

REVISED SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

This table is a summary of proposed variations lodged for this award on or before 5.00pm on 29 November 2016.

The notes refer to the hearing held on 6 December 2016 ([Transcript](#)).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1.	HSU	Sub-30/06/16	2	Definitions Submits definitions used several places in award should be in definition section. When used only once should be in relevant clause. The sectors definitions i.e. ‘crisis assistance and supported housing sector’, ‘family day care scheme sector’, ‘home care sector’, and ‘social and community services sector’ relate to coverage. Should be removed from clause 2 and remain only in clause 4 (Coverage).	Paras 5-8	
	Business SA	Sub-30/06/16		Notes sectors are defined in clauses 2 and 4. Propose sectors definitions in clause 2 be amended to direct the reader to the full definition at clause 4.2-4.5. For example, ‘home care sector is defined in clause 4.4’.	Para 6.1.1	
	AFEI	Sub-08/07/16		Notes sectors are defined in clause 2 and 4. Submits the duplication is unnecessary.	Para 2	
	ACE	Reply-21/07/16		Supports AFEI’s submissions.	Para 19	

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	AWU	Reply-28/07/16		Supports the HSU's submissions. Agree with Business SA's submissions terms should not be defined repeatedly. Supports sectors being defined at clause 4 and removed from clause 2. Cross reference in clause 2 not necessary.	Paras 5 and 13	
	ASU	Reply-28/07/16		Supports inserting references to relevant definitions in clause 2, where the definition applies only to the operation of a particular clause.	Para 5	
2.	HSU	Sub-30/06/16	2	Definitions – sleepover The definition of 'sleepover' should be only at clause 14.5. Delete it from clause 2.	Para 9	
	ASU	Sub-30/06/16		The full definition of 'sleepover' should be in clause 2. Clause 14.5 should include a note referencing clause 2. Notes ASU has made substantive claim for increased remuneration for sleepover employees. Definition should be dealt with in context of this claim.	Para 6-7	
	Business SA	Sub-30/06/16		Proposed definition of 'sleepover' in clause 2 be amended to 'sleepover is defined in clause 14.5(a)'.	Para 6.1.2	
	ACE	Sub-30/06/16		Inclusion of definition of a 'sleepover' is unnecessary in clause 2 as it is included at clause 14.5(a).	Para 4	

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	Jobs Australia	Sub-01/07/16		Not opposed to inclusion of ‘sleepover’ definition in clause 2, but unnecessary as the definition in clause 14.5(a) is sufficient.	Para 3	
	ACE	Reply-21/07/16		Supports JA’s submissions.	Para 17	
	Business SA	Reply-21/07/16		Agree with Jobs Australia, ACE and the HSU. Partially agree with ASU. Supports deletion of repeated definitions, but submit a note in clause 2 is not the preferred approach.	Paras 7.1-7.3	
	AIG	Reply-22/07/16		Does not agree with ACE’s and JA’s submissions. ‘Sleepover’ should be retained in the definitions clause. Submits Business SA’s and ASU’s proposed amendments are not necessary.	Paras 213-214	
	UV	Reply-25/07/16		Agree with various parties’ submissions. Supports submissions by ASU and HSU.	Paras 28-29	
	AFEI	Reply-05/08/16		Agree with Business SA’s submissions dated 30/06/16. Full definition should be retained at clause 14.5(a) with clause 2 containing a direction.	Para 4	
	ASU	Reply-28/07/16		Opposes submissions of ACE, Business SA and JA.	Para 6	

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3.	HSU	Sub-30/06/16	2	Definitions – social and community services sector Second paragraph of the definition used in current award has been removed. If definition is to remain in this clause, full definition should be used.	Para 22	Agreed, see Transcript - 6/12/16 [PN643]
	UV	Sub-30/06/16		Second paragraph of this definition from current award has been removed. If definition is to be kept at clause 2, it should include the second paragraph.	Para 6	
	AIG	Reply-22/07/16		Do not oppose HSU's and UV's submissions.	Para 215	
	AFEI	Reply-05/08/16		Does not oppose submissions of HSU and UV.	Para 3	
4.	AWU	Sub-06/07/16	2	Definitions 'Minimum hourly rate' is not defined. This creates ambiguity. For example in clause 11.2, as to whether an employee's level and pay point is to be taken into account in the minimum hourly rate. Propose inserting a definition: ' <i>Minimum hourly rate means the minimum hourly rate applicable to an employee's Classification, Level and Pay Point as set out at the applicable clause 16.1, 16.2 or 16.3.</i> '	Paras 4-5	

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	UV	Sub-30/06/16		‘Their appropriate rate’ in the current award has been replaced with ‘the minimum hourly rate’ and reference to classification. The absence of reference to pay point or level is problematic. Propose a ‘definition of minimum hourly rate’ be inserted. Propose <i>‘minimum hourly rate means the minimum rate of pay for the employee’s classification, grade and level’</i> .	Paras 47-52	
	HSU	Sub-30/06/16		‘Ordinary rate of pay’ in the current award has been replaced with ‘minimum hourly rate of pay’. These terms are not equivalent. The term ‘minimum hourly rate’ can be interpreted in various ways. Suggest providing a definition of ‘minimum hourly rate’ as follows: <i>‘minimum hourly rate means the minimum rate of pay for the employee’s classification, grade and level’</i> . An alternative option is to amend to ‘the employee’s minimum hourly rate of pay’ throughout the award.	Paras 10-18	
	Business SA	Reply-21/07/16		Partially agree. Agree with submissions to include a definition of ‘minimum hourly rate’. Will further consider the proposed wording.	Para 7.4	

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	ACE	Reply-21/07/16		Supports the use of ‘classification, grade and level’ in any definitions of ordinary hourly rate and minimum hourly rate as submitted by UV.	Para 7	
	AIG	Reply-22/07/16		If a definition of ‘minimum hourly rate’ is to be inserted, do not agree with those proposed by HSU, AWU and UV.	Paras 211-212	
	AWU	Reply-28/07/16		Supports HSU’s submissions. Agree with UV’s submissions, but the applicable terms are ‘classification, level and pay point’.	Paras 5 and 10	
	AFEI	Reply-05/08/16		Oppose submissions of HSU, AWU and UV to include the proposed definitions of ‘minimum hourly rate’.	Para 5	
5.	AFEI	Sub-08/07/16	2	Definitions The definitions ‘relevant transitional minimum wage instrument’ and ‘award based transitional instrument’ have been omitted from the ED. They should be reinstated given their relevance to the Equal Remuneration Order.	Para 1	Agreed, see Transcript - 6/12/16 [PN643]
	ACE	Reply-21/07/16		Supports AFEI’s submissions.	Para 19	

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6.	ASU	Sub-30/06/16	2	Definitions The Annual Wage Expert Panel in [2016] FWCFB 3500 proposed a review be undertaken of transitional instruments. Definitions related to transitional provisions should be retained subject to the outcome of the review.	Paras 4-5	Agreed, see Transcript - 6/12/16 [PN643]
	AWU	Reply-28/07/16		Agree with the ASU's submissions.	Para 12	
7.	ACE	Sub-30/06/16	4	Coverage Definitions for Industry Sectors at clauses 4.2, 4.3 and 4.4 are unnecessary, already defