or travel provided will, as a condition of employment, abide by the rules and regulations of the Company and/or the operator, as amended from time to time. Disruptive behaviour and/or breaching rules and regulations can invoke removal of accommodation and/or travel rights. An Employee who has their rights withdrawn and does not provide their own accommodation and/or travel in accordance with their roster, may have their employment terminated.</p> <p>(f) Employees must comply with the journey management plan requirements of any site.</p> <p>(g) Without limiting sub-clauses 20.7(d) and (f), to assist with management of fatigue, Non-Local and Commute Employees travelling to or from the Local Area to perform work may be required by the Company to:</p> <ul style="list-style-type: none"> <li>(i) travel on the day preceding the first shift and rest at designated Company provided accommodation, prior to commencing the first shift; and</li> <li>(ii) on completion of work on any roster, travel may include rest at designated Company provided accommodation during the period following the</li> </ul>		

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<p>completion of the final shift before commencing commute travel.</p> <p>(h) Where any transport is provided by the Company, an Employee must travel on the scheduled transport that is allocated to the Employee. In circumstances where an Employee, for any reason other than a direction by the Company, does not travel at the allocated time:</p> <p>(i) it will be the Employee's responsibility to provide an alternate means of transport at the Employee's cost and subject to journey management and fatigue management requirements; or</p> <p>(ii) where that is not possible, it may result in the Employee being ineligible to work that rostered shift and no payment will be provided for that shift.</p>		
<p>21. <b>STAND ASIDE AND STAND DOWN</b></p> <p>21.1 Subject to clause 21.3, 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>21.2 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>21.3 Subject to the NES:</p> <p>(a) An Employee stood aside under clause 21.1(c) is entitled to be paid their Annual Salary for the period they are stood aside, provided the Employee:</p> <p>(i) remains ready, willing and able to perform work; and</p> <p>(ii) complies with all lawful and reasonable directions given by the Company during this period</p>	<p><i>No equivalent provision for stand aside, but there is a stand down provision in section 524 of the FW Act which would apply under the Whaleback Agreement.</i></p>	<p>The Proposed Agreement contains procedures governing the situations in which an Employee can be stood aside with or without pay. If the Whaleback Agreement applied, there are no equivalent rights for the Company.</p>



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<p>(including, for example, any direction to participate in the investigation into alleged misconduct).</p> <p>(b) If an Employee stood aside with pay under this clause fails to meet the requirements of sub-clause 21.3(a), the Employee is not entitled to be paid their Annual Salary for the period that the Employee does not meet those requirements.</p> <p>21.4 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>21.5 Employees who have been stood down under the circumstances described in clause 21.4 above may request to take accrued annual or long service leave entitlements. Approval is at the Company's discretion.</p> <p>21.6 Any Employee stood down under clause 21.4 will continue to have their service recognised for the purposes of "continuous service".</p>		
<p>22. <b>ISSUE RESOLUTION PROCEDURE</b></p> <p>22.1 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>22.2 Where an issue under clause 22.1 arises which 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>22.3 If the issue remains unresolved, it may be referred for discussion between the Employee and the Employee's Superintendent.</p>	<p><b>17. Dispute Resolution Procedure</b></p> <p>17.1 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 National Employment Standards.</p> <p>17.2 The parties involved in an issue must first attempt to resolve the issue at the workplace level in accordance with the Company's policies as amended from time to time.</p> <p>17.3 If the issue resolution processes contained in the Company's policies have genuinely been exhausted, and the issue is still unable to be resolved, either party (or its representative) may refer the matter to the FWC for conciliation only.</p> <p>17.4 An Employee is entitled to have in attendance a support</p>	<p>The dispute procedure in the Proposed Agreement has specific steps before referral to FWC for conciliation, which can only be bypassed by agreement. The Proposed Agreement also allows arbitration by agreement, which is not a power given to FWC in the Whaleback Agreement.</p>

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<p>22.4 If the issue is still not resolved, it may be referred for discussion between the Employee and the Employee's Departmental Manager.</p> <p>22.5 Discussions in accordance with clauses 22.2, 22.3 and 22.4 will be held as soon as reasonably practicable.</p> <p>22.6 By agreement, the Company and the Employee may bypass any of the steps in clauses 22.3 or 22.4 in the interests of speedy resolution of the issue.</p> <p>22.7 If the issue resolution processes in clauses 22.2, 22.3 and 22.4 have genuinely been exhausted (with the exception of the processes in clauses 22.3 or 22.4 if there was an agreement to bypass any of these steps), and the issue is still unable to be resolved at the workplace level, either party (or its representative) may refer the matter to the FWC for conciliation. If the matter remains unresolved, it can be referred to the FWC for arbitration by consent of both parties involved.</p> <p>22.8 Either the Employee or the Company may have a representative to assist at any stage of this process.</p>	<p>person / representative to assist the Employee at any stage of this process.</p>	
<p>23. <b>INDIVIDUAL FLEXIBILITY</b></p> <p>23.1 The Company and any Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:</p> <p>(a) the arrangement deals with 1 or more of the following matters:</p> <p>(i) arrangements about when work is performed;</p> <p>(ii) overtime rates;</p> <p>(iii) penalty rates;</p> <p>(iv) allowances;</p> <p>(v) leave loading; and</p> <p>(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); and</p> <p>(c) the arrangement is genuinely agreed to by the Company and Employee.</p>	<p><b>18. Individual flexibility</b></p> <p>18.1 The Company and individual Employees may agree to make an individual flexibility arrangement ("IFA") to vary the effect of the terms of this Agreement, in accordance with this clause and the Fair Work Act 2009 ("Fair Work Act"), as amended from time to time.</p> <p>18.2 Currently, those requirements in the Fair Work Act are that the IFA:</p> <p>(a) Be in writing and signed by both parties (or the Employee's parent or guardian in the event they are under 18 years of age) and a copy must be provided to the Employee within 14 days;</p> <p>(b) Deals only with permitted matters and not unlawful matters as set out in the FW Act;</p> <p>(c) Be genuinely agreed to and leave the Employee better off overall than this agreement; and</p> <p>(d) Be terminable by either party on 28 days' notice, or earlier if agreed.</p>	<p>The Individual Flexibility Term in the Proposed Agreement mirrors the current Model Term. If the Whaleback Agreement applied an Individual Flexibility Arrangement can cover broader matters than the Proposed Agreement.</p>

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>23.2 The Company must ensure that the terms of the individual flexibility arrangement:</p> <ul style="list-style-type: none"> <li>(a) are about permitted matters under section 172 of the FW Act; and</li> <li>(b) are not unlawful terms under section 194 of the FW Act; and</li> <li>(c) result in the Employee being better off overall than the Employee would be if no arrangement was made.</li> </ul>	<p><i>Note that the model flexibility term is also taken to be part of the Whaleback Agreement.</i></p>	
<p>23.3 The Company must ensure that the terms of the individual flexibility arrangement:</p> <ul style="list-style-type: none"> <li>(a) is in writing;</li> <li>(b) includes the name of the Company and Employee; and</li> <li>(c) is signed by the Company and Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and</li> <li>(d) includes details of: <ul style="list-style-type: none"> <li>(i) the terms of this Agreement that will be varied by the arrangement; and</li> <li>(ii) how the arrangement will vary the effect of the terms; and</li> <li>(iii) how the Employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and</li> </ul> </li> <li>(e) states the day on which the arrangement commences.</li> </ul>		
<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 Employee may terminate the individual flexibility arrangement:</p> <ul style="list-style-type: none"> <li>(a) by giving no more than 28 days written notice to the other party to the arrangement; or</li> <li>(b) if the Company and Employee agree in writing—at any time.</li> </ul>		

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>24. <b>MANAGEMENT OF CHANGE / CONSULTATION</b></p> <p>24.1 This term applies if the Company:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees.</li> </ul> <p><b>Major change</b></p> <p>24.2 For a major change referred to in paragraph 24.1(a):</p> <ul style="list-style-type: none"> <li>(a) the Company must notify the relevant Employees of the decision to introduce the major change; and</li> <li>(b) subclauses 24.3 to 24.9 apply.</li> </ul> <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> <ul style="list-style-type: none"> <li>(a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and</li> <li>(b) the Employee or Employees advise the Company of the identity of the representative;</li> </ul> <p>the Company must recognise the representative.</p> <p>24.5 As soon as practicable after making its decision, the Company must:</p> <ul style="list-style-type: none"> <li>(a) discuss with the relevant Employees; <ul style="list-style-type: none"> <li>(i) the introduction of the change; and</li> <li>(ii) the effect the change is likely to have on the Employees; and</li> <li>(iii) measures the Company is taking to avert or mitigate the adverse effect of the change on the Employees; and</li> </ul> </li> <li>(b) for the purposes of the discussion—provide, in writing, to the relevant Employees:</li> </ul>	<p><b>19. Management of change</b></p> <p>19.1 The Company recognises the importance of consultation with Employees on matters that directly affect Employees in their employment. The Company will consult with Employees about any definite decisions taken by the Company that involve a major workplace change which is likely to have a significant effect on jobs, the work performed or the way in which work is performed.</p> <p>19.2 An Employee may be represented by a person of their choice in any discussions held in accordance with this clause.</p>	<p>The Consultation clause in the Proposed Agreement mirrors the Model Term as contained in the FW Act and Regulations.</p> <p>The Whaleback Agreement has a less detailed consultation clause.</p>

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<ul style="list-style-type: none"> <li>(i) all relevant information about the change including the nature of the change proposed; and</li> <li>(ii) information about the expected effects of the change on the Employees; and</li> <li>(iii) any other matters likely to affect the Employees.</li> </ul>		
<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 24.2(a) and subclauses 24.3 and 24.5 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> <ul style="list-style-type: none"> <li>(a) the termination of the employment of Employees; or</li> <li>(b) major change to the composition, operation or size of the Company's workforce or to the skills required of Employees; or</li> <li>(c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or</li> <li>(d) the alteration of hours of work; or</li> <li>(e) the need to retrain Employees; or</li> <li>(f) the need to relocate Employees to another workplace; or</li> <li>(g) the restructuring of jobs.</li> </ul>		
<p><b>Change to regular roster or ordinary hours of work</b></p>		
<p>24.10 For a change referred to in paragraph 24.1(b):</p> <ul style="list-style-type: none"> <li>(a) the Company must notify the relevant Employees of the proposed change; and</li> <li>(b) subclauses 24.11 to 24.15 apply.</li> </ul>		

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24.11 The relevant Employees may appoint a representative for the purposes of the procedures in this term.		
24.12 If: <ul style="list-style-type: none"> <li>(a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and</li> <li>(b) the Employee or Employees advise the Company of the identity of the representative;</li> </ul> the Company must recognise the representative.		
24.13 As soon as practicable after proposing to introduce the change, the Company must: <ul style="list-style-type: none"> <li>(a) discuss with the relevant Employees the introduction of the change; and</li> <li>(b) for the purposes of the discussion—provide to the relevant Employees:               <ul style="list-style-type: none"> <li>(i) all relevant information about the change, including the nature of the change; and</li> <li>(ii) information about what the Company reasonably believes will be the effects of the change on the Employees; and</li> <li>(iii) information about any other matters that the Company reasonably believes are likely to affect the Employees; and</li> </ul> </li> <li>(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).</li> </ul>		
24.14 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.		
24.15 The Company must give prompt and genuine consideration to matters raised about the change by the relevant Employees.		
24.16 In this term <b>relevant Employees</b> means the Employees who may be affected by a change referred to in subclause 24.1.		

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<p>25. <b>REDUNDANCY</b></p> <p>25.1 <b>Definition of redundancy</b></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>(b) This clause does not apply to Employees engaged for a fixed term or a specified task.</p> <p><b>Redundancy payment</b></p> <p>25.2 Except where clause 25.4 applies, when terminations of employment occur due to redundancy the Employees terminated are entitled to redundancy pay equal to the greater of:</p> <p>(a) the amount the Employee would be entitled to under the relevant modern award; or</p> <p>(b) for the term of this Agreement, the amount of redundancy pay payable under the BHP Redundancy Termination Australia Policy, as amended from time to time.</p> <p>25.3 The entitlements under clause 25.2 will not be less than:</p> <p>(a) the NES;</p> <p>(b) for the term of this Agreement, the entitlements in the Policy as at the commencement of this Agreement;</p> <p>(c) regardless of length of employment, four weeks' pay.</p> <p>25.4 <b>Exemption</b></p> <p>Subject to the NES, the Company is not liable for any payment in clause 25.2 if the Company would not have been required to make a payment of redundancy pay to the Employee under the relevant modern award from time to time.</p> <p>25.5 <b>Variation of redundancy pay</b></p>	<p><b>20. Redundancy</b></p> <p>20.1 If an Employee's position with the Company is made redundant and there is no similar alternative employment with the Company or with another Company within the BHP Billiton group, the Employee will be entitled to benefits set out in the Company's Staff Handbook (as amended from time to time) including:</p> <p>a) 13 weeks' pay in lieu of notice; and</p> <p>b) 8 weeks' pay, plus 2 weeks' pay for each year of completed continuous service.</p> <p>20.2 Payment will be made at the Total Salary Rate.</p> <p>20.3 The entitlement to severance pay does not apply where the Company obtains acceptable alternative employment for the Employee.</p>	<p>The Proposed Agreement provides for redundancy payment that is the greater of:</p> <ul style="list-style-type: none"> <li>the NES (between 4 and 16 weeks pay);</li> <li>for the term of the Proposed Agreement, the entitlements in the Policy as at the commencement of this Agreement (4 or 5) weeks notice, plus 14 weeks' severance and an additional 2.5 weeks for each year of service;</li> <li>regardless of the length of employment, four weeks' pay.</li> </ul> <p>The Proposed Agreement also contains additional exemptions from the obligation to pay redundancy pay in clauses 25.4 and 25.5, and excludes the ordinary and customary turnover of labour from the definition of redundancy.</p> <p>If the Whaleback Agreement applied, it provides for:</p> <ul style="list-style-type: none"> <li>13 weeks' pay in lieu of notice and not 4/5;</li> <li>8 weeks' pay and not 14 weeks';</li> <li>plus 2 weeks pay for each year of completed continuous service (not 2.5 weeks)</li> </ul>

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<p>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 25.</p>		
<p><b>26. TERMINATION OF EMPLOYMENT</b></p> <p>26.1 An Employee may resign from their employment with the Company by giving one week's written notice to the Company.</p> <p>26.2 Subject to clause 26.3, 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.</p> <p>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 continue for a period of up to 6 months continuous service. 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.</p> <p>26.4 The period of notice to be given by the Company to Full Time or Part Time Employees under clause 26.2 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.</p> <p>26.5 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.</p>	<p><b>21. Termination of Employment</b></p> <p>21.1 An Employee may resign from his or her employment with the Company by giving at least four weeks written notice to the Company, unless a shorter notice period is requested by the Employee and agreed to by the Company.</p> <p>21.2 Unless the Employee is a probationary or casual Employee the Company may terminate the employment of an Employee by giving the Employee four weeks written notice or by payment by the Company in lieu of all or part of that notice.</p> <p>21.3 The period of notice to be given by the Company 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.</p> <p>21.4 The Company may dismiss an Employee without notice for any misconduct and in such case; wages shall be paid up to the time of dismissal only.</p>	<p>Under the Proposed Agreement, an Employee may resign by giving one week's written notice to the Company.</p> <p>If the Whaleback Agreement applied, the Employee must provide 4 weeks' written notice.</p>
<p><b>27. RECONCILIATION</b></p> <p>27.1 The Company is committed to reconciling in accordance with this clause, the amounts payable to Employees to ensure that each Employee receives at least the Above Award Guarantee, on the rostered hours actually worked.</p> <p>27.2 Once this Agreement has been in operation for six months, an Employee can make a written request for a review:</p> <p>(a) within 28 days after 1 January or 1 July each year (<b>Review Date/s</b>), and covering the period of six months prior to the respective Review Dates; or</p> <p>(b) at the time of termination of an Employee's employment covering the period since the last relevant Review Date if</p>	<p><i>No equivalent provision.</i></p>	



