

## **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA05/357

**TITLE:** **Douglas Partners Pty Ltd Port Waratah Coal Services  
Project 3D Enterprise Agreement 2005**

**I.R.C. NO:** IRC5/5715

**DATE APPROVED/COMMENCEMENT:** 17 November 2005 / 1 October 2005

**TERM:** 36

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 6 January 2006

**DATE TERMINATED:**

**NUMBER OF PAGES:** 35

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by Douglas Partners Pty Ltd engaged on the Port Waratah Coal Services Project 3D, in receipt of the wages and conditions set out in the Agreement, who fall within the coverage of the Port Waratah Coal Services Consent Enterprise (State) Award 2003.

**PARTIES:** Douglas Partners Pty Ltd -&- The Australian Workers' Union, New South Wales

# DOUGLAS PARTNERS PTY LTD PORT WARATAH COAL SERVICES PROJECT 3D ENTERPRISE AGREEMENT 2005

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## **1. TITLE**

This Agreement shall be known as the Douglas & Partners Pty Ltd Port Waratah Coal Services Project 3D Enterprise Agreement 2005.

## **2. PARTIES TO THE AGREEMENT**

The parties bound by this Agreement are:

- (a) Douglas Partners Pty Ltd and its subsidiary company Ground Test Pty Ltd. (all references to Douglas Partners shall also imply its subsidiary);
- (b) All employees of Douglas Partners engaged on the Port Waratah Coal Services Project 3D whether members of the organisation listed in (c) or not; and
- (c) The Australian Workers' Union, New South Wales.

## **3. DEFINITIONS AND INTERPRETATION**

In this Agreement except where the context otherwise requires:

- (a) "Construction work" means work directly related to the construction and expansion in respect of the Port Waratah Coal Services Coal Terminal.
- (b) "PWCS Project 3D" means Port Waratah Coal Services Project 3D.
- (c) "Site" means that area known as the Port Waratah Coal Services Project 3D Construction Site and in other areas of the existing plant where work is directly associated with construction and expansion in respect of the Port Waratah Coal Services Project 3D at the Port Waratah Coal Services Coal Terminal on Kooragang Island.
- (d) PWCS Project 3D Project Management means the Project Manager or his representative(s).
- (e) "Employer" means Douglas Partners Pty Ltd and its subsidiary company Ground Test Pty Ltd
- (f) "Employee" means an employee of Douglas Partners Pty Ltd including a casual employee employed in accordance with the provisions of this Agreement, engaged on the Project and in receipt of the rates of pay and conditions of this Agreement.
- (g) References to any statutory/Award enactment shall include the same as amended and modified and any enactment repealing or replacing the same, from time to time.

## **4. WAGES**

The following wage rates shall apply from the beginning of the first full pay period commencing on or after the dates specified in Columns 1 - 6. These wage rates have been increased by 2.5% at 6 monthly intervals for the life of the Agreement.

GROUP	CLASSIFICATION	1 1/10/05	2 1/04/06	3 1/10/06	4 1/04/07	5 1/10/07	6 1/04/08
AA	Driller	\$ 1091.27	\$ 1118.55	\$ 1146.51	\$ 1175.17	\$ 1204.55	\$ 1234.66

In addition to performing any duties within Group AA (subject to capability), employees in this Group will perform any of the duties of Group C provided such duties are:

- Within the skills, competence, qualifications and training of the employee concerned, and;
- Consistent with occupational health and safety and statutory requirements; and
- Related to the contract work of the employer and incidental to the employee's substantive role.

GROUP	CLASSIFICATION	1 1/10/05	2 1/04/06	3 1/10/06	4 1/04/07	5 1/10/07	6 1/04/08
C	- Driller's Offsider - Soil Technician	\$ 935.35	\$ 958.73	\$ 982.70	\$ 1007.2 7	\$ 1032.4 5	\$ 1058.2 6

- (a) The rates prescribed in Groups AA, and C are in substitution for those rates and allowances which, but for this Agreement would apply to employees of contractors engaged on the site and are for all purposes of this Agreement.

Such rates shall only be varied during the term of this Agreement in accordance with the schedule as set out above. The parties may, by agreement, include additional classifications within the groupings set out in this clause. Any dispute as to the appropriate grouping for a particular classification shall be dealt with in accordance with the provisions of Clause 37 hereof - Settlement of Disputes.

- (b) The rates of pay set out in (a) does not include Towers Allowance, but are inclusive of amounts in lieu of over-award payments, Industry Allowance, Construction Allowance, Fares and Travelling (excluding excess fares where applicable), Site Allowances and Site Disability payments such as space, height, dirt, etc, award special rates such as confined space, wet work, etc follow the job loadings, compensation for travel pattern mobility requirements, etc, inclement weather, wind, dust, etc, but exclude those allowances contained separately under this Agreement.

(c) **Higher Duties**

Where any employee on any day performs two or more classes of work to which a differential rate fixed by this Agreement is applicable, such person if employed for more than four (4) hours on the class or classes of work carrying the higher rate shall be paid in respect of the whole time during which the employee works on that day at the same higher rate.

This rate shall be at the highest rate fixed by this Agreement in respect of any such classes of work, and if employed for four hours or less on the class or classes of work carrying the highest rate, the employee shall be paid at such highest rate for four hours.

(d) **Allowances**

The following allowances shall be payable in addition to Group A rates where applicable for all purposes of the Agreement:

(I) Leading Hand Allowance

An employee specifically appointed by the employer to provide leadership to a work crew and who has completed the requisite Project leadership training program shall be paid an additional \$50.00 per week which shall form part of the employee's weekly all purpose wage.

(II) First Aid Allowance

An employee who holds an appropriate First Aid Certificate and who is appointed by their employer as a first aid attendant shall be paid an additional allowance of \$2.60 per day, such allowance to be paid for all purposes of this Agreement.

(iii) Excess Fares and Travel

Employees who reside and travel by road for more than 50km from the site shall be paid a minimum travel time payment of 30 minutes for each return journey. If the time spent travelling beyond 50km totals more than 30 minutes each day, then the additional time beyond the 30 minutes minimum is paid for in 15 minute increments.

Mileage of 64c/km is payable to the driver of the vehicle required to travel more than 50km. This 64c/km payment shall not apply where the company provides or offers to provide transport to and from site.

**5. APPLICATION AND SCOPE OF AGREEMENT**

- (a) This Agreement shall apply to all employees of the Employer who are engaged in geotechnical investigation and testing work on site within the PWCS Project 3D Construction Site.
- (b) For the purposes of this Agreement the site offices of Port Waratah Coal Services are excluded from the areas referred to in sub-clause (a) of this clause.
- (c) This Agreement shall not apply to employees engaged in the development of off-site access roads and railway lines, off-site infrastructure and preassembly association with expansions, vendors, office cleaning, office equipment service persons (i.e. photocopiers, facsimiles, computer systems, telecommunications) security, supervisory, site catering or management and supervisory personnel and associated staff or to personnel engaged in deliveries to and from the site.

**NOTE:** The parties agree that this exclusion shall not apply to;

- Employees who *(upon delivering materials and equipment from off-site to the Project)* perform construction work on the project, or who are on site for more than 2 (two) hours e.g. *employees who deliver scaffolding to the Project who then erect the scaffolding* are covered by this Agreement in respect of the work performed on the project;

- (d) This Agreement shall have no application to plant commissioning, operations or maintenance or to any work after turnover of plant to Port Waratah Coal Services or to any other activities for which the Employer is not responsible.
- (e) The parties to this Agreement commit themselves to the achievement of efficiency and productivity during the course of the construction Project and agree that no party will take any action that adversely affects the efficiency or productivity of the project.
- (f) This Agreement shall be read in conjunction with the Port Waratah Coal Services Project 3D Consent Award 2005 and the respective parent award for the applicable classification. Where there is any inconsistency between these awards and this Agreement, this Agreement will take precedence to the extent of any inconsistency.

