

## Comparison of the Proposed Agreement and Downer Operations, Maintenance & Services WA Enterprise Agreement 2017

### Purpose

The table below summarises and explains the terms of the Operations Services Maintenance Agreement (**Proposed Agreement**) as compared with the Downer Operations, Maintenance & Services WA Enterprise Agreement 2017 (**Downer Operations Agreement**). The table below is intended to assist in understanding how the conditions contained in the Downer Operations 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	Downer Operations 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>This agreement is known at the Operations, Maintenance &amp; Services WA Enterprise Agreement 2017 ("The Agreement").</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. Parties Bound and Application of Agreement</b></p> <p>2.1 This Agreement covers:</p> <p>(a) Downer EDI Engineering Electrical Pty Ltd (ABN: 76007102516) (Company)</p> <p>(b) All employees of Downer EDI Engineering Electrical Pty Ltd engaged by the Company in the classifications set out in clause 23.2 (Employees) performing operations, maintenance and service work in Western Australia.</p> <p>(c) For the purpose of this agreement:</p> <p>(i) Performing work in Western Australia includes, but is not limited to, all work on land within Western Australia and the waters surrounding Western Australia to the full extent of the territorial application of the Fair Work Act 2009 (Cth) (Fair Work Act); and</p> <p>(ii) Operational, Maintenance and Service Work means:</p> <p>(A) Cleaning, maintaining, operating, reconditioning, refurbishment, refining, restoration, repair, remedying, modifying, improving, renovation or servicing of:</p> <p>i. Buildings, structures or works that form or are to form, part of land, whether or not the buildings,</p>	<p>The Proposed Agreement only covers maintenance Employees. If the Downer Operations Agreement applied, it covers operational and maintenance classifications.</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
	<p>structures or works are permanent;</p> <p>ii. Civil and/or mechanical and electrical engineering projects, including but not limited to roads, bridges, distribution/transmission lines and associated plant, facilities and equipment; and</p> <p>iii. Industrial and commercial undertakings and associated plant, facilities and equipment;</p> <p>(B) Storing, warehousing and distributing plant, equipment, tools and machinery</p> <p>(C) Any work in preparation for, associated with, done in connection with, incidental or ancillary to the works described in subclauses 2.1(c)(ii)(A), 2.1(c)(ii)(B) and 2.1(c)(ii)(c);</p> <p>(d) This Agreement does not cover Employees covered by any of the following agreements, or their replacements:</p> <p>(i) Downer EDI Engineering Electrical Pty Ltd Service Agreement 2013;</p> <p>(ii) Downer EDI Engineering Electrical Pty Ltd Signals Employees Enterprise Agreement 2014;</p>	

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
	<p>(iii) Downer EDI Engineering Electrical Pty Ltd WAC Enterprise Agreement 2017.</p> <p>(e) This Agreement does not cover any employee engaged (now or in the future) to perform work covered by a project or site specific enterprise agreement approved by the Fair Work Commission.</p> <p><b>4. Definitions</b></p> <p>(a) The following definitions shall apply to this Agreement:</p> <p>(i) “Agreement” means the Operations, Maintenance &amp; Services WA Enterprise Agreement 2017.</p> <p>(ii) “Company” means Downer EDI Engineering Electrical Pty Ltd.</p> <p>(iii) “Employee” and “Employees” means an employee of the Company to whom this Agreement applies.</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 (“NES”) apply to all Employees as a minimum standard. Where there is an inconsistency between the NES and a clause of this Agreement, the NES will apply and the clause of this Agreement will not apply, except to the extent that the clause of the Agreement provides for a more beneficial outcome for Employees than the NES.</p>	<p><b>5. Relationships to Awards, Legislation and Other Instruments</b></p> <p>(a) This Agreement operates to the exclusion of any award.</p> <p>(b) Where any legislation, award, policy, procedure or other document is referred to in this Agreement it is not incorporated into, and does not form part of this Agreement. In particular, reference to entitlements provided for in the National Employment Standards (NES) and other legislation are:</p> <p>(i) For information only and do not incorporate those entitlements into this Agreement; and</p> <p>(ii) Not intended as a substitute for the detailed provisions of the NES and other legislation.</p>	<p>The Proposed Agreement includes a NES precedence clause. If the Downer Operations Agreement applied, it does not contain a NES precedence term, however the NES still provides the minimum for employees covered by the Downer Operations 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 particular clauses of the Proposed Agreement). If the Downer Operations Agreement applied, the policies, procedures and guidelines can be amended from time to time and are not incorporated into the Agreement.</p>

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	<p><b>6. Better off overall</b></p> <p>Employees covered by this Agreement shall enjoy terms and conditions of employment which when taken overall, result in the Employees being better off overall than the terms and conditions of employment that would otherwise apply under any applicable award.</p> <p><b>8.3 Policies and Procedures</b></p> <p>(a) The Company has various workplace policies, procedures, standards, rules and codes of practice (Policies). Employees are required to familiarise themselves and comply with these policies as introduced, varied or replaced from time to time.</p> <p>(b) Employees are also required to familiarise themselves with and comply with the policies, procedures, standards, rules and codes of practice of the Company's customers and clients whilst working on their sites (Client Policies).</p> <p>(c) The Policies and Client Policies do not form part of this 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>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.</p> <p>4.3 The Agreement will continue to operate past the term of the Agreement until terminated, or replaced by another agreement.</p>	<p><b>3 Operation</b></p> <p>(a) This Agreement will come into effect on the seventh day after the Agreement is approved by the Fair Work Commission.</p> <p>(b) This Agreement will have a nominal expiry date of four years from the date on which it is approved by the Fair Work Commission, and will continue to operate past the nominal expiry date until terminated or replaced.</p>	<p>The nominal term of the Downer Operations Agreement has passed the nominal expiry date. If the Proposed Agreement is approved by the FWC, it will replace the Downer Operations Agreement and it will not apply again.</p>
<p>5. <b>TYPE OF EMPLOYMENT</b></p> <p>5.1 Employees may be engaged under this Agreement as Full Time Employees or Part Time Employees.</p> <p>5.2 A Full Time Employee is an Employee who is employed to work ordinary hours of work as follows:</p> <p>(a) in the case of an Employee to whom the <i>Black Coal Mining Industry Award 2020</i> would have applied but for</p>	<p><b>8 Contract of Employment</b></p> <p><b>8.1 Engagement</b></p> <p>(a) Employees may be employed under this Agreement on a full-time, part time, casual, maximum term or specified task basis.</p>	<p>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 The Downer Operations Agreement contains overtime provisions (see below) which apply to all hours worked by Employees beyond their ordinary hours of work in any one day or week or outside the spread of hours.</p>

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<p>the operation of this Agreement- an average of 35 ordinary hours per week, averaged over their roster cycle; or</p> <p>(b) in the case of any other Employee – an average of 38 ordinary hours per week, averaged over a six month period.</p> <p>5.3 A Part Time Employee is an Employee who:</p> <p>(a) is employed to work less than the following number of ordinary hours per week:</p> <p>(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</p> <p>(ii) in the case of any other Employee – an average of 38 ordinary hours per week, averaged over a six month period;</p> <p>(b) has reasonably predictable hours of work; and</p> <p>(c) receives, on a pro rata basis, equivalent pay and conditions to those of Full Time Employees who do the same kind of work.</p>	<p>(b) Part time employees will receive all of the entitlements provided under this Agreement on a pro-rata basis.</p> <p>(c) Casual employees will receive a flat loading of 25% in addition to their base hourly rate of pay, for each hour worked, in lieu of any paid leave outlined in clause 17.</p> <p>(d) Maximum term or specified task employees may be full time, part time or casual and have no guarantee of ongoing employment beyond the term specified in the contract.</p> <p><b>9 Hours of work</b></p> <p><b>9.1 Ordinary Hours</b></p> <p>(a) Ordinary hours of work for full time Employees shall be an average of 38 hours per week over a defined work cycle and are to be worked Monday to Friday between 6.00am and 6.00pm as required by the Company.</p> <p>(b) Ordinary hours for a part time Employee will be those agreed between the Employee and the Company, but shall be less than an average of 38 hours per week over a defined work cycle and are to be worked Monday to Friday between 6.00am and 6.00pm, provided that payment is made to employees for a minimum of three hours per shift.</p> <p>(c) A casual Employee does not have regular hours of work and will work hours as agreed with the Company. Casual Employees agree and acknowledge that their defined hours of work are subject to differentiation for each assignment based on operational requirements, provided that payment is made to employees for a minimum of four hours per assignment.</p>	<p>The Proposed Agreement does not include casual employment.</p> <p>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 Downer Operations Agreement applied, it provides for 38 nominal hours averaged over a roster period for a full-time employee.</p>
<p>5.4 Each Part Time Employee's rostered hours of work, including the days when they will work and their starting and finishing times will be as agreed in writing between the Company and the Part Time Employee from time to time.</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>		

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<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 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>7.5 Employee Obligations</b></p> <p>(a) Each employee covered by this Agreement shall:</p> <p>(i) Complete any site induction program prescribed by the Company;</p> <p>(ii) Agree to abide by the Company's policies and procedures and the provisions of this agreement;</p> <p>(iii) Be required to carry out work either individually or as part of a team;</p> <p>(iv) Be responsible for carrying out work in a safe manner and for the quality of their work;</p> <p>(v) Be prepared to carry out such duties as are within the limits of the employee's skill, competence and training consistent with the classification structure of this Agreement;</p> <p>(vi) Be prepared to train employees classified at a lower level than themselves and assist employees categorised at a higher level than themselves;</p> <p>(vii) Undertake the work required of them on a Project/contract in a diligent, flexible and cooperative manner;</p> <p>(viii) Acknowledge and comply with Company direction that smoking is not permitted in any Company site office, plant, vehicle, crib/meal area and/or in any other amenities where appropriate signage is displayed;</p> <p>(ix) Present themselves fit for duty and remain on duty for the duration of their shift; and</p>	<p>If the Downer Operations Agreement applied, the Company is under no obligation to pay Employees for any hours during which they are absent without authorisation. There is no similar provision in the Proposed Agreement and the common law would apply.</p> <p>The Proposed Agreement provides that:</p> <ul style="list-style-type: none"> <li>all Employees covered by the Proposed 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 required to change deployment within their hub.</li> </ul> <p>If the Downer Operations Agreement applied,</p> <ul style="list-style-type: none"> <li>Employees can be required to work at any location as determined by business requirements;</li> <li>movement between locations or positions will be made with reasonable notice.</li> </ul>

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	<p>(x) Employees shall understand that the Company is under no obligation to pay an employee for any hours, where the employee is absent without authorisation.</p> <p><b>8.4 Location and Point of Hire</b></p> <p>(a) The Company may require Employees to work at any location as determined by business requirements.</p> <p>(b) All Employees will be provided with an offer of employment for their acceptance prior to commencing work with the Company, which will stipulate inter alia their:</p> <p>(i) employment assignment and classification in accordance with clause 23;</p> <p>(ii) rate of pay; and</p> <p>(iii) location of assignment.</p> <p><b>7.3 Enterprise Flexibility</b></p> <p>(a) All employees will carry out all lawful direction and duties provided they are within their skill, competency and training and the employee is capable of performing the work in a safe manner.</p> <p>(b) Where alternative working arrangements to those described in the Agreement are identified, which would allow for greater flexibility and/or increased productivity, these may be implemented provided that there is agreement from the majority of the workforce in the area/s concerned.</p>					
<p>6.6 Employees will be placed in one of the following classifications:</p> <table border="1" data-bbox="109 1362 851 1469"> <thead> <tr> <th data-bbox="109 1362 322 1417">Classification</th> <th data-bbox="322 1362 851 1417">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="109 1417 322 1469">Trainees</td> <td data-bbox="322 1417 851 1469">Employees employed under a training</td> </tr> </tbody> </table>	Classification	Description	Trainees	Employees employed under a training	<p><b>Schedule 1 – Wages and Classifications</b></p> <p><b>23.1 Hourly Rates of Pay</b></p> <p>(a) The following minimum base hourly wage rates shall apply.</p>	<p>As noted above, the Downer Operations Agreement covers both operational and maintenance classifications.</p>
Classification	Description					
Trainees	Employees employed under a training					



Proposed Agreement		Downer Operations Agreement	Additional comments on differences																		
Apprentices	contract under state VET legislation. For the avoidance of doubt, trainees and apprentices principally engaged at the Company's FutureFit Academies are not covered by this Agreement.	(b) These base rates of pay are inclusive of special and industry allowances as prescribed in the applicable award. <table border="1"> <thead> <tr> <th>Level</th> <th>Base Hourly Rate (on commencement)</th> </tr> </thead> <tbody> <tr> <td>Level 1</td> <td>\$22.66</td> </tr> <tr> <td>Level 2</td> <td>\$23.45</td> </tr> <tr> <td>Level 3</td> <td>\$24.71</td> </tr> <tr> <td>Level 4</td> <td>\$25.48</td> </tr> <tr> <td>Level 5</td> <td>\$26.26</td> </tr> <tr> <td>Level 6</td> <td>\$26.96</td> </tr> <tr> <td>Level 7</td> <td>\$28.33</td> </tr> <tr> <td>Level 8</td> <td>\$28.91</td> </tr> </tbody> </table>	Level	Base Hourly Rate (on commencement)	Level 1	\$22.66	Level 2	\$23.45	Level 3	\$24.71	Level 4	\$25.48	Level 5	\$26.26	Level 6	\$26.96	Level 7	\$28.33	Level 8	\$28.91	
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Non Trades	Non trade-qualified technicians undertaking maintenance work.																				
Trades	Trade-qualified technicians undertaking maintenance work.																				
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.																					
		<b>23.2 Classifications</b>																			
		(a) Employees must be prepared to perform all tasks as required of their classification level or any lower level for which they have the required skills and competence. An Employee's classification will be outlined in their offer of employment.																			
		(b) Employees may be engaged under the below classification structure which include but are not limited to the following:																			
		<table border="1"> <thead> <tr> <th>Level</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td rowspan="3">1</td> <td>Labourer</td> </tr> <tr> <td>Peggy</td> </tr> <tr> <td>Trade Assistant</td> </tr> <tr> <td rowspan="3">2</td> <td>Storeperson</td> </tr> <tr> <td>Serviceperson</td> </tr> <tr> <td>Forklift Operator</td> </tr> </tbody> </table>	Level	Description	1	Labourer	Peggy	Trade Assistant	2	Storeperson	Serviceperson	Forklift Operator									
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	3	Dogman	
		Rigger/Scaffolder – Basic/Intermediate	
		Sheetmetal Worker/Cryogenic Insulator (unqualified)	
		Concrete Worker	
		Plant & Equipment Operator	
		Industrial Painter/Blaster	
		Truck Driver	
	4	Rigger/Scaffolder – Advanced	
		Crane Operator 0<20 tonnes	
	5	Carpenter	
		Boilermaker	
		Welder	
		Mechanical Fitter	
		Pipe Fitter	
		Tradesperson – Other	
		Crane Operator 20<100 tonnes	
		HVAC Technician	
		Mechanic – Heavy Duty	
		Sheetmetal Worker/Cryogenic Insulator (qualified)	
		Production Technician – Level 1	
	6	Electrical Tradesperson	
		Plumber – Licensed	
		Crane Operator 100<180 tonnes	
Production Technician – Level 2			
Mechanical Tradesperson – Special Class			
Welder – Special Class			
7	Dual Trade – Instrumentation Electrician		
	Electrician – Special Class		

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	<table border="1" data-bbox="1010 169 1543 304"> <tr> <td data-bbox="1010 169 1010 212"></td> <td data-bbox="1010 169 1543 212">Crane Operator &gt;180 tonnes</td> </tr> <tr> <td data-bbox="1010 212 1010 255"></td> <td data-bbox="1010 212 1543 255">Control Room Technician</td> </tr> <tr> <td data-bbox="1010 255 1010 304">8</td> <td data-bbox="1010 255 1543 304">Electronics Tradesperson</td> </tr> </table> <p data-bbox="904 352 1099 376"><b>23.3 Apprentices</b></p> <p data-bbox="904 395 1547 448">Apprentices shall be paid as percentage of the tradesperson wage as set out below:</p> <table border="1" data-bbox="904 464 1543 772"> <thead> <tr> <th data-bbox="904 464 1117 592">Apprentice 4 Year Term</th> <th data-bbox="1117 464 1330 592">Have not completed year 12. Percentage of base pay</th> <th data-bbox="1330 464 1543 592">Have completed year 12. Percentage of base pay</th> </tr> </thead> <tbody> <tr> <td data-bbox="904 592 1117 635">First Year</td> <td data-bbox="1117 592 1330 635">50%</td> <td data-bbox="1330 592 1543 635">55%</td> </tr> <tr> <td data-bbox="904 635 1117 678">Second Year</td> <td data-bbox="1117 635 1330 678">60%</td> <td data-bbox="1330 635 1543 678">65%</td> </tr> <tr> <td data-bbox="904 678 1117 721">Third Year</td> <td data-bbox="1117 678 1330 721">75%</td> <td data-bbox="1330 678 1543 721">75%</td> </tr> <tr> <td data-bbox="904 721 1117 772">Fourth Year</td> <td data-bbox="1117 721 1330 772">90%</td> <td data-bbox="1330 721 1543 772">90%</td> </tr> </tbody> </table> <p data-bbox="1010 820 1570 975">(a) Apprentices over the Age of 21 Years: Notwithstanding the provisions of this clause, Apprentices 21 years of age or over shall not be paid less than the hourly rate of pay for a Level 1 employee.</p>		Crane Operator >180 tonnes		Control Room Technician	8	Electronics Tradesperson	Apprentice 4 Year Term	Have not completed year 12. Percentage of base pay	Have completed year 12. Percentage of base pay	First Year	50%	55%	Second Year	60%	65%	Third Year	75%	75%	Fourth Year	90%	90%	
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Fourth Year	90%	90%																					
<p data-bbox="94 1023 398 1046"><b>7. REMUNERATION</b></p> <p data-bbox="94 1070 842 1123">7.1 Employees will be paid an annual fixed cash reward for their roster (“<b>Annual Salary</b>”).</p> <p data-bbox="94 1147 689 1171">7.2 The Annual Salary includes compensation for:</p> <p data-bbox="199 1195 898 1418">(a) all allowances (unless otherwise prescribed by this Agreement), disabilities, skills; and</p> <p data-bbox="199 1267 898 1418">(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 data-bbox="904 1038 1104 1062"><b>13 Remuneration</b></p> <p data-bbox="904 1086 1290 1110"><b>13.1 Rate of Pay and Entitlements</b></p> <p data-bbox="1010 1126 1570 1414">(a) Employees will be paid at least the minimum base hourly rate set out in clause 23.1 that applies to their classification for the ordinary hours (clause 9.1) they work.</p> <p data-bbox="1010 1270 1570 1414">(b) An Employee and the Company may agree on assignment terms and conditions, provided that the employee is better off on an overall monetary basis when compared to the terms and conditions of this Agreement.</p>	<p data-bbox="1585 1015 2112 1094">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 data-bbox="1585 1118 2112 1484" style="list-style-type: none"> <li data-bbox="1585 1118 2112 1171">• will not decrease unless there is a change of position or roster with a lower salary;</li> <li data-bbox="1585 1195 2112 1299">• 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 data-bbox="1585 1323 2112 1484">• 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</li> </ul>																					

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<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>(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>(c) The Employees assignment, classification and ordinary rate of pay will be outlined in their offer of employment.</p> <p><b>13.2 Pay Reviews</b></p> <p>(a) The Company will review the rates of pay annually, on the anniversary of the commencement of the Agreement, taking into consideration prevailing labour market conditions, as determined by the Company.</p> <p>(b) Where an increase to rates of pay are determined, increases will be in accordance with Australian Bureau of Statistics - Wage Price Index figures - Western Australia Private Sector (Annual change, Original, Total hourly rates of pay excluding bonuses), as referenced from ABS 6345.0.</p> <p>(c) Where an Employee and the Company have agreed on assignment terms and conditions, the Company will reassess and increase the Employee's monetary remuneration to ensure the employee is better off overall when compared to the Agreement.</p> <p>(d) Increase to rates of pay will be at the discretion of the Company.</p>	<p>reward review process.</p> <p>If the Downer Operations Agreement applied, it provides:</p> <ul style="list-style-type: none"> <li>salaries for specific positions and rosters are stated in Schedule 1 to the Agreement;</li> <li>in Clause 6, the intention that the rates in the Agreement will also exceed the Award, but does not state an amount.</li> </ul> <p>Both Agreements cover trainees and apprentices. If the Downer Operations Agreement applied, trainees and apprentices will be paid in accordance with the rates set out in Schedule 1 to the Agreement at clause 23.2. Under the Proposed Agreement these employees would be provided an Annual Salary that is not less than the Above Award Guarantee.</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><b>6. Better off overall</b></p> <p>Employees covered by this Agreement shall enjoy terms and conditions of employment which when taken overall, result in the Employees being better off overall than the terms and conditions of employment that would otherwise apply under any applicable award.</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><b>Schedule 1</b></p> <p><i>[See extract of rates in row above]</i></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</p>		

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<p>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>(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	Mine Worker - Advanced	Level 6	

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	maintenance and repairs				
	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 award pay level appropriate to their year of apprenticeship or traineeship.</p>				
7.9	<p><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</p>			<p><b>9.2 Overtime</b></p> <p>(a) The nature of the Company's works is such that Employees may be required to work reasonable additional overtime. For the purposes of assessing the reasonableness of overtime, hours of work will be averaged over a 12 month period.</p> <p>(b) All hours worked by Employees beyond their ordinary hours of work in any one day or week or outside the spread of hours shall be paid as overtime.</p> <p>(c) Overtime will be assigned on the basis of specific work requirements.</p> <p>(d) Except for Shift Work, all work performed outside of the ordinary hours on any day Monday to Friday inclusive, will be paid for at</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>If the Downer Operations Agreement applied, it contains a range of different rates for overtime as stated in clause 9.2.</p>

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<p>roster and in operation immediately prior to commencement of this Agreement.</p>	<p>the rate of time and one-half for the first three hours and double time thereafter.</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>(e) Except for Shift Work, work done on a Saturday will be paid for at the rate of time and one-half for the first three hours and double time thereafter.</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>(f) Except for Shift Work, work done on Sunday will be paid at the rate of double time.</p>	
<p>7.11 In calculating overtime, each shift is to be treated separately.</p>	<p>(g) Work done on any day prescribed as a public holiday (or in substitute of) under this Agreement, will be paid at the rate of double time and one half.</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>	<p>(h) An Employee who is rostered on a Saturday and attends for work will be paid for no less than 4 hours at the applicable rate of pay.</p>	
<p>(b) The provisions of sub-clause (a) do not apply in the following cases:</p>	<p>(i) An Employee who is rostered and attends for work on a Sunday or Public Holiday will be paid no less than 3 hours at the applicable rate of pay.</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>(j) No party to this Agreement will, either directly or indirectly, impose any form of ban, limitation or restriction on working reasonable overtime.</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>(k) This clause does not apply to Shift Work (clause 9.5).</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><b>9.3 Withdrawal of Overtime</b> If it is necessary to withdraw overtime, the Company will provide Employees with adequate notice (at least one hour during Monday to Friday and at least two hours on a weekend). However, overtime will not be withdrawn without good reason. The Company will not be required to give notice of withdrawal of overtime in the event of any industrial action that affects the works.</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><b>9.4 Rest Period after Overtime</b> Downer shall ensure wherever reasonably practical, that no Employee is required to work so much overtime that they do not have at least 10 consecutive hours off duty from completing</p>	

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	<p>one day's work to the commencement of the next day's work.</p> <p><b>9.5 Shift work</b></p> <p>...</p> <p><b>9.5.1 Overtime</b></p> <p>All time worked by a Shift Worker will be paid at the following overtime rates in lieu of the loading in clause 9.5 d) and 9.5 f):</p> <ul style="list-style-type: none"> <li>(a) Time worked on a Saturday, or time worked in excess of, or outside of, the ordinary hours as specified under clause 9.5, will be paid for at the rate of time and a half for the first three hours and double time thereafter;</li> <li>(b) Time worked on a Sunday will be paid at the rate of double time; and</li> <li>(c) Time worked on a Public Holidays will be paid at double time and a half.</li> </ul> <p>No party to this Agreement will, either directly or indirectly, impose any form of ban, limitation or restriction on working reasonable overtime.</p> <p><b>9.5.2</b></p> <p>An Employee will be entitled to either the shift loading pursuant to this clause or the overtime rates, but not both.</p>	