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<p>their employment ends before completion of the six month period.</p> <p><b>(Review Period).</b></p> <p>27.3 The review will be conducted by reviewing the amounts paid and rostered hours actually worked in the Review Period.</p> <p>27.4 If the total amount paid to an Employee in respect of the Review Period for their rostered hours is less than the Above Award Guarantee in respect of the Review Period, the Company will make a top-up payment of the difference to the Employee within 14 days.</p>		
<p>28. <b>NO FURTHER CLAIMS</b></p> <p>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 FW Act.</p>	<p><b>23. No further claims</b></p> <p>No claims or bargaining for an enterprise agreement, regardless of whether such claims or bargaining concern matters which are or are not the subject of this agreement, shall take place for the duration of this agreement unless otherwise permitted by the Fair Work Act.</p>	<p>Both Agreements includes a provision around Employees not bringing further claims against the Company during the term of the Agreement.</p>
<p><b>APPENDIX 1 – ABOVE AWARD GUARANTEE FORMULA</b></p> <p>The following assumptions and formula are to be used in the calculation of Above Award Guarantee rates:</p> <ol style="list-style-type: none"> <li>1. The calculations will be based on applicable Award rates as at the date of calculation. Current rates are set out for information only. In this clause, standard rate means the standard rate for the relevant award.</li> <li>2. All roster calculations are based on allocating ordinary hours equally across all rostered working shifts e.g., in coal operations on a 7/7 12.5DN roster, 10 ordinary hours are allocated for each shift and 2.5 hours of overtime.</li> <li>3. Payment at the following rates for the applicable hours per roster cycle: <ol style="list-style-type: none"> <li>(a) For the <i>Black Coal Mining Industry Award 2020 (BCMI Award)</i> – the relevant rates of pay in Schedule C of the Award - Summary of Hourly Rates of Pay—Production and Engineering Employees</li> </ol> </li> </ol>	<p><i>No equivalent provision.</i></p>	<p>This Appendix to the Proposed Agreement sets out the formula for calculating the Employee's Above Award Guarantee Annual Salary in clause 7.</p>

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<p>(b) For the <i>Mining Industry Award 2020 (MI Award)</i> – the relevant rates of pay in Schedule B of the Award - Summary of Hourly Rates of Pay</p> <p>(c) Shifts will be considered afternoon and night shifts for the purposes of the BCMI Award and MI Award based on the rostered end time of the shift</p> <p>4. Include the following allowances where applicable per roster cycle:</p> <p>(a) In coal operations:</p> <p>(i) First aid</p> <ul style="list-style-type: none"> <li>• First aid officer where an employee is appointed as a first aid officer – 0.76% of standard rate - flat rate per shift or attendance or paid absence from work (currently \$7.51).</li> <li>• First aid attendant where an employee is appointed as a first aid attendant – 0.45% of standard rate – flat rate per shift (currently \$4.45).</li> </ul> <p>(ii) Water money - 0.49% of standard rate - flat rate for all employees per shift (currently \$4.84).</p> <p>(iii) Dirty work - 0.23% of standard rate - flat rate for all employees per shift (currently \$2.27).</p> <p>(iv) Additional night shift - 0.85% of standard rate - flat rate for all employees per night shift (currently \$8.40).</p> <p>(v) Additional afternoon shift – 0.43% of standard rate – flat rate for all employees per afternoon shift (currently \$4.25).</p> <p>(vi) Confined space – 0.08% of standard rate – rate per hour for employees while working in confined space (currently \$0.79).</p> <p>(vii) Height money – 0.23% of standard rate - flat rate per shift where an employee is engaged on work at a height of 7.5 metres or more above the nearest horizontal plane (currently \$2.27 per shift).</p> <p>(viii) Boom welding (trades employees only) – 0.095% of standard rate – rate per hour for trades</p>		