## **6. NO EXTRA CLAIMS**

It is agreed by the parties that up to the nominal expiry date of this Agreement:

- This Agreement will cover all matters or claims regarding the employment of the employees by the employer.
- The parties will not pursue any extra wage claims, whether award or over-award;
- The parties will not seek any changes to conditions of employment;
- Leave is given to the parties to make application to vary this Agreement in order to ensure that it complies with the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry and the Building and Construction Industry Improvement Act

## **7. DURATION OF AGREEMENT**

This Agreement shall operate on and from 1/10/05 and shall remain in force until 1/10/08.

## **8. CONTRACT OF EMPLOYMENT**

- (a) The contract of employment for all employees other than casual employees shall be by the week.
- (b) For other than casual employees, either party shall give 1 weeks notice of termination (exclusive of accrued rostered days off) or the notice period shall be paid or forfeited in lieu thereof.
- (c) A casual employee is employed on an hourly basis and paid as such with a minimum payment of 8 hours. Casual employees shall be paid a 25% casual loading, which will become their all purpose rate, in compensation for other benefits under this Agreement to which a Casual Employee has no entitlement. The casual employee is entitled to pro-rata Redundancy payments as set out under Clause 38, Termination Pay.
- (d) Nothing in this Clause shall affect the right of the employer to dismiss an employee, without notice, for misconduct or refusing lawful duty.
- (e) Nothing in this Clause shall affect the right of the employer to dismiss an employee for breaches of site rules, safety rules or regulations, subject to appropriate investigation

having been made, counselling extended, and the dispute settlement procedure being effectively processed.

- (f) The employer may deduct payment for any day upon which an employee cannot be usefully employed because of any strike by or participation in any strike by any member of a Union employed by the employer or because of any strike by or participation in any strike by any other Union, organisation or association or by any branch thereof, or by any members thereof who are employed by the contractor or, because of any stoppages of work (other than for site conditions within the allowance prescribed in Clause 27, Inclement Weather hereof) by any cause including breakdown of machinery or failure/lack of power, for which cause the employer is not responsible.
- (g) A tradesperson shall be allowed one hour prior to termination to gather, clean, sharpen, pack and transport his/her tools.

## **9. EMPLOYMENT**

### **(a) LEADERSHIP RESPONSIBILITIES**

The Parties to this Agreement consider leadership crucial to the achievement of the Project goals. The employer will therefore allow employees engaged on the Project in a leadership role to participate in the Project's leadership training module, without loss of pay. The responsibilities of all leaders, including leading hands are to strive to:

- Establish and maintain a safe and healthy work area and to ensure safe and healthy work practices are used at all times by all employees.
- As a matter of fundamental priority, to focus on 'people' issues within the team.
- Deal with each team member with fairness, equity and respect.
- Recognise the talents and capabilities of all members of the team and encourage excellence.
- Address any concerns raised by employees promptly, obtaining advice and assistance from functional support personnel if necessary.
- Ensure an environment is created where all personnel are able to work to the full extent of their capability subject only to regulatory requirements.
- Provide timely open and frequent information regularly on the status of the Project and contract to all employees.
- Engage in strong interactive communication processes.
- Identify opportunities for improved performance including counselling any employees whose behaviour is causing concern within the guidelines established in the Equitable Treatment System established in Clause 11 hereof.
- Establish and maintain continuous improvement and drive for excellence within the team.

- Personally comply with and ensure team compliance with Project Code of Conduct and Work Rules.
- Understand and apply the intent and provisions of this Agreement and to seek appropriate advice in respect of provisions not clearly understood. To provide leadership to the team in respect of the application of this Agreement.
- Participate in and comply with Project cultural and environmental awareness processes and comply with the letter and intent of the Personal Code of Conduct and Work Rules.

(b) EMPLOYEES' RESPONSIBILITIES

The responsibilities of all employees are to strive to:

- Maintain a safe and healthy work area and to ensure safe and healthy work practices are used at all times. Take responsibility for personal safety and that of team mates.
- Deal with team mates and with team leaders with fairness, equity and respect.
- Work towards Project and team goals to the full extent of personal capability. Undertake any work task assigned subject only to meeting any applicable regulatory requirement.
- Raise any personal concerns or grievance directly with the immediate supervisor. Pursue the process of resolution of grievances in accordance with the guidelines established in the Settlement of Disputes procedure in Clause 37 hereof.
- Engage in open honest communication with all employees.
- Accept counselling offered with the Equitable Treatment System (Clause 11) positively.
- Respond positively to opportunities to improve personal performance.
- Actively support continuous improvement in work methods and the drive for excellence within the team.
- Comply with Project Code of Conduct and Work Rules.
- Seek and develop a clear understanding of the intent and provisions of this Agreement.
- Raise inappropriate leadership behaviour as set out in the Equitable Treatment System Clause 11 with more senior leaders within the team.
- Participate in and comply with Project cultural and environmental awareness processes and comply with the letter and intent of the Personal Code of Conduct and Work Rules.



## **10. EFFECTIVENESS ENHANCEMENT**

### **Continuous Improvement**

The Parties to this Agreement are committed to the philosophy of continuous improvement and will provide leadership and support in respect of the establishment of a continuous improvement culture on the Project.

Leaders and employees will consult in respect of the identification and implementation of work process improvement opportunities and the organisation of the work.

The employer will establish performance expectation criteria with each employee and undertake a formal process to ensure regular feedback on personal effectiveness.

Training and development opportunities will be made available to employees including opportunities to participate in continuous improvement, personal development, skill enhancement, occupational health and safety.

## **11. EQUITABLE TREATMENT SYSTEM**

In certain circumstances involving serious unacceptable behaviour or misconduct, immediate termination of employment may be appropriate. Any dispute in respect of this process shall be dealt with in accordance with the Settlement of Disputes procedure in Clause 37 hereof.

Where counselling occurs the employer shall advise the employee of:

- The behaviour deemed to be unsatisfactory,
- The corrective action required to modify the behaviour,
- The consequence of continuing the unsatisfactory behaviour,
- What assistance the employer will provide to assist the employee to meet the requisite performance,
- A review date to assess performance improvement progress. Review process will include previous warnings, review of current performance, and recognition of positive contributions.

The Equitable Treatment System is an interactive process to deal with any concern in respect of an employee's behaviour.

It shall operate as follows:

1. In the first instance, the immediate supervisor and employee will discuss the issue in an informal manner.
2. If the concern continues, the employee concerned shall receive formal counselling from their immediate supervisor. This shall be documented.
3. If the concern continues, a more senior manager of the employer shall counsel the employee concerned. This shall be documented.
4. If the concern continues, the employee concerned shall be formally warned of the behaviour required and of the impact of continuing with inappropriate behaviour. This shall be documented.

5. If the concern continues, employment may be terminated.

At levels 2 to 5 inclusive of the above, the employee may choose to have a representative of their choice in attendance.

## **12. INDUCTION**

The employer shall ensure that all employees conform to the requirements of the Occupational Health and Safety Regulation 2001, Chapter 8, Construction Work, Part 8.2 - OH&S Training prior to requesting a copy of the General Site Safety Rules and a PWCS Project 3D site induction.

- (a) All employees shall, before entering the site area or commencing work on the site, attend and complete the PWCS Project 3D Induction Programme and regulations and Project specific site rules.

PWCS Project 3D Management will conduct the programme at a central location on behalf of the Employer.

Each employee shall receive a General Site Safety Rules Booklet and a copy of this Agreement and shall sign an acknowledgement of receiving it.

- (b) After successful completion of the Site Induction Programme, each employee shall be issued with a Site Identity Pass that will allow entry to and exit from the site.

The pass will bear a photograph of the employee together with other pertinent information.

Should an employee lose their Project Identity Pass they must immediately notify their supervisor. A replacement pass will be available at a charge of \$110.

## **13. SITE PRACTICES**

- (a) All persons on site will be required to conform to the Site Safety Practices as outlined in the General Site Safety Rules Booklet and all relevant site safety statutes applicable in New South Wales. The Occupational Health & Safety Act and its Regulations shall be strictly observed on site.