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<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>13.3 Payment of Wages</b></p> <p>(a) The Employee shall be paid weekly.</p> <p>(b) Payment shall be by direct deposit/electronic funds transfer on a weekly basis to a bank account nominated by the employee.</p> <p>(c) When the employee's services are terminated, the Company shall pay any wages/entitlements due as soon as practicable after their last day of work or as soon as practicable to the following pay cycle</p> <p><b>13.5 Deductions</b></p> <p>(d) An Employee may authorise the Company to make a deduction from the Employee's pay by providing the Company's payroll department with a written authorisation to make the deduction, provided that the written authorisation:</p> <p>(i) specifies the amount of the deduction; and</p> <p>(ii) may be withdrawn in writing by the Employee at any time.</p> <p>(e) This clause does not apply to situations where the Company is entitled to reconcile amounts owed by an Employee to the Company against amounts owed by the Company to the Employee in accordance with clause 14.7.</p> <p><b>14.7 Repayment of amounts owed</b></p> <p>(a) Employees agree:</p> <p>(i) to repay any outstanding advances or other payments due to the Company within 14 days of the date of termination; and</p> <p>(ii) that the sums payable to that Employee on termination may be</p>	<p>The Proposed Agreement provides for fortnightly pay, whereas the Downer Operations Agreement provides for weekly pay.</p> <p>The Proposed Agreement contemplates an incentive program that eligible Employees can participate in.</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
	<p style="text-align: center;">reconciled to take into account any sums that Employee owes to the Company.</p> <p>(b) Employees agree that amounts to be reconciled include:</p> <p>(i) where uniforms, tools, or other goods which are the property of the Company are not returned upon request or termination of employment, the depreciated value of the goods; and</p> <p>(ii) the balance of any loans or advancement of monies, including but not limited to advancement of paid annual leave, relocation costs, study or training expenses.</p>	
<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>13.6 Income Protection Insurance</b></p> <p>Downer will provide income protection insurance for Employees up to a maximum cost of 1.8% (inclusive of GST and Stamp Duty) of an Employee's gross earnings. Subject to falling within this cost the policy will provide for:</p> <ul style="list-style-type: none"> <li>• Cover for 100 percent of an Employee's average earnings up to a maximum of \$2,250.00 per week for 104 weeks applying to personal injury or sickness;</li> <li>• An excess (waiting) period of 14 days (except sporting injuries- 28 days) applying to personal injury or sickness;</li> <li>• Cover for casual Employees with more than four weeks continuous employment under these terms and conditions.</li> </ul> <p>Downer will take all necessary steps to ensure that its Employees are covered by the above income protection insurance and shall complete all forms and assist Employees to lodge any claims against the policy (where requested by the</p>	<p>The Proposed Agreement provides that accident pay will be in accordance with Company policy, as amended from time to time.</p> <p>The Downer Operations Agreement provides for income protection insurance.</p>

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	<p>Employee).</p> <p>An employee in receipt of income protection will not be entitled to any other payments under these terms and conditions.</p>	
<p>7.19 <b>Electrical Licences</b></p> <p>Where the Company requires an Employee to obtain or maintain a HV Switching or State Electrical Licence, the Company will reimburse the Employee for:</p> <ul style="list-style-type: none"> <li>(a) the cost of the licence; and</li> <li>(b) the cost of any required training course that has been approved in advance by the Company.</li> </ul>	<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 Downer Operations 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> <ul style="list-style-type: none"> <li>(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.</li> </ul>	<p><b>13. Remuneration</b></p> <p><b>13.4 Superannuation</b></p> <ul style="list-style-type: none"> <li>(a) The Company will contribute on each Employee's behalf the prescribed amount required by the Superannuation Guarantee (Administration) Act 1992 (Cth) as amended from time to time, into a complying superannuation fund nominated by the Employee.</li> <li>(b) If an Employee does not choose a superannuation fund, the Company will make contributions into a 'MySuper' compliant default fund nominated by the Company.</li> <li>(c) Superannuation is payable based on ordinary time earnings.</li> </ul>	<p>The Proposed Agreement provides for Employee co-contributions in accordance with Company policy. Co-contributions are not provided for in the Downer Operations Agreement.</p>

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<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>9. <b>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 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</p>	<p><b>9 Hours of work</b></p> <p><b>9.1 Ordinary Hours</b></p> <p>(e) Ordinary hours of work for full time Employees shall be an average of 38 hours per week over a defined work cycle and are to be worked Monday to Friday between 6.00am and 6.00pm as required by the Company.</p> <p>(f) Ordinary hours for a part time Employee will be those agreed between the Employee and the Company, but shall be less than an average of 38 hours per week over a defined work cycle and are to be worked Monday to Friday between 6.00am and 6.00pm, provided that payment is made to employees for a minimum of three hours per shift.</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,</li> <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 Downer Operations Agreement applied,</p>

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<p>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>(g) A casual Employee does not have regular hours of work and will work hours as agreed with the Company. Casual Employees agree and acknowledge that their defined hours of work are subject to differentiation for each assignment based on operational requirements, provided that payment is made to employees for a minimum of four hours per assignment.</p> <p><b>9.5 Shift Work</b></p> <p>(a) The Company may need to roster Employees to work shift work, to meet client requirements and shall, where possible, give such Employees 48 hours' notice of the transfer from one shift to another.</p> <p>(b) For the purposes of this clause:</p> <p>(i) "Shift Work" is deemed to be any arrangement of working hours where the majority of the ordinary hours are worked outside of the spread of ordinary hours as defined in clause 9.1.</p> <p>(ii) "Night Shift" means any shift finishing after midnight and at or before 8.00am.</p> <p>(iii) "Afternoon Shift" means any shift commencing at or after 1.00pm and before 3.00pm.</p> <p>(iv) "Continuous Shift Worker" means an Employee engaged where work is carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer, and who are regularly required to work those shifts.</p>	<p>the Company has the right to, from time to time, introduce new work patterns or change existing FIFO work patterns, but will discuss these changes in accordance with the Enterprise Flexibility term of the Agreement (clause 7.3)</p> <p>If the Downer Operations Agreement applied, there is no acknowledgement that the requirement to work the rostered hours of work is reasonable having regard to, among other things, the operational requirements of the workplace and the roster arrangements.</p>

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	<p>(v) For the purposes of this Agreement "Shift Worker" is an Employee that has been engaged to work in a system of shift work, being afternoon shifts, night shifts or both, or a continuous shift worker as defined under this clause.</p> <p>(vi) For the purpose of the additional week of annual leave provided for in the National Employment Standards, a "Shift Worker" is a seven day shift worker who is regularly rostered to work on Sundays and public holidays.</p> <p>(c) The ordinary hours that employees are required to work, will be an average of 38 hours per week over a defined work cycle.</p> <p>(d) Where an Employee is engaged for five consecutive afternoon or night shifts Monday to Friday, they will receive payment for ordinary time hours worked plus a 15% loading.</p> <p>(e) Where an Employee is engaged for less than five consecutive afternoon or night shifts Monday to Friday, they will be paid at the rate of time and a half for the first three hours and double time thereafter.</p> <p>(f) Where an employee works on night shift for a period longer than four consecutive weeks, they will receive payment for ordinary time hours worked plus a flat loading of 30% in lieu of the loading provided in clause d) above).</p> <p>9.5.3 A casual Employee will receive the casual loading as prescribed in clause 8.1(c), however the casual loading will not be applied to the Employee's hourly rate when shift loading is applied.</p> <p>For the avoidance of doubt, the amount from the casual loading and the amount from the shift loading will be added to the Employee's hourly rate as two (2) separate amounts to determine the amount to be paid to a casual Employee whilst</p>	