Proposed Agreement	Whaleback Agreement	Additional comments on differences
<p>employees who are carrying out pressure or x-ray standard welding on booms (currently \$0.94 per hour).</p> <p>(b) In other mining operations:</p> <p>(i) Industry allowance – 3.7% of standard rate all-purpose per week for all employees (currently \$36.82).</p> <p>(ii) First aid allowance where an employee who holds first aid qualifications from St John Ambulance or an equivalent body, is appointed by the employer to participate in the emergency response team or otherwise to perform first aid duty - 2% of standard rate - flat rate per week (currently \$19.90).</p> <p>(iii) Electrical licence - where the employee is required by the Company to hold an electrical technicians licence (or equivalent) – 4.55% of standard rate - all-purpose per week (currently \$45.27).</p> <p>5. Multiply the relevant sum of steps 3 and 4 by the number of cycles per year e.g. for a 7/7 12.5DN roster, a cycle is 4 weeks/28 days, and in 365.25 days (allowing for a leap year in 2024) there are 13.044 cycles.</p> <p>6. Add 11 public holidays at the relevant double time rate in the applicable award to the sum in step 5 (single time is already included in the rates above to make a total of treble time), provided that the total amount included in salary for the 11 shifts treated as public holiday shifts will not be less than the amount payable under the applicable award for working those shifts.</p> <p>7. Add 5% to the total in step 6 to provide the Above Award Guarantee Annual Salary.</p> <p>8. In addition, the following payments where applicable, will be paid separately to the sum at step 7 at the rate of 105% of the Award rate as stated in the table below. In the event that any other allowances not included in step 4 and 8 are payable to an employee under the Award they will also be paid at the rate of 105%.</p>		

Proposed Agreement				Whaleback Agreement	Additional comments on differences
<b>Employees in coal operations</b>					
Allowance	% of standard rate in BCMI Award	Current Award rate	Current 105% of Award rate		
Washery allowance – flat rate for each day/shift where an employee is employed in or about a washery. This allowance is in substitution of all other disability allowances in this step 8.	0.63 per day/shift	\$6.22	\$6.53		
Shaft work – flat rate for each day/shift where Electrical / Mechanical employees are engaged on shaft work	0.59 per day/shift	\$5.83	\$6.12		

Proposed Agreement				Whaleback Agreement	Additional comments on differences
Sewer/shaft work – flat rate for each day/shift where Electrical / Mechanical employees required to carry out work in connection with the release of blockages in sewerage lines and connections thereto (including pumps) for a minimum of four hours (or one hour after removal from a pumping station or treatment works for cleaning or stripping)	0.3 per day/shift	\$2.96	\$3.11		
Underground allowance - flat rate per shift where an adult Electrical/ Mechanical employee works underground on any shift	0.23 per shift	\$2.27	\$2.38		

Proposed Agreement				Whaleback Agreement	Additional comments on differences
Meal allowance - flat rate for each meal where an employee works un-rostered overtime, unless		\$18.08	\$18.98		
<ul style="list-style-type: none"> <li>notified no later than the previous day of the requirement to work overtime; or</li> <li>supplied with a meal.</li> </ul>					
Tool allowance – flat rate per week where an employee is required to provide their own necessary tools.		\$13.22	\$13.88		
<b>Employees in other mining operations</b>					
<b>Allowance</b>	<b>% of standard rate in MI Award</b>	<b>Current Award rate</b>	<b>Current 105% of Award rate</b>		

Proposed Agreement				Whaleback Agreement		Additional comments on differences	
Leading hand allowance – flat rate per week if appointed in writing to such position  <ul style="list-style-type: none"> <li>• 3 to 10 employees</li> <li>• 11 to 20 employees</li> <li>• More than 20 employees</li> </ul>	<ul style="list-style-type: none"> <li>• 4.4</li> <li>• 5.6</li> <li>• 7.53</li> </ul>	<ul style="list-style-type: none"> <li>• \$43.78</li> <li>• \$55.72</li> <li>• \$74.92</li> </ul>	\$45.97 \$58.51 \$78.67				
	Underground allowance- the flat rate per hour worked underground where an Employee (other than underground miners) works underground.	7	\$1.83	\$1.92			

Proposed Agreement				Whaleback Agreement	Additional comments on differences
Meal allowance – flat rate for each meal where an employee works un-rostered overtime, unless <ul style="list-style-type: none"> <li>• notified no later than the previous day of the requirement to work overtime; or</li> <li>• supplied with a meal or meal making facilities.</li> </ul>		\$19.36	\$20.33		
Tool allowance – flat rate per week where an employee is required by the employer to supply and maintain tools ordinarily required in the performance of work.		\$17.46	\$18.33		