- (b) All employees shall be conversant with this Agreement and if necessary seek further explanation, and further:

- (i) No alcohol is permitted on the site at any time.
- (ii) No narcotic drugs of addiction, non-prescribed drugs or illegal substances are permitted on site at any time.
- (iii) The parties to this Agreement will comply with PWCS Project 3D Management's Alcohol and other Drugs Policy and will adopt the Construction Industry Drug and Alcohol Policy as a guide when dealing with such problems on site.

- (c) All employees shall, at all times, use the facilities provided by virtue of the terms of this Agreement

- (d) All employees shall be required to conform to the safety rules and regulations and site rules as specified.

## 14. HOURS

- (a) Except as provided elsewhere in this Agreement the ordinary working hours shall be thirty-six (36) consecutive hours each Monday to Friday inclusive, between the hours of 6.00am and 6.00pm with the first 0.8 of an hour of each day worked, plus 0.8 of an hour for each day on paid leave, accruing as an entitlement to be taken except as specified in sub-clause (d)(v) hereof on a nominated day in each cycle as a paid day off, as though worked.

The Employer shall establish an agreed Rostered Day Off (RDO) Schedule. This Schedule may be varied where the employer provides 7 days notice. Any variation shall be by agreement, provided that this agreement may not be unreasonably withheld. This notice period will not apply in the case of emergency work.

A copy of the RDO schedule shall be provided to employees at commencement of employment.

The Employer may organise different RDO rosters for different work groups according to the work requirements.

Provided further, up to seven (7) rostered days off may be accrued by agreement between the employer and the employee, and must be taken during the course of the job.

- (b) The employer shall schedule each work day so that it is split into three approximately equal work periods separated by two work breaks.

The first work break shall be 'paid' time and the second shall be in 'unpaid' time. The workday shall be therefore structured as follows:

On site:	8.5 hours
Paid time:	8.0 hours
Unpaid break:	30 minutes
Paid break:	30 minutes (included in Paid Time')

The following are the guiding principles reflecting the intent of this Daily Work Pattern:

- Break durations are intended to allow a realistic period for rest; the stated duration is therefore not to be exceeded;
- While work periods are meant to be of approximately equal duration, they may be scheduled to suit the specifics of the work and may vary, subject to general conformity with the above intent;
- The work breaks may be taken at different times to maximise flexibility of work requirements eg tie-ins, concrete pours, crane-lifts;
- No employee will be required to work in excess of four hours without a work break;
- The start time is 'at the on-site amenities'. Completion of actual productive work will be at the time appropriate for each employee to ensure the integrity and

safety of the work area, pack up with the finish time on arrival at the locker/shower facility.

- (c) Notwithstanding the provisions of subclauses (a) and (b) above, where it is necessary for employees to work ordinary hours of work within an alternative spread of hours, for example, 5.00am to 5.00pm, and take an alternative meal break, that the hours of work may be changed by agreement between the parties and on the approval of the PWCS Project 3D Project Management.
- (d) The method of payment for hours worked, paid leave, etc., shall be as follows:

**(i) Normal Working Days**

An employee shall be paid the daily rate for working the eight (8) ordinary hours on a normal working day. The daily rate shall be calculated by dividing the ordinary weekly wage by five (5).

Where an employee works part of the ordinary hours on a normal working day, they shall be paid at the hourly rate for the time worked, less 0.8 of an hour.

**(ii) Sick Leave**

An employee absent on paid sick leave shall be paid for each day absent at the daily rate. Where an employee is absent on paid sick leave for part of a day he shall be paid at the hourly rate for such time absent, i.e., the difference between time worked and eight (8) hours.

Where an employee is off for part of a day on paid sick leave, their sick leave credit in respect of that day shall be the difference between 7.2 hours and the time that they were paid sick leave.

Example: Employee has ten (10) days accumulated sick pay and takes four (4) hours off on sick pay. Their accumulated sick leave would therefore become nine (9) days 3.2 hours.

The sick leave credits prescribed in this Agreement shall be converted from hours to days on the basis of each eight (8) hours credit becoming one (1) day's sick leave or portion thereof.

**(iii) Public Holidays and Other Paid Leave**

An employee absent on public holidays or other paid leave, shall be paid the daily rate of each day of absence, provided always that the employer shall be obliged to pay no more than thirty six (36) hours per week ordinary time.

An employee entitled to four (4) weeks annual leave shall be paid in addition to their annual leave an annual leave loading and payment of their accrued entitlement for the rostered prescribed day off that would have otherwise been due if they had not been on annual leave.

**(iv) Prescribed Rostered Day Off**

For the prescribed rostered day off, an employee shall be paid the daily rate less 0.8 of an hour for each day the employee did not attend for work because of an absence of unpaid leave during the work cycle.

An employee who works for part of a work cycle on the site (as defined in sub-clause (a) of this clause) and part of the cycle at another work location of the same employer, shall be entitled to receive payment at the rate applicable under this Agreement for the proportion of time worked on the site when payment is made to such employee in respect of their rostered day off.

**NEW EMPLOYEES**

A new employee on site shall take the rostered day off and be paid a pro rata payment for the prescribed rostered day off, calculated on the basis of 0.8 of an hour's pay for each day worked within the cycle and for each other day on which the employee has been absent on paid leave. However, as provided by Clause 14 up to seven (7) rostered days off may be accrued by agreement between the contractor and the employee, and must be taken during the course of the job.

**(v) Working on the Prescribed Rostered Day Off (RDO)**

The accrued RDO shall be taken as a paid day off provided that this day may be worked where that is required by the employer and such work is necessary to allow other employees to be employed productively or to carry out out-of-hours maintenance or because of unforeseen delays to the Project or a section of it or for other reasons arising from unforeseen or emergency circumstances on the Project, in which case, in addition to accrued entitlements (i.e. leave accrued may not be discharged by payment in lieu), the employee shall be paid for work performed in ordinary hours the penalty rates and provisions for Saturday work only. The employer will consult with the parties about any proposed work on rostered days off. Such notification shall be provided not later than 7 days prior to the RDO. This Clause shall not apply where rostered days off are accrued as provided by sub clause (a) of Clause 14 Hours.

**(vi) Overtime Rates**

All time worked outside the ordinary working hours outlined in sub-clause 14(a),(b),(c) shall be paid at the rate of time and one half of the first two hours and double time thereafter.

**(vii) Termination of Employment**

In addition to all other entitlements (pro rata annual leave, annual leave loading, etc.) the employee shall be entitled to a pro rata payment of 0.8 of an hour's pay for each ordinary day worked and for each other day that the employee was absent on paid leave within the work cycle.

**15. SHIFT WORK**

The following conditions shall apply to employees engaged on shift work.

(a) For the purposes of this clause:

“**Afternoon Shift**” means a shift finishing at or after 9.00 pm and at or before 11.00 pm.

“**Night Shift**” means a shift finishing at 11.00 pm and at or before 7.00 am.

“**Morning Shift**” means a shift finishing after 12.30 pm and at or before 2.00 pm.

“**Early Afternoon Shift**” means a shift finishing after 7.00 pm and at or before 9.00 pm.

(b) Provided that the employee is employed continuously (inclusive of Public Holidays) for five shifts Monday to Friday, the following rates shall apply:

- Afternoon and Night Shift - Ordinary Time plus 50%.
- Morning and Early Afternoon Shifts - Ordinary Time plus 25%.

(c) Broken Shift

(i) A broken shift is any shift that does not continue for five (5) consecutive working days Monday to Friday.

(ii) All hours worked on broken shifts shall be paid as though they were overtime hours, excepting where the reasons for a broken shift eventuating are as a result of employee actions or reasons.

(d) An employee shall be given at least forty-eight (48) hours notice of a requirement to work shift work.

(e) The hours of shift workers when fixed, shall not be altered except for breakdowns or other causes beyond the control of the Employer provided that notice of such alteration shall be given to the employee not later than ceasing time for the previous shift.

(f) For all work performed on a Saturday, Sunday or Holiday, the provisions of Clause 17 of this Agreement shall be applicable in lieu of the rates prescribed in this clause.

(g) Work in excess of shift hours, Monday to Friday, other than holidays, shall be paid for at double time provided that these rates shall be based, in each case, on ordinary hours.

(h) Shift work hours shall be worked between Mondays to Friday inclusive provided that an ordinary night shift commencing before, and extending beyond midnight Friday, shall be regarded as a Friday shift.

(i) Employees engaged on afternoon and night shift shall be afforded a thirty (30) minute paid meal break in lieu of the unpaid meal break provided for in Clause 14(b).

## **16. MEAL ALLOWANCES AND CRIB TIME**

(a) Where an employee is required to work overtime for at least one and a half hours after working ordinary hours; they shall be paid by the employer an amount of \$10.10 to meet the cost of a meal. This provision shall not apply to an employee who is provided with board and lodgings and provided with a suitable meal. Where an employee is required to work overtime after the usual ceasing time of the day or shift for two hours or more, they shall be paid by the employer an amount of \$21.10 to meet the cost of a meal in lieu of

any other applicable meal allowances and crib times, and thereafter, after each four hours of continuous work.

**Note: The \$21.10 meal allowance 'buys out' both the normally applicable meal allowance (\$10.10) and 20 minute crib time.**

- (b) No apprentice under the age of eighteen (18) years shall be required to work shift work unless they so desire. No apprentice shall, except in an emergency, work or be required to work shift work at times which would prevent their attendance at TAFE College, as required by any Statute, Award or regulation applicable to them.
- (c) (i) An employee who works overtime between the termination of ordinary work and the commencement of ordinary work on the next day and has not had at least ten (10) consecutive hours off duty between these times, and if on the instructions of their employer, such an employee resumes or continues to work without having had such ten (10) consecutive hours off duty, they shall be paid at double rates until released from duty for such period and shall then be entitled to be absent until they have had ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (ii) An employee who works continuously (except for meal and crib times allowed by this Agreement) for twenty (20) hours shall not be required to continue at or recommence work for at least twelve (12) hours.

## **17. OVERTIME AND SPECIAL WORK**

- (a) All employees will be required to work reasonable overtime.
- (b) All time worked beyond the ordinary time of work as prescribed in the Hours clause of this Agreement, shall be paid for at the rate of one and a half times (1.5) ordinary rates for the first two (2) hours thereof and at double time thereafter.
- (c) An employee recalled to work overtime after leaving the employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of four (4) hours work at the appropriate rates for each time so recalled; provided that, except in the case of unforeseen circumstances arising, the employee shall not be required to work the full four (4) hours if the job they were recalled to perform is completed within a shorter period. This subclause shall not apply in cases where it is customary for the employee to return to the employer's premises to perform a specific job outside their ordinary working hours or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.
- (d) If the employer requires an employee to work during the time prescribed by the Hours clause of this Agreement for cessation of work for the purpose of a meal, the employer shall allow the employee whatever time is necessary to make up the prescribed time of cessation, and the employee shall be paid at the rate of double time for the period worked between the prescribed time of cessation and the beginning of the time allowed in substitution for the prescribed cessation time, provided however, that the employer shall not be bound to pay in addition for the time allowed in substitution for the said cessation time.
- (e) When an employee, if they have not been regularly rostered and not given twenty-four (24) hours notice of their requirement to work overtime, after having worked overtime,

finishes work at a time when reasonable means of transport are not available, the employer shall provide them with a conveyance to their home or to the nearest connecting public transport.

## **18. WEEKEND WORK**

- (a) Overtime work on Saturday shall be paid for at the rate of time and a half (1.5) for the first two (2) hours and double time thereafter, provided that all overtime worked after 12 noon on Saturday shall be paid for at the rate of double time.
- (b) All time worked on Sunday shall be paid for at the rate of double time.
- (c) An employee required to work overtime on a Saturday or to work on a Sunday shall be afforded at least four (4) hours work at the appropriate rate.
- (d) An employee working overtime on a Saturday, or working on a Sunday, shall be allowed a work break of thirty (30) minutes after four (4) hours work without loss of pay. This may be varied by agreement between the Parties. In the event of an employee being required to work in excess of a further four (4) hours, they shall be allowed to take a work break of thirty (30) minutes without loss of pay.

## **19. PUBLIC HOLIDAYS**

- (a) An employee shall be entitled to the following holidays without deduction of pay, provided that if any other day be, by a State Act of Parliament or State Proclamation, substituted for any of the said holidays, the day so substituted shall be observed:

New Years Day	Easter Monday	Labour Day
Australia Day	Anzac Day	Christmas Day
Good Friday	Queen's Birthday	Boxing Day
Newcastle Show Day	Easter Saturday	

Picnic Day - First Monday in December and one (1) other additional day per year to be agreed between the parties.

- (b) Where an additional or substituted public holiday is proclaimed by Order in Council or otherwise gazetted by authority of the Australian or New South Wales Government under any Act throughout New South Wales or part thereof, such day shall, within the defined locality, be deemed to be a holiday for the purposes of this Agreement: provided that an employee shall not be entitled to the benefit of more than one (1) holiday upon such occasion.
- (c) Provided that:
  - (i) If the employer terminates the employment of an employee except for reasons of misconduct or incompetence (proof of which shall lie upon the employer) they shall pay the employee a day's ordinary wages for each holiday which falls within ten (10) consecutive days after the day of termination.
  - (ii) Where any two (2) or more of the holidays prescribed in the Agreement occur within a seven (7) day span, such holidays shall, for the purposes of this Agreement, be classed as a group of holidays. If the first day of the group of holidays falls within ten (10) working days after termination, the whole group



shall be deemed to fall within the ten (10) consecutive days, e.g., Christmas Day, Boxing Day and New Year's Day shall be regarded as a group.

- (iii) No employee shall be entitled to receive payment from more than one (1) employer in respect of the same public holidays or group of holidays.
  - (iv) An employee who has worked as required by their employer the working day immediately before and the working day immediately after such a holiday or is absent with the permission of their employer or is absent with reasonable cause, shall be entitled to payment for the public holiday. An absence arising by termination of employment shall not be reasonable cause.
- (d) All employees shall, as far as practicable, be given and shall take the Picnic Day on the first Monday in December and shall be paid therefore eight (8) hours work at the rate of pay prescribed in the Wages clause of this Agreement.
- (i) Any employee required to work on this day shall be paid at the rate of double time and a half (2.5 times) provided that an employee who attends for work as required on this day shall be paid for not less than four (4) hours work
  - (ii) It is agreed between the parties that no employee shall be required to work on Picnic Day other than in the circumstances of an unforeseen emergency arising.
- (e) All work performed on any of the holidays prescribed in this clause or substituted in lieu thereof, shall be paid for at the rate of double time and a half (2.5 times).
- (f) An employee required to work on a holiday shall be afforded at least four (4) hours work or paid for four (4) hours at the appropriate rate.

## **20. SICK LEAVE**

An employee who is absent from their work on account of personal illness or injury, other than that covered by workers' compensation, shall be entitled to leave of absence, without deduction of pay, provided that:

- (a) Within twenty-four (24) hours of the commencement of such absence, the employee shall inform the employer of their inability to attend for duty, and as far as practicable, state the nature of the injury or illness and the estimated duration of the absence.
- (b) The employee shall prove to the satisfaction of their employer that they were unable on account of such fitness or injury to attend for duty on the day or days for which sick leave is claimed.
- (c) An employee during their first year of employment with an employer shall be entitled to sick leave entitlement at the rate of one (1) day on (1) calendar month from the first day of employment and one (1) day on the first of each calendar month for the following nine (9) months.

Provided that an employee who has completed one (1) year of continuous employment shall be credited with a further ten (10) days sick leave entitlement, at the beginning of their second and each subsequent year, which subject to sub-clause (f) shall commence on the anniversary of engagement.

- (d) In the case of an employee who claims to be allowed paid sick leave in accordance with this clause for an absence of one (1) day only, such employee, if in the year they have already been allowed paid sick leave on two (2) occasions for one (1) day only, shall not be entitled to pay for the day claimed unless they produce to the employer a certificate of a duly qualified medical practitioner certifying that the employee was unable to attend for duty on account of personal injury or fitness.

The employer may agree to accept from the employee a Statutory Declaration stating that the employee was unable to attend for duty on account of personal illness or injury in lieu of a medical certificate.

Nothing in this sub-clause shall limit the employer's right under subclause (b) thereof.

- (e) Sick leave with an employer shall accumulate from year to year so that any balance of the period specified in sub-clause (c) hereof which in any year has not been allowed to an employee by that employer as paid sick leave may be claimed by the employee and subject to the conditions herein prescribed shall be allowed by that employer in a subsequent year, without diminution of the sick leave prescribed in respect of that year.

Sick leave that accumulates pursuant to this sub-clause shall be available to the employee for a period of ten (10) years from the end of the year in which it accrues but for no longer.

- (f) If an employee is terminated and is re-engaged within a period of six (6) months, then the employee's unclaimed balance of sick leave shall continue to accrue from the date of re-engagement.

The period of interruption shall not be counted as service for the purposes of sick leave.

## **21. PARENTAL LEAVE**

Employees shall be entitled to Parental Leave in accordance with the NSW Industrial Relations Act 1996.

## **22. CARER'S LEAVE**

### **(1) Use of Sick Leave**

- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c), who needs the employee's care and support, shall be entitled to use, in accordance with this sub clause, any current or accrued sick leave entitlement, provided for in Clause 20, Sick Leave, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.
- (b) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and/or that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this sub clause where another person has taken leave to care for the same person.
- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
- (i) the employee being responsible for the care of the person concerned; and

- (ii) the person concerned being:
  - (1) a spouse of the employee; or
  - (2) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
  - (3) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
  - (4) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
  - (5) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:
    - 1. "relative" means a person related by blood, marriage or affinity;
    - 2. "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
    - 3. "household" means a family group living in the same domestic dwelling.
- (d) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

(2) Unpaid Leave for Family Purpose

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subclause 22 (c) (ii).

(3) Annual Leave

- (a) An employee may elect with the consent of the employer, subject to the Annual Holidays Act 1944, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this sub clause, shall be exclusive of any shutdown period provided for elsewhere under this Agreement.
- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

- (4) Time Off in Lieu of Payment for Overtime
- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.
  - (b) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, which is an hour for each hour worked.
  - (c) If, having elected to take time as leave in accordance with paragraph (a) of this sub clause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.
  - (d) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the provisions of the respective parent award.
- (5) Make-up Time
- (a) An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in this agreement, at the ordinary rate of pay.
  - (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.
- (6) Rostered Days Off
- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
  - (b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
  - (c) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
  - (d) This sub clause is subject to the employer informing the relevant parties of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for them to participate in negotiations.

## **23. BEREAVEMENT LEAVE**

- (a) An employee shall on the death within Australia of a wife, husband, partner, father, step father, mother, step mother, brother, sister, child (including adopted) or step-child, mother-in-law, father-in-law, be entitled on notice to leave up to and including the day of the funeral of such relation, (or where made necessary because of travel arrangements, the day after the funeral).
- (b) Such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the employee in two (2) ordinary days of work.

- (c) Proof of such death shall if required be furnished by the employee to the satisfaction of their employer.

Provided that this clause shall have no operation while the period of entitlement to leave under it coincides with any other period of entitlement of leave. For the purposes of this clause the words "wife" and "husband" shall include a person who lives with the employee as a de facto wife or husband.

## **24. ANTI DISCRIMINATION**

The company shall not discriminate on the basis of sex, marital status, pregnancy, age, race, religion, colour, national origin, impairment or political conviction.

Entry into the company, selection for specific jobs and career progression will be determined by personal merit and criteria related to the effective performance of the job.

- (a) It is the intention of the parties bound by this Agreement to seek to achieve the object in s3(f) of the Industrial Relations Act 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of this Agreement, which, by its terms or operation, has a direct or indirect discriminatory effect.
- (c) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (d) Nothing in this clause is to be taken to affect:
- (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (ii) offering or providing junior rates of pays to persons under 21 years of age;
  - (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
  - (iv) a party to this agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

### NOTES:

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

- (b) Section 56(d) of the ***Anti-Discrimination Act 1977*** provides:

“Nothing in the Act affects... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.”

## **25. ANNUAL LEAVE PAYMENT AND ANNUAL LEAVE LOADING**

- (a) Each employee, before going on Annual Leave, may elect to be paid in advance the wages which would ordinarily accrue to them during the currency of annual leave.
- (b) In addition to the payment prescribed in sub-clause (a), an employee shall receive during a period of annual leave loading for each week of annual leave, an employee who applied for their annual leave whilst engaged on this site shall be entitled to any benefits applicable to such annual leave contained in this Agreement. If the employee is transferred to another location for a period not exceeding one (1) month this clause shall apply.

Any benefits shall be on a pro rata basis for the period worked on this site for each week of annual leave due.

- (c) The loading prescribed above is calculated on the basis of 17.5% of the group wage rates set out in Clause 4 of this Agreement, and if those rates are further increased as a consequence of the provisions of sub clause (a) of Clause 4, the annual leave loading shall also be increased by the same percentage formula and from the same date as the wage rate is increased.
- (d) The loading prescribed above shall also apply to proportionate leave due to an employee whose services are terminated by an employer through no fault of the employee.
- (e) Except as provided in sub-clause (d) hereof as to the payment of loading on proportionate leave on termination, the provisions of the respective parent Award.

## **26. SUPERANNUATION**

- (a) Employees covered by this Agreement shall, whilst they are engaged on this site, be covered by an appropriate superannuation scheme, namely STA, NESS EISS, C+BUS, TWU Super or other superannuation scheme approved by the parties.
- (b) The employer shall contribute \$100.00 per week, or the Superannuation Guarantee Levy, whichever is the higher, on behalf of employees into a recognised industry scheme. From the first pay period commencing on or after 1 October 2006, this amount shall increase to \$110.00 per week and from the first pay period commencing on or after 1 October 2007, this amount shall increase to \$120.00 per week, or the Superannuation Guarantee Levy, whichever is the higher.
- (c) Provided that such contribution shall not be in addition to any contributions made in accordance with legislation or an enterprise agreement.

## **27. INCLEMENT WEATHER**

Where a weekly employee/s believes they are experiencing inclement weather conditions the following procedure shall apply:

- The employee shall notify their employer that he/she believes he/she is experiencing inclement weather conditions.
- The employer will consult with the affected employee/s and inspect the work area/s.
- In the first instance the employer shall determine whether inclement weather conditions are being experienced and will consult with the affected employee/s seeking their view and, work options available.
- If “inclement weather” creates an unsafe situation/circumstance the OH&S Act will apply.
- The employer shall stop work if conditions dictate. When this does occur the following options apply:
  - Employees return to crib rooms - for training etc, or
  - Employees are relocated to work in other areas.
- Employees shall not be unreasonably held on site.
- No employee shall have the right to cease work or leave the PWCS Project 3D site without the permission of the employer.

## **28. LIVING AWAY - DISTANT WORK**

### **(a) Entitlement**

The employer shall provide a distant worker with either reasonable board and lodging at no cost to the employee, or pay the living away from home allowance contained in the respective parent Award that would apply when employed on the construction site at such distance from their usual place of residence that they cannot reasonably return each night or as otherwise defined in the provisions of the respective parent Award.

The employer shall provide an itinerant worker with acceptable board and lodging at reasonable cost.

### **(b) Procedure**

- (ii) The employer shall determine whether an employee is correctly defined as a "distant worker", "itinerant worker" or "local worker". The appropriate definition shall be shown on the employee's records
- (iii) Any employer shall not, under any circumstances, attempt to persuade or induce applicants for employment to provide a local address as their usual place of residence in an effort to avoid the employer's obligations under this clause.

### **(c) Disputes**

Disputes arising from application of this clause will be subject to resolution in accordance with the Settlement of Disputes clause of this Agreement. In the event of a dispute all relevant documentation will be made available to the tribunal dealing with the matter.

(d) Definition

- (i) "Distant Worker" means an employee who has provided satisfactory evidence that, due to engagement on the site they are unable to reasonably return home each night or as otherwise defined in the respective parent Award.
- (ii) "Itinerant Work" means an employee with no fixed address.
- (iii) "Usual Place of Residence"
  - (a) The employer shall obtain, documentary evidence of the employee's usual place of residence, such as motor vehicle driver's licence or a statement in writing.
  - (b) The employee's usual place of residence and not the place of employment shall determine the applicability of this clause.
  - (c) An employee shall notify the employer in writing of any subsequent change to their usual place of residence. No subsequent change to an employee's usual place of residence shall entitle an employee to provisions of this clause, unless the employer agrees.
- (iv) "Reasonable board and lodging means lodging in a well kept establishment with three (3) adequate meals per day, adequate furnishing, good lighting and heating, hot and cold running water, in a single or twin room if a single room is unavailable.
- (v) "Living Away From Home Allowance" means an allowance payable weekly. Such allowance shall not be wages, provided that in the case of broken parts of a week occurring at the beginning or end of employment, the allowance shall be divisible by seven (7).

The Living Away from Home Allowance will be paid in accordance with the provisions of the respective parent Award.

Provided further, that if the employee satisfies the employer that they reasonably incurred a greater outlay than any prescribed, the allowance shall be increased to match the outlay.

The allowance payable pursuant to this Clause, shall be in substitution for additional payments provided to employees for travel to and from the Project i.e. payments available under 'Excess Fares and Travel' in Clause 4(d)(iii) of this Agreement.

## **29. MOBILITY**

Where employees are sent from their usual locality to another, they shall whilst necessarily travelling, be paid travelling time and expenses as follows:

- (a) The rate of pay for travelling time shall be ordinary rates, except on Sundays and Public Holidays, which shall be time and one half.



(b) The maximum travelling time to be paid for shall be twelve hours out of every twenty four hours, or when a sleeping berth is provided by the employer for all Night travel, eight hours out of every twenty four.

(c) Expenses for the purpose of this clause means:

- All fares reasonably incurred. The fares allowed shall be for bus, economy air, second class rail travel, except where all night travelling is involved, then they shall travel first class, with sleeping berth, where available
- Reasonable expenses incurred whilst travelling including \$10.10 for each meal taken.
- A reasonable allowance to cover the cost incurred for board and lodging

(d) Where an employee proceeds to a distant construction site and provided that the employer obtains a statement in writing from the employee of their usual place of residence at the time of engagement, no subsequent change of address shall vary the entitlements under this clause unless the employer agrees.

(e) Week End Return Home

An employee who works as required during ordinary hours of work on the working day before and the working day after a weekend and who returns to their usual place of residence for the weekend, and who notifies the employer no later than Tuesday of that week of their intention to return to their usual place of residence at the weekend, shall be paid an allowance of \$27.10 for each occasion. This payment shall not apply to any employee receiving living away from home allowance, in lieu of board and lodging.

(f) Rest and Recreation - Rail and Road Travel

An employee, who qualifies for the provisions of this clause, may, after two months continuous service, and thereafter at station nearest to their usual place of residence, on the payday which immediately follows the date on which they return to the job. Provided, that no delay not agreed with the employer takes place in connection with the employee's commencement of work on the morning of the working day following the weekend.

Provided further, that if the work upon which the employee is engaged will terminate in the ordinary course within a further 28 days after the expiration of any such period of two or three months, then the provisions of this subclause shall have no application.

(g) Air Travel

The following conditions shall apply to an employee who is located in any area to which air travel is the only practicable means of travel;

- The employee may return home after four months continuous service and shall in such circumstance be entitled to two days leave of which one day shall be paid.
- Thereafter, the employee may return to their usual place of residence after each further period of four months continuous service, and in each case they shall be entitled to two days leave of which one day shall be paid.

- Payment for leave and reimbursement for any economy class air fare paid by the employee shall be made at the completion of the first pay period commencing after the date of return to the job.
- Provided further, that if the work upon which the employee is engaged will terminate in the ordinary course within a further 28 days after the expiration of any such period of four months, then the provisions of this subclause shall have no application.

(h) Limitation of Entitlement

This entitlement shall be taken as soon as is reasonably practicable after becoming due and shall lapse after a period of two months. Provided that the employee has been notified in writing by the employer in the week prior to the entitlement becoming due and of the date that the entitlement will lapse if it is not taken by the employee. (Proof of the written notice shall lie with the employer).

(i) Service Entitlement

For the purpose of this paragraph, service shall be deemed to be continuous, notwithstanding an employee's absence from work as prescribed.

(j) Variable Return Home

In special circumstances, and by agreement with the employer, return to the usual place of residence may be granted earlier or taken later than the prescribed date of accrual without alteration to the employee's accrual entitlements.

(k) Non-Payment in Lieu

Payment of fares and leave with pay as provided shall not be made unless taken by the employee.

(l) Termination

An employee shall be entitled to notice of termination in sufficient time to arrange transport at termination or shall be paid as if employed up to the end of the ordinary day before transportation is available.

### **30. SAFETY**

All work undertaken on the PWCS Project 3D shall comply with the provisions of the NSW Occupational Health and Safety Act 2000 and Regulations 2001 and the PWCS Project 3D site safety requirements. It is also accepted by the parties to this Agreement that the procedures of the Building Industry Safety Codes shall be the procedures by which safety matters are handled, and whilst these are being followed there shall be no stoppage of work in respect of the matter being considered, except in the area or matter under consideration.

- (a) All employees engaged in construction activities on the PWCS Project 3D must be in possession of a current General Occupational Health & Safety Construction Induction certificate or Card.
- (b) The employer shall establish a Safety Committee in accordance with the Occupational

Health and Safety Act 2000 and Regulation 2001(Division 2 Duty to Consult - Section 13).

(c) The employer shall provide employees with all appropriate safety equipment free of charge as necessitated by the tasks in accordance with any existing Regulation(s) or Regulation(s) implemented during the life of the Agreement

(d) First Aid

(i) First aid boxes shall be provided by the employer as required in accordance with the Occupational Health and Safety Act 2000 and Regulation 2001.

(ii) The employer shall make provision in accordance with the Occupational Health and Safety Act 2000 (and Regulation 2001) as to the provision of personnel in administering this obligation under the said Act.

(e) Occupational Health & Safety

The Parties have agreed to adopt the PWCS Project 3D Site Safety Management Plan. As part of this plan the employer will be required to submit comprehensive risk assessments for all work undertaken on the project. The provisions of the Occupational Health and Safety Act 2000 (NSW) and Regulation 2001 or their successors shall apply to and regulate all work covered by this Agreement. The employer will arrange with the PWCS Project 3D management access to a First Aid Room, complying with the Act, Regulations and industry standards.

(f) Protective Clothing

Upon commencement on the project, employees with more than 4 weeks employment will be issued with the following protective clothing, equipment and footwear:

- One pair of approved safety footwear.
- Three (3) pairs of standard issue long pants and three (3) standard-issue long sleeved shirts or three (3) pairs of long sleeved overalls. Shirts and overalls shall be "high visibility" in accordance with PWCS Project 3D requirements.
- One hard hat (with substantial add-on shade 'brim') designating the employee's employer and name.
- Appropriate safety glasses (either tinted or non-tinted - employee choice). Employees with prescription glasses will be issued with monogoggles or have their prescription safety glasses to AS (medium impact) (employee choice).
- Each employee on commencement of employment on site shall be eligible to be issued with one woollen "bluey" type warm jacket, which will be issued between 1 May and 1 September.

It is a condition of issue and of employment that the issued equipment shall be worn whilst on site. Replacement of issued equipment that is lost by the employee is the responsibility of the employee.

An employee who resigns within three months of receiving the issue may have the pro-rata cost withheld from their final pay.

Other than whilst in offices and crib sheds, hard hats and safety glasses must be worn at all times. Safety footwear must be worn at all times.

Replacement of any articles shall be on the basis of fair wear and tear provided the worn out item is produced for replacement. An employee who loses parts of the issue will be required to purchase necessary replacements.