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
	<p>undertaking Shift Work.</p> <p><b>12 Work Arrangements</b></p> <ul style="list-style-type: none"> <li>(a) Employees may be employed by the Company to work a fly-in/fly-out (FIFO) work pattern, or other commute work pattern comprising periods of rostered shifts and periods of no rostered shifts.</li> <li>(b) The Company's roster for FIFO work will be in accordance with operational requirements of the site.</li> <li>(c) FIFO arrangements will be in accordance with the Company's policies, as amended from time to time.</li> <li>(d) In order to meet operational requirements, the Company reserves the right to, from time to time, introduce new work patterns or change existing FIFO work patterns. These will be discussed with employees in accordance with clause 7.3 of this agreement.</li> <li>(e) Employees FIFO work patterns will be outlined in their offer of employment.</li> <li>(f) Employees actual hours of work will be set out in the roster(s) and will consist of ordinary hours of work, reasonable additional hours (overtime) and periods without rostered shifts (rest and recreation) as applicable.</li> <li>(g) R&amp;R usually consists of a period of unpaid authorised leave and any paid leave which has been requested and approved.</li> </ul>	
<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</p>	<p><b>9.6 Meal breaks</b></p> <ul style="list-style-type: none"> <li>(a) The ordinary hours of work shall be consecutive except for an unpaid meal break of 30 minutes.</li> </ul>	<p>The Proposed Agreement provides for paid meal and rest breaks of 30 minutes for every 5 hours worked.</p> <p>The Downer Operations Agreement provides that for an unpaid meal break of 30 minutes per 5 hours and paid 15 minute rest break each</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>the Company for crib will be counted as time worked and will not be counted as part of the paid meal break.</p>	<p>(b) Employees working on a Saturday or Sunday and employees working afternoon and night shifts shall have their meal break counted as time worked.</p> <p>(c) An employee will also be entitled to a paid 15 minute break for shifts of less than 12 hours. If an employee worked a shift of 12 hours or more, they will be entitled to an additional 15 minute paid break.</p> <p>(d) An employee shall not be required to work more than 5 consecutive hours after commencing a shift without a meal break unless it is agreed otherwise between the Employer and Employees.</p> <p>(e) Meal and rest breaks may be staggered or deferred by the Company subject to operational requirements.</p>	<p>shift. However, the Downer Operations Agreement states that employees working on a Saturday or Sunday and employees working afternoon and night shifts shall have their meal break counted as time worked.</p>
<p>10. <b>PUBLIC HOLIDAYS</b></p> <p>10.1 The following days are public holidays:</p> <p>(a) New Year's Day</p> <p>(b) Australia Day</p> <p>(c) Good Friday</p> <p>(d) Easter Saturday (for Employees rostered to work ordinary hours on that day)</p> <p>(e) Easter Sunday</p> <p>(f) Easter Monday</p> <p>(g) Anzac Day</p> <p>(h) Sovereign's Birthday</p> <p>(i) Christmas Day</p> <p>(j) Boxing Day</p>	<p>17.4 Public Holidays</p> <p>(a) Public Holidays are provided for in the Fair Work Act. The Company and an Employee may agree that a day or part-day otherwise prescribed as a public holiday be substituted for an alternate day or part-day.</p> <p>(b) Employees (other than casual Employees) who, because it is public holiday, are not required to work on a day on which they are normally required to work will be paid for the ordinary hours normally worked on that day.</p> <p>(c) Where a public holiday falls on a working day of an employee's usual roster system, the employee will generally be required to work to meet the operational requirements of that work site.</p> <p><b>Formal Undertaking (Annexed to the Agreement)</b></p>	<p>The Proposed Agreement contains additional provisions regarding public holiday work as compared with the Downer Operations 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>If the Downer Operations Agreement applied, Employees may be requested to work on a public holiday if the request is reasonable. There is no equivalent acknowledgement for the purposes of any dispute under the NES.</p>



Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>10.2</p> <p>(k) any additional day observed by the local community and gazetted at the place of work as a holiday</p> <p>(l) any day gazetted in addition or in lieu of one of these holidays.</p> <p>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> <p>(a) The Company notifies Employees of their roster in advance, so Employees know:</p> <p>(i) the public holidays that fall within their rostered working time; and</p> <p>(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.</p> <p>(b) The Company guarantees Above Award Guarantee Annual Salaries that include compensation for 11 public holidays worked.</p> <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 wishes to refuse that request to work, they should communicate this refusal and their reasons, in writing, to their supervisor in</p>	<p>In accordance with section 190 of the <i>Fair Work Act 2009</i> (Cth), Downer EDI Engineering Electrical Pty Ltd undertakes:</p> <p>1. To replace clause 17.4(c) with the following:</p> <p>c) Where a public holiday falls on a working day of an employee's usual roster system, the employee may be requested to work if the request is reasonable, in accordance with s 114(4) of the Fair Work Act.</p>	

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>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>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> <p>(a) the cashing out would not result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks;</p> <p>(b) each occasion of cashing out is by a separate agreement in writing between the Company and the Employee; and</p>	<p><b>17 Leave Provisions</b></p> <p><b>17.1 Annual Leave</b></p> <p>(a) Employees are entitled to annual leave in accordance with the Fair Work Act.</p> <p>(b) The Company will not unreasonably refuse an employee's request to take accrued annual leave; however, authorisation is subject to the operational requirements of the workplace.</p> <p>(c) Employees taking authorised paid annual leave will be entitled to a loading of 17.5% in addition to their ordinary rate of pay.</p> <p>(d) An Employee who would have worked on shift work and would have received shift loadings prescribed in clause 9.5 had they not been on leave, will receive annual leave loading equal to 17.5% or the shift loading they would have been entitled to for those periods of annual leave, whichever is greater but not both.</p> <p><b>17.1.1 Direction to Take Annual Leave</b></p> <p>The Company may direct an Employee to take annual leave where:</p> <p>a. the Employee has accrued more than 8 weeks' annual leave; or</p> <p>b. The Company shuts down all or part of the business for any reason, provided that if an employee does not have sufficient accrued leave they may be required to take leave without pay.</p>	<p>Under the Proposed Agreement, Employees receive 5 weeks of annual leave. A shiftworker entitled to an additional week of annual leave (6 weeks total) 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 Downer Operations Agreement applies, Employees receive annual leave in accordance with entitlements under the FW Act (currently 4 weeks, or 5 if the employee is shiftworker for the purposes of the NES).</p> <p>Both Agreements contain provisions for the cashing out of annual leave, as long as to do so would not result in the Employee having less than 4 weeks' of annual leave as an accrued entitlement.</p> <p>Both Agreements contain provisions for the Company to direct employees to take annual leave, though the Downer Operations Agreement, if it applied, allows for such directions in broader circumstances.</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>(c) cashed out annual leave is paid at the Employee's Annual Salary rate.</p> <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> <p>(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);</p> <p>(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:</p> <p>(i) paid annual leave if the Employee has accrued an entitlement to such leave;</p> <p>(ii) leave without pay;</p> <p>(iii) if agreed by the Company, annual leave in advance;</p> <p>(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</p> <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>Where an Employee works on a roster system comprising working and non-working days (including but not limited to FIFO work), the Company may direct that Employee to take periods of annual leave:</p> <p>a. over both working days and non-working days in proportion to the ratio of working days and non-working days in the roster cycle the Employee is working under at the time of the leave; or</p> <p>b. in accordance with the roster system (i.e. in blocks of time equal to one or more roster cycles).</p> <p>Employees directed to take annual leave under this clause will be provided a minimum of 2 weeks' notice of this requirement.</p> <p><b>17.1.2 Cashing Out Annual Leave</b></p> <p>An Employee may cash out an amount of accrued annual leave provided that:</p> <p>a. cashing out does not result in an Employee retaining fewer than 4 weeks' annual leave as an accrued entitlement;</p> <p>b. the request is made in writing; and</p> <p>c. the Company agrees to the cashing out.</p> <p>Cashing out of annual leave is at the sole discretion of the Company.</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>17.2 Personal / carers leave</b></p> <p>(a) Employees are entitled to personal/carers leave in accordance with the Fair Work Act.</p> <p>(b) In addition to the requirements set out in the Fair Work Act, an Employee seeking to take paid personal/carer's leave must, as soon as practicable notify their immediate supervisor</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 Downer Operations Agreement applied,</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<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>by telephone of the requirement to take the leave and the expected duration of the leave.</p>	<p>there is no such payout of 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>17.3 Compassionate Leave</b></p> <p>Employees will be entitled to Compassionate Leave in accordance with the Fair Work Act.</p>	<p>Both Agreements provide for Compassionate Leave in accordance with the NES.</p> <p>Under the Proposed Agreement, Compassionate Leave is paid at the Employee's Annual Salary rate.</p>
<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>17.5 Parental Leave</b></p> <p>Employees are entitled to parental leave in accordance with the Fair Work Act and other applicable legislation.</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>If the Downer Operations Agreement applied, it provides for parental leave in accordance with the FW Act (the NES) and other applicable legislation.</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><b>16. Long Service Leave</b></p> <p>Long Service Leave will be paid in accordance with the relevant legislation.</p>	<p>Under both Agreements, long service leave is to be paid in accordance with the relevant legislation.</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
15.3 Long service leave is paid at an Employee's Annual Salary rate in accordance with their normal pay periods.		
<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>17.6 Community Service Leave</b></p> <p>Employees are entitled to community service leave in accordance with the Fair Work Act.</p> <p><b>17.7 Jury Service Leave</b></p> <p>Employees are entitled to leave for jury service in accordance with the Fair Work Act.</p> <p>If an Employee is selected to attend for jury duty, the Employee must notify their supervisor immediately.</p>	<p>Under the Proposed Agreement community service leave is paid in accordance with the BHP Group Public Service Leave - Australia Policy, the entitlements of which will never be less than the NES, and which cannot be reduced for the term of the Proposed Agreement.</p> <p>If the Downer Operations Agreement applied, it provides for community service leave and jury service leave in accordance with the FW Act.</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 Downer Operations 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 Compabt to take unpaid leave where they have exhausted all leave entitlements.</p> <p>While not provided in the Downer Operations Agreement, there is nothing that would prevent employees from applying for unpaid leave under the Downer Operations 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 Downer Operations Agreement does not include an equivalent provision.</p>

Proposed Agreement	Downer Operations 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><b>11. Distant Work Employee</b></p> <p>(a) For the purposes of this Agreement a distant work employee is an Employee who is engaged or selected and advised by the Company to proceed to a place of work to perform duties such that the Employee cannot return to their usual place of residence each night.</p> <p>(b) Where an Employee is a distant work employee under the terms of this Agreement the Employee shall be entitled to the following in addition to any other wage rates, allowances and conditions provided elsewhere in this Agreement and or their offer of employment:</p> <p>(i) Full board and lodging will be provided by the Company for distant employees at no cost to the employee while the employee continues to work in conformity with this Agreement.</p> <p>(ii) The Company will not provide accommodation and meal allowances for each day an employee is not ready, willing and available to work in accordance with this Agreement or because of industrial action.</p> <p>(iii) Distant work employees shall be entitled to rest and recreation leave (R&amp;R) in accordance with their particular work roster. Rosters will be determined by the Company or client</p>	<p>Both Agreements contain provisions setting out benefits/allowances and travel and accommodation arrangements for Employees who do not live in the local area.</p> <p>The Proposed Agreement's provisions in this regard are more extensive than those contained in the Downer Operations Agreement.</p>

Proposed Agreement	Downer Operations 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>requirements on relevant projects where/when applicable.</p> <p>(iv) The Company will provide an economy class air ticket, or other suitable travel arrangements, to the employee's point of hire and return to site and will be responsible for all travel bookings associated with the taking of R&amp;R.</p> <p>(c) There shall be no payment for travelling time or other costs that may be incurred when an employee is on R&amp;R including departing from the site to the employee's point of hire and returning to the site after a period of R&amp;R.</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>	<p>(d) Time off on R&amp;R does not count towards service for determining the next R&amp;R cycle.</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> <p>(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;</p> <p>(ii) air transport between:</p> <p>(A) the transport departure points in (C) to (E) below; or</p> <p>(B) any other departure point(s) nominated by the Company from time to time,</p> <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> <p>(C) for the Queensland Hub – Brisbane;</p> <p>(D) For the Western Australia Hub – Perth;</p> <p>(E) For the South Australia Hub – Adelaide;</p> <p>(iii) road transport to and from the site from the accommodation each day that they perform work; and</p> <p>(iv) road transport between the provincial airport nominated by the Company and the single person's village or other accommodation and return.</p> <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>		



Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>Supervisor at least 28 days prior to any change in status under those clauses.</p> <p>(b) The benefits apply for:</p> <p>(i) each week the Employee works in accordance with the directions of the Company or is on paid leave; and</p> <p>(ii) the term of this Agreement.</p> <p>(c) The allowances applicable under this clause:</p> <p>(i) are divisible flat payments and do not compound for overtime or any penalty;</p> <p>(ii) apply pro rata for Part Time Employees in accordance with clause 5.3.</p> <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> <p>(i) travel on the day preceding the first shift and rest at designated Company provided accommodation, prior to commencing the first shift; and</p> <p>(ii) on completion of work on any roster, travel may include rest at designated Company provided accommodation during the period following the</p>		

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<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><b>10. Stand Down</b></p> <p>(a) The Company may stand an Employee down, without pay, during a period in which the Employee cannot be usefully employed because of one of the following circumstances;</p> <p>(i) industrial action (other than industrial action organised or engaged in by the Company);</p> <p>(ii) a breakdown in machinery, if the Company cannot reasonably be held responsible for the breakdown; or</p> <p>(iii) a stoppage of work for any cause for which the Company cannot reasonably be held responsible.</p> <p>(b) An Employee may also be stood down without pay in accordance with the Policies or Client Policies relating to drugs and alcohol.</p>	<p>The Proposed Agreement contains procedures governing the situations in which an Employee can be stood aside with or without pay.</p> <p>If the Downer Operations Agreement applied, there are no equivalent stand aside rights for the Company.</p> <p>Both Agreements provide for the right of the Company to stand down employees in substantially similar circumstances.</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<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>20 Dispute Procedure</b></p> <p>(a) If a dispute relates to:</p> <p>(i) matters arising under the agreement; or</p> <p>(ii) the National Employment Standards;</p> <p>this term sets out procedures to settle the dispute.</p> <p>(b) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.</p> <p>(c) Where a dispute arises the matter shall initially be discussed between the employee/s</p>	<p>Both Agreements include dispute/issue resolution procedures on substantially similar terms.</p> <p>Both Agreements provide that the FWC may arbitrate a dispute, however, this only occurs by consent under the Proposed Agreement, whereas such arbitration may occur under the Downer Operations Agreement (if it applies) once either party refers the matter to the FWC and other attempts to resolve the dispute by the FWC are unsuccessful.</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
22.4 If the issue is still not resolved, it may be referred for discussion between the Employee and the Employee's Departmental Manager.	concerned and the employees' immediate Supervisor.	
22.5 Discussions in accordance with clauses 22.2, 22.3 and 22.4 will be held as soon as reasonably practicable.	(d) If the matter is not resolved, the Employee will discuss the dispute with the site Superintendent / Manager.	
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.	(e) If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.	
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.	(f) The Fair Work Commission may deal with the dispute in 2 stages:  (i) The Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and  (ii) If the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:  (A) arbitrate the dispute; and  (B) make a determination that is binding on the parties.	
22.8 Either the Employee or the Company may have a representative to assist at any stage of this process.	(g) Any arbitrated or other binding decision, whether made by the Fair Work Commission or otherwise, made in accordance with this clause must be consistent with the Code for the Tendering and Performance of Building Work 2016.  (h) If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.	