Where an employee transfers:

- (i) to the Project with the same employer, or
- (ii) has already received an issue of approved protective safety footwear, will only be eligible for any re-issue on the basis of fair wear and tear provided the worn out item is produced for replacement.

Employees who receive their issue of protective safety footwear as part of their ongoing employment with the employer will not be entitled to additional issues under this clause.

The employer shall issue, on a loan basis, all safety equipment and protective clothing necessary for specific work tasks. Requisite safety equipment shall be worn.

The employer shall make available sun screen (SPF 30+) and mosquito repellent for personnel engaged in outside work.

- (ii) The employer shall ensure that employees required from time to time to use hand tools, e.g. Drillers Offsiders, are supplied with appropriate "fit for purpose" tools at all times.

(i) Electrical Equipment

All flexible extension cords, portable tools and electrical plant used on voltages above 32 volts will be inspected tested and tagged monthly by a licensed electrician in accordance with details set out in the Codes of Practice.

All extension cords, portable tools, electrical plant brought on to the site by the Employer will bear the correct monthly tag.

The Employer will keep a logbook of all inspections of the equipment. The Principal's representative shall be able to inspect these log books on a random basis to ensure that safety requirements are being adhered to. Any equipment found without a valid inspection tag will be disconnected and removed from the site until the equipment has been re-inspected and a new inspection tag attached.

All temporary electrical work and installations must conform to the Occupational Health and Safety Act 2000 and Regulation 2001, and the Electrical Safety Act 1995.

### **31. FITNESS FOR DUTY POLICY**

Under no circumstances will any employee affected by alcohol and/or affected by any other drug be permitted to work and/or operate any equipment on the Project. Supervisors will be responsible for reporting such incidents.

PWCS Project 3D Management's Alcohol and other Drugs Policy and procedures (as amended) will be applied to all employees working on the PWCS Project 3D.

A copy of this Policy will be provided to employees at the Project induction and will be posted on notice boards throughout the site. Additional copies can be obtained on request.

### **32. TOP UP/24 HOUR INCOME PROTECTION INSURANCE**

The employer shall provide Top Up/24 Hour Income Accident Insurance with the UPLUS or other scheme with comparable benefits, provided the rates for the comparable scheme are also comparable, to provide cover of up to \$1,200 per week with a 21 day waiting period for any claims.

### **33. AMENITIES**

- (a) Amenities as prescribed in the Agreement and/or legislation and WorkCover codes are to be provided.
- (b) All lunch sheds shall contain reverse cycle air-conditioning.
- (c) Refrigerators shall be provided in crib sheds.
- (d) Outside/inside hand washing.
- (e) Hot and cold water showers.
- (f) Hot and cold water in toilet blocks.

### **34. PLANT AND EQUIPMENT**

- (a) All mobile plant and equipment shall, prior to commencement on the work site, be certified and have a certificate of currency as complying with the Occupational Health and Safety Act 2000 and Regulation 2001. The logbook for all mobile equipment should be kept in the cabin.
- (b) Every part of the structure, working gear and anchoring and fixing of every crane, joist and scaffolding winch and of all other hoisting machines, ropes and slings, whether metal or non-metal, and gear shall, as far as is reasonable practicable, be examined in position by a competent person:
  - (i) at least once in every month; or
  - (ii) at such more frequent intervals as are necessary to ensure that the hoisting machine or gear is in safe working order (Occupational Health and Safety Act 2000 and Regulation 2001).
- (c) A competent person shall inspect all chains, ropes, slings and other gear used for hoisting or lowering or as a means of suspension:
  - (i) at least once every month; or
  - (ii) at such more frequent intervals as are necessary to ensure that the scaffolding is safe.

### **35. EMPLOYEE REPRESENTATIVES**

- (a) An employee appointed as a employee representative shall upon notification to the employer be recognised as the accredited employee representative and they shall be allowed all necessary time during working hours to submit to the employer matters affecting the employees they represent and shall be allowed reasonable time during working hours to attend to job matters affecting employee relations.
- (b) Employee representatives shall be allowed time off with pay for up to six (6) days in

any one (1) year to attend approved training providing that reasonable notice is given of the day or days that a course will take place, a copy of the course outline is provided to the employer and adequate discussion in relation to employee availability has taken place.

- (c) Employee representatives shall be allowed access, upon request, to a telephone, fax or photocopier for employee relations issues related to the site.

### **36. SITE COMMUNICATIONS MEETING**

- (a) Employee Representative's Meetings

As a means of achieving better industrial relations on site, accredited employee representatives shall be entitled to attend a combined site employee representative's meeting prior to the scheduled Monthly Meeting of employees, without deduction of pay, for a maximum period of three (3) hours on each meeting.

The meetings shall be held on dates and commence at times to be determined by PWCS Project 3D Management.

- (b) Monthly Meeting of Employees

- (i) Subject to sub-clause (ii) of this clause, one (1) hour per month shall be allowed employees between 11.00am and 12.00 noon to discuss employee relations issues specific to the Project at a time nominated by PWCS Project 3D Project Management.
- (ii) Any time lost during ordinary working hours by attendance at unauthorised meetings shall not be paid.
- (iii) The right to hold meetings as prescribed by this clause may be withdrawn at any time should any employees attend meetings outside the times and dates so prescribed.

### **37. SETTLEMENT OF DISPUTES**

Any dispute arising on the Project shall be dealt with in the following manner:

- (a) The employee concerned shall raise the matter with the immediate supervisor for resolution.
- (b) If not resolved, the employee will raise the matter with the next more senior manager of the employer for resolution.

Both the employee and employer may involve their representative in any discussions, as a means of resolving the matter.

- (c) If the parties fail to resolve the dispute in accordance with the above, they shall refer it to the Industrial Relations Commission of NSW for conciliation and mediation.
- (d) If the parties fail to resolve the dispute in accordance with (d) above, they may, by agreement request the Commission to assist in resolving the matter by arbitration. The parties agree to abide by the arbitrator's decision.

- (e) Where the procedures from (a) to (d) are being followed or where it is agreed to proceed to arbitration, work shall continue normally.

No party shall be prejudiced as to final settlement by the continuance of work in accordance with this sub-clause.

**38. TERMINATION PAY**

In lieu of Award termination and redundancy payments, the employer shall contribute into ACIRT, MERT or an Occupational Redundancy Fund approved by the parties, \$90.00 per week per employee, in respect of each completed week of employment at the construction site. From the first pay period commencing on or after 1 October 2006, this amount shall increase to \$95.00 per week and from the first pay period commencing on or after 1 October 2007, this amount shall increase to \$100.00 per week.

An employee engaged on-site from time to time for less than a completed week of employment shall be paid \$18.00 per day hour 'flat' for all ordinary hours worked to a maximum of thirty six (36) ordinary hours per week, in lieu of the required contributions on behalf of employees into ACIRT, MERT or an Occupational Redundancy Fund approved by the parties. From the first pay period commencing on or after 1 October 2006, this amount shall increase to \$19.00 per day 'flat' for all ordinary hours worked to a maximum of 36 hours per week and from the first pay period commencing on or after 1 October 2007, this amount shall increase to \$20.00 per day 'flat' for all ordinary hours worked to a maximum of 36 hours per week,, in lieu of the required contributions on behalf of employees into ACIRT, MERT or an Occupational Redundancy Fund approved by the parties. Such amounts are to be shown separately on the employee's pay advice.

**39. SIGNATORIES**

Douglas Partners Pty Ltd

..... DATE.....

Witness

..... DATE.....

The Australian Workers' Union, New South Wales

..... DATE.....

Witness

.....

DATE.....

## **APPENDIX 1 PROJECT CODE OF CONDUCT & WORK RULES**

All Project employees are required to adhere to the Project Code of Conduct & Work Rules when employed on the Project Site. This also relates to conduct in the construction car park, on project-supplied transport and while living in project-supplied accommodation.

### **PROJECT CODE OF CONDUCT**

#### **MISCONDUCT**

The following forms of behaviour do not align with the Project Objectives. Any behaviour as outlined below would constitute misconduct; proven breaches of which will result in disciplinary action being taken in accordance with the Equitable Treatment System provisions of the Employer Employment Agreement/s. Proven repeat and/or multiple breaches of the following may result in termination of employment.

Behaviour which constitutes 'misconduct' includes, but is NOT limited to the following:

- Breaches of Project safety procedures and/or regulations that places, or has the potential to place, the safety of an individual employees or other members of the team at risk of injury;
- Breaches of the Settlement of Disputes provisions of the Employer Employment Agreement/s;
- Irregular attendance;
- Unauthorised absences for any reason;
- Tardiness;
- Failure to wear Project issued personal protective clothing, footwear and equipment;
- Breach of Security and Site Control requirements;
- Failure to report any injury/incident;
- Practical jokes or acts of horseplay;
- Gambling or the use of gambling devices;
- Selling merchandise or services on the Project Site;
- Unauthorised use of Company telephones or use of personal mobile phones during working hours in field work locations;



- Taking unauthorised photographs / video;
- Being absent from the workplace during a period in which a request for absence has been declined.

## SERIOUS MISCONDUCT

The following forms of behaviour do not align with the Project Objectives. Any behaviour as outlined below could constitute 'serious misconduct'; proven breaches of which will result in disciplinary action being taken in accordance with the Equitable Treatment System provisions of the Employer Employment Agreement/s which may include, after due investigatory processes being completed, termination of employment without notice. However termination without notice would only apply in proven wilful breaches and following a detailed investigation involving the appropriate parties.

Behaviour which constitutes 'serious misconduct' includes, but is NOT limited to the following:

- Breaches of Project safety procedures and/or regulations which result in, or could have resulted in, serious and/or life threatening injury to an individual employee or other members of the team;
- Irresponsible use or misuse of fire protection or safety equipment;
- Possession or use of weapons or firearms
- Smoking in any designated 'No Smoking' area;
- Alcohol and Drugs:
  - Reporting to work while under the influence of alcohol and/or drugs;
  - Possession of, or use of, illegal drugs / substances;
  - Illicit trade of alcoholic beverages and / or drugs;
- Committing any offensive act of violence, fighting, threatening and/or intimidating another person(s) or horseplay; regardless of how or why it was initiated;
- Vandalism or wilful damage or interference to company and/or personal property;
- Theft or removal off the Site of the Employer and/or another employee's property;
- Unauthorised possession of and/or unauthorised removal from the Project Site of Port Waratah Coal Services, PWCS Project 3D, Contractors' or another employee's property;
- Wilful damage to Port Waratah Coal Services, PWCS Project 3D Project Management, contractors' or other employees' property;
- Discrimination or harassment of any form, including that relating to race, colour, religion, sex, age, national origin, ancestry or handicap;

- Trespass, without permit, on any restricted access areas;
- Failure to comply with lawful and reasonable work instructions, including a refusal to perform assigned work, higher duties and/or alternative duties, etc.;
- Immoral conduct;
- Falsification of company records, regardless of when discovered, including timesheets, wage records, leave records, production reports, etc.;
- Bringing unauthorised personnel onto the Project Site;
- Sleeping on the job;
- Site security procedures;
- Transporting personnel in vehicles in breach of RTA regulations;
- Travelling in vehicles in breach of RTA regulations;

## **WORK RULES**

### **REQUIREMENTS**

- Site Access:** Access to the site for all workers is only via the designated Site Access Gate on Truck Dump Road, off Egret Street adjacent to the car parking areas.
- I.D. Badges:** Your PWCS Project 3D Identification Badge must be carried by at all times while you are on the work site. It is your only means access to the Site. You are not permitted to use any other person's badge, or allow others to use your badge. You must report any lost badges. At the conclusion of your period of employment on the Project, you must return your badge to your Employer.
- Vehicle Speed:** The maximum speed limit marked is 40 kph on all main roads within the site. A number of areas have notices requiring speeds lower than 40 kph. These must be observed.
- Personal Protection:** Safety helmets, steel-toed boots and safety glasses shall be worn at all times whilst on the Site, other than inside crib facilities and offices. Other safety equipment may be required when working in or near operating facilities.
- Clothing Issue:** Project employees must wear the Project provided clothing and PPE at all times while you are working on the Project Site. If lost, you may purchase additional items. Project issued items will be replaced on a fair wear and tear basis upon production of the worn item to your employer.

All other persons visiting the Site must wear clothing with long sleeved shirts and wear long trousers. Some facilities may require additional personal protection such as hearing and respiratory protection. These areas are marked and the required protection must be worn

**Project Hours of Work:**

Shall be 10.5 hours per scheduled workday, Monday to Thursday and 8.5 hours on Friday.

Generally, work periods will be of approximately equal duration but may be scheduled to suit the specifics of the work, and may vary. It is a condition of your employment that scheduled Project hours are worked.

**Food Orders:**

Project employers will provide a service for ordering food from an off-site facility for employees who wish to purchase food for meal breaks.

**Instructions:**

It is important you follow all instructions given by your Supervisor. Should any employee not be able to perform the assigned task for any reason whatsoever, it is their duty to inform their Supervisor immediately. Refusal to comply may result in disciplinary action.

**Site Security:**

All vehicles and carry-in bags are subject to search. All materials or property removed from the site require an approved Security Gate Pass.

**Bag and Vehicle Inspections When Leaving the Site:**

From time to time you may be requested to open your bag and or vehicle for routine inspection by the Project's Security Officers at the Construction gate. You will be expected to allow the inspection in the interests of overall security of PWCS, PWCS Project 3D Project Management, Contractors' and employees' property. Random bag and/or vehicle inspections apply to all Port Waratah Coal Services, PWCS Project 3D Project Management, and contractors' staff and employees and you should not feel that you have been treated differently from others.

**Personal Property:**

Whilst every effort is made to keep your property safe, Port Waratah Coal Services, PWCS Project 3D Project Management and the contractors take no responsibility for personal belongings left in crib huts, amenities or other parts of the site.

**Where to Park Your Car:**

Parking is available in the site car park. Employees' personal cars are not permitted on the site.

Please take care whilst using the car park to avoid damage to your own or other vehicles. Signs are provided to show directions and speed limits. (Low Speed / No "Wheelies")

Always lock your vehicle whilst it is parked. Port Waratah Coal Services, PWCS Project 3D Project Management and contractors will not accept liability for theft of, or from or damage to, your vehicle whilst it is parked in the car park.

**Canvassing** Canvassing monies or goods for charity or other purpose is not permitted on site, in the car park, or outside the plant gates without written permission from the Bechtel Project Manager.

**Permits:** Permits are required for certain work activities, and for access to certain areas of the site. These will be explained to you at your Orientation. It is a condition of employment that all necessary permits are obtained and requirements stated thereon are complied with.

**Environmental Issues:** The Environmental Issues will be explained to you at Orientation. Please respect the Environment.

### **RESTRICTIONS**

**Gambling:** Gambling or engaging in a lottery or raffle on the site is prohibited.

**Selling:** Selling merchandise or services on the site is not permitted.

**Cameras/Video Cameras:** Cameras (including video) and the taking of photographs (including videos) are not permitted without prior approval through the Bechtel Site Manager.

**Items Banned From the Site:** Cameras/Video Cameras  
Explosives  
Firearms or other weapons  
Illegal drugs  
Alcohol

**Mobile Phones and Audio** Audio devices are permitted to be used in crib sheds only. Mobile phones must not be used on site whilst working, driving or operating any type of vehicle, plant and equipment.

**Firearms:** Firearms are not permitted on site under any circumstances.

**Animals:** No animals are permitted on site.

**Fire Fighting Equipment:** Any employee found to have misused fire extinguishers or fire fighting equipment will be to summary dismissal.

**Plant Area:** No-one is permitted in the existing plant areas without proper authorisation from either Port Waratah Coal Services, PWCS Project 3D Project Management and Contractors.

Port Waratah Coal Services or PWCS Project 3D Project Management reserves the right to amend the Site Rules as deemed necessary during the Project.