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
	<p>(i) While the parties are trying to resolve the dispute using the procedures in this clause:</p> <p>(i) an Employee must continue to perform work as directed by the Company unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and</p> <p>(ii) an Employee must comply with a direction given by the Company to perform other available work at the same workplace, or at another workplace, unless:</p> <p>(A) the work is not safe;</p> <p>(B) applicable occupational health and safety legislation would not permit the work to be performed; or</p> <p>(C) the work is not appropriate for the employee to perform.</p> <p>(j) The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this clause.</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>7.4 Individual Flexibility</b></p> <p>(a) The Company and an Employee may agree to make an Individual Flexibility Agreement (IFA) to vary the effect of terms of this Agreement if:</p> <p>(i) the IFA deals with one or more of the specific terms of the Agreement (i.e. any term of the Agreement is capable of being subject to variation under this clause);</p> <p>(ii) the IFA meets the genuine needs of the Company and the Employee in</p>	<p>The Individual Flexibility Term in the Proposed Agreement mirrors the current Model Term. If it applies, the Downer Operations Agreement provides for Individual Flexibility Arrangements on substantially similar terms (although the specific terms of the Downer Operations Agreement that can be varied are not expressly stated in the clause).</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<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>23.2 The Company must ensure that the terms of the individual flexibility arrangement:</p> <p>(a) are about permitted matters under section 172 of the FW Act; and</p> <p>(b) are not unlawful terms under section 194 of the FW Act; and</p> <p>(c) result in the Employee being better off overall than the Employee would be if no arrangement was made.</p>	<p>relation to one or more of the matters mentioned in paragraph 7.4(a); and</p> <p>(iii) the IFA is genuinely agreed to by the Company and Employee.</p> <p>(b) The Company must ensure that the terms of the IFA:</p> <p>(i) are about permitted matters under section 172 of the Fair Work Act;</p> <p>(ii) are not unlawful terms under section 194 of the Fair Work Act; and</p> <p>(iii) result in the Employee being better off overall than the Employee would be if no IFA was made.</p>	
<p>23.3 The Company must ensure that the terms of the individual flexibility arrangement:</p> <p>(a) is in writing;</p> <p>(b) includes the name of the Company and Employee; and</p> <p>(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</p> <p>(d) includes details of:</p> <p>(i) the terms of this Agreement that will be varied by the arrangement; and</p> <p>(ii) how the arrangement will vary the effect of the terms; and</p> <p>(iii) how the Employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and</p> <p>(e) states the day on which the arrangement commences.</p>	<p>(c) The Company must ensure that the IFA:</p> <p>(i) is in writing;</p> <p>(ii) includes the name of the Company and Employee;</p> <p>(iii) 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;</p> <p>(iv) includes details of:</p> <p>(A) the terms of the Agreement that will be varied by the IFA;</p> <p>(B) how the IFA will vary the effect of the terms;</p> <p>(C) how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the IFA; and</p>	
<p>23.4 The Company must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.</p>	<p>(D) states the day on which the IFA commences.</p>	
<p>23.5 The Company or Employee may terminate the individual flexibility arrangement:</p>		

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>(a) by giving no more than 28 days written notice to the other party to the arrangement; or</p> <p>(b) if the Company and Employee agree in writing—at any time.</p>	<p>(d) The Company must give the Employee a copy of the IFA within 14 days after it is agreed to.</p> <p>(e) The Company or Employee may terminate the IFA:</p> <p>(i) by giving no more than 28 days' written notice to the other party to the IFA; or</p> <p>(ii) if the Company and Employee agree in writing- at any time.</p>	
<p><b>24. MANAGEMENT OF CHANGE / CONSULTATION</b></p> <p>24.1 This term applies if the Company:</p> <p>(a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the Employees; or</p> <p>(b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees.</p> <p><b>Major change</b></p> <p>24.2 For a major change referred to in paragraph 24.1(a):</p> <p>(a) the Company must notify the relevant Employees of the decision to introduce the major change; and</p> <p>(b) subclauses 24.3 to 24.9 apply.</p> <p>24.3 The relevant Employees may appoint a representative for the purposes of the procedures in this term.</p> <p>24.4 If:</p> <p>(a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and</p> <p>(b) the Employee or Employees advise the Company of the identity of the representative;</p> <p>the Company must recognise the representative.</p> <p>24.5 As soon as practicable after making its decision, the Company must:</p>	<p><b>7.2 Consultation and Change</b></p> <p><b>7.2.1 Definitions</b></p> <p>In this clause:</p> <p>(a) major change means change to production, program, organisation, structure, or technology in relation to the enterprise;</p> <p>(b) relevant employees means the employees who may be affected by a change; and</p> <p>(c) significant effect means the following effects:</p> <p>(d) the termination of the employment of Employees;</p> <p>(e) major change to the composition, operation or size of the Company's workforce, or to the skills required of Employees;</p> <p>(f) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);</p> <p>(g) the alteration of hours of work;</p> <p>(h) the need to retrain Employees;</p> <p>(i) the need to relocate Employees to another workplace; or</p> <p>(j) the restructuring of jobs.</p> <p><b>7.2.2 Company to consult</b></p>	<p>The consultation clause in the Proposed Agreement mirrors the Model Term as contained in the FW Act and Regulations. The Downer Operations Agreement, if it applied, had a similar, but less detailed consultation clause.</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>(a) discuss with the relevant Employees;</p> <p>(i) the introduction of the change; and</p> <p>(ii) the effect the change is likely to have on the Employees; and</p> <p>(iii) measures the Company is taking to avert or mitigate the adverse effect of the change on the Employees; and</p> <p>(b) for the purposes of the discussion—provide, in writing, to the relevant Employees:</p> <p>(i) all relevant information about the change including the nature of the change proposed; and</p> <p>(ii) information about the expected effects of the change on the Employees; and</p> <p>(iii) any other matters likely to affect the Employees.</p>	<p>The Company will consult with relevant employees if:</p> <p>a. has made a definite decision to introduce a major change that is likely to have a significant effect on Employees; or</p> <p>b. Proposes to introduce a change to the regular roster or ordinary hours of work of Employees.</p> <p><b>7.2.3 Representative</b></p> <p>The relevant Employees may appoint a representative for the purposes of the procedures in this clause 7.2.</p> <p><b>7.2.4 Change to regular roster or ordinary hours of work</b></p> <p>If the Company proposes to introduce a change to the regular roster or ordinary hours of work of Employees, then the Company must:</p>	
<p>24.6 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.</p>	<p>a. provide to the relevant Employees all relevant information about the change;</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>b. 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); and</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>c. give consideration to matters raised about the change by the relevant Employees.</p>	
<p>24.9 In this term, a major change is likely to have a significant effect on Employees if it results in:</p> <p>(a) the termination of the employment of Employees; or</p> <p>(b) major change to the composition, operation or size of the Company's workforce or to the skills required of Employees; or</p> <p>(c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or</p> <p>(d) the alteration of hours of work; or</p> <p>(e) the need to retrain Employees; or</p> <p>(f) the need to relocate Employees to another workplace; or</p>	<p>However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.</p>	



Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>(g) the restructuring of jobs.</p> <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> <p>(a) the Company must notify the relevant Employees of the proposed change; and</p> <p>(b) subclauses 24.11 to 24.15 apply.</p> <p>24.11 The relevant Employees may appoint a representative for the purposes of the procedures in this term.</p> <p>24.12 If:</p> <p>(a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and</p> <p>(b) the Employee or Employees advise the Company of the identity of the representative;</p> <p>the Company must recognise the representative.</p> <p>24.13 As soon as practicable after proposing to introduce the change, the Company must:</p> <p>(a) discuss with the relevant Employees the introduction of the change; and</p> <p>(b) for the purposes of the discussion—provide to the relevant Employees:</p> <p>(i) all relevant information about the change, including the nature of the change; and</p> <p>(ii) information about what the Company reasonably believes will be the effects of the change on the Employees; and</p> <p>(iii) information about any other matters that the Company reasonably believes are likely to affect the Employees; and</p> <p>(c) invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).</p>		

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>24.14 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.</p> <p>24.15 The Company must give prompt and genuine consideration to matters raised about the change by the relevant Employees.</p> <p>24.16 In this term <b>relevant Employees</b> means the Employees who may be affected by a change referred to in subclause 24.1.</p>		
<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><b>15 Redundancy</b></p> <p>(a) Entitlements to redundancy payments will be as provided for in the Fair Work Act, subject to this clause.</p> <p>(b) An Employee will not be paid redundancy pay if alternative employment is offered on comparable terms.</p> <p>(c) The Company may elect to make Employee contributions into an applicable industry scheme. Any severance or redundancy payments paid by the Company to an Employee or contributions made by the Company into an applicable industry scheme, for each completed week of service by the Employee, may be set off by the Company against a claim for an entitlement to redundancy pay under the Fair Work Act and Industrial Laws.</p>	<p>The Proposed Agreement provides for redundancy payment that is the greater of:</p> <p>(a) the NES (between 4 and 16 weeks' pay);</p> <p>(b) 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.);</p> <p>(c) regardless of length of employment, four weeks' pay.</p> <p>If the Downer Operations Agreement applied, it provides for entitlements set out in the NES (between 4 and 16 weeks depending on length of service).</p>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences						
<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>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>26. <b>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>8.2 Probation Period</b></p> <p>(a) A probation period of 12 weeks employment shall apply to new employees, other than casuals.</p> <p>(b) During the probation period either party can terminate the employee's employment with one week's notice, in accordance with clause 14.</p> <p><b>14 Termination of employment</b></p> <p><b>14.1 Maximum term or specific task contracts</b></p> <p>The employment of a maximum term or specified task Employee will automatically terminate upon completion of the term or task. No notice is required to be given where the employment ends automatically.</p> <p><b>14.2 Employment may be terminated:</b></p> <p>(a) Subject to the provisions of clause 14.1, the Company or Employee may end an Employee's employment at any time by giving a period of notice (or by the Company making payment in lieu of such notice) based on that Employee's period of continuous service, in accordance with the following table:</p> <table border="1" data-bbox="913 1294 1570 1465"> <thead> <tr> <th data-bbox="913 1294 1406 1366">Employees period of continuous service with the Company</th> <th data-bbox="1406 1294 1570 1366">Notice Period</th> </tr> </thead> <tbody> <tr> <td data-bbox="913 1366 1406 1417">Casual employee</td> <td data-bbox="1406 1366 1570 1417">1 hour</td> </tr> <tr> <td data-bbox="913 1417 1406 1465">Not more than 1 year</td> <td data-bbox="1406 1417 1570 1465">1 week</td> </tr> </tbody> </table>	Employees period of continuous service with the Company	Notice Period	Casual employee	1 hour	Not more than 1 year	1 week	<p>Under the Proposed Agreement an Employee may resign by giving one week's written notice to the Company.</p> <p>If the Downer Operations Agreement applied, the Employee must give between 1 - 4 weeks' written notice, depending on their length of service. Where an Employee fails to give notice, the Downer Operations Agreement provides that the Company may deduct this from any monies owed to the employee on termination.</p> <p>The probationary period included in the Proposed Agreement is six months, whereas the probationary period included in the Downer Operations Agreement is 12 weeks in length.</p>
Employees period of continuous service with the Company	Notice Period							
Casual employee	1 hour							
Not more than 1 year	1 week							

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	More than 1 year but not more than 3 years	2 weeks	
	More than 3 years but not more than 5 years	3 weeks	
	More than 5 years	4 weeks	
	<p>(b) If an employee is over 45 years of age and has been employed by the Company for more than 2 years at the time of termination, the Company must provide that employee with a further one weeks' notice in addition to the period specified in the above table.</p> <p><b>14.3 Failing to give required notice</b></p> <p>If an employee fails to give the required notice or fails to work out the required notice period, the Company may deduct from monies owing to the employee upon termination , an amount equivalent to the wage the employee would have earned for working the balance of the required notice period, to a maximum of 38 hours per week</p> <p><b>14.4 Termination by the Company without notice</b></p> <p>Notwithstanding the notice provisions of this clause, the Company retains the right to summarily terminate an employee's employment without notice or pay in lieu of notice for serious misconduct, in which case an employee shall only be entitled to be paid for the time worked up to dismissal. Serious misconduct includes, but is not limited to, any serious breach of the Company's policies, fraud, theft, serious breach/s of safety procedures/policy/protocols, wilful damage to the Company's property, harming or threatening co-workers, gross negligence, or breach of the confidentiality requirements or other employee obligations of this Agreement.</p> <p><b>14.5 Abandonment of Employment</b></p> <p>If an employee is absent from work without reasonable cause for five (5) consecutive work days without the consent of the Company or without notification to the Company, the employee may be deemed, at the discretion of the Company, to have abandoned his or her employment without notice. The Company will then treat the employee's employment as having terminated as at the last working day and wages shall be paid up to that day only. The Company will confirm the abandonment of employment by registered mail to the employee's last known residence within two (2) working days of the employee being deemed to have abandoned their</p>		

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
	<p>employment.</p> <p><b>14.6 Return of Property</b></p> <p>Upon termination employees shall immediately return all of the Company's property to the Company.</p>	
<p>27. <b>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 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><i>No equivalent provision.</i></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>7.1 No Extra Claims</b></p> <p>During the term of this Agreement the parties will make no extra claims for any changes in terms and conditions of employment including remuneration.</p>	<p>Both Agreements include similar provisions around Employees not bringing further claims against the Company during the term of the Agreements.</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> <p>1. The calculations will be based on applicable Award rates as at the</p>	<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>

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<p>date of calculation. Current rates are set out for information only. In this clause, standard rate means the standard rate for the relevant award.</p> <p>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.</p> <p>3. Payment at the following rates for the applicable hours per roster cycle:</p> <p>(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</p> <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>		

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
<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) viii. Boom welding (trades employees only) – 0.095% of standard rate – rate per hour for trades 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</p>		

Proposed Agreement				Downer Operations Agreement	Additional comments on differences
<p>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>					
<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		



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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		
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		

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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		
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.</li> </ul>		\$18.08	\$18.98		
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>		

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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				Downer Operations Agreement	Additional comments on differences
Meal allowance – flat rate for each meal where an employee works un-rostered overtime, unless		\$19.36	\$20.33		
<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>					
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		
<i>No equivalent provision</i>				<p><b>18 Occupational Health and Safety</b></p> <p>Relevant Occupational Health and Safety legislation and regulations, as amended, together with the Company safety policy and procedures will apply to this Agreement.</p> <p><b>18.1 Procedure for Dealing with an Unsafe Situation</b></p> <p>(a) When an employee becomes aware of an unsafe situation, the employee will be expected to rectify it, if it is within the employee's range of skills/competencies and authority to do so.</p>	The Proposed Agreement does not have any comparable terms.

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
	<p>(b) If the employee is not able to rectify the unsafe situation, the employee will be expected to notify the Leading Hand, Foreperson or Supervisor, immediately.</p> <p>(c) The Leading Hand, Foreperson or Supervisor will immediately rectify the unsafe situation by making good or barricading off.</p> <p>(d) The Leading Hand, Foreperson or Supervisor will take all necessary action to rectify the unsafe situation including consultation with Management, the employees and applicable Safety Regulator as appropriate.</p> <p>(e) If there is to be any delay in rectifying the situation, the Leading Hand, Foreperson or Supervisor will ensure that employees who are working in the affected area are relocated to work in other areas on the job (or other sites) until the unsafe situation has been rectified.</p> <p><b>18.2 Fitness for Work</b></p> <p>(a) The Company and employees expect all employees to attend for work in a fit and healthy condition free from the effects of drugs and/or alcohol each day to ensure that work can be performed safely. Accordingly, it is prohibited for an employee to attend work under the influence of any drug or intoxicant; and the possession of drugs, other than those medically prescribed, is prohibited on site.</p> <p>(b) If an employee uses or possesses medically prescribed and/or non-prescribed drugs that can potentially affect an employee's ability to be fit for work, then he/she must declare this to their supervisor when arriving at the site.</p> <p>(c) For the avoidance of doubt, drugs referenced in this clause means; illicit, prescription drugs and over the counter medications.</p> <p>(d) If an employee is found in possession of, using and/or under the influence of</p>	

Proposed Agreement	Downer Operations Agreement	Additional comments on differences
	<p>intoxicants or non-prescribed drugs, he/she will be subject to disciplinary action, which may include suspension without pay or summary dismissal.</p> <p>(e) The employee/s bound by this agreement will be required to adhere to the Company's and Client's or Site drug and alcohol procedures, which includes pre-employment, random and for cause testing on site.</p> <p>(f) Employees bound by this agreement who require assistance and support with alcohol, gambling and/or drug issues, will have access to the Employee Assistance Program.</p>	
<p><i>No equivalent provision</i></p>	<p><b>19. CLOTHING AND PERSONAL PROTECTIVE EQUIPMENT</b></p> <p>(a) The Company will provide the employees, on commencement of employment, with the appropriate safety clothing required, which must be worn at all times when appropriate.</p> <p>(b) All Clothing and Footwear mentioned above will be replaced on a fair wear and tear basis on the condition that old footwear is presented for inspection if required.</p> <p>(c) Additional personal protective equipment e.g. gloves and safety glasses will be supplied by the Company on an individual basis if required.</p> <p>(d) No safety equipment or PPE (excluding prescription safety glasses), other than that provided by the Company, is to be worn by an employee whilst at work.</p>	<p>The Proposed Agreement does not have any comparable terms.</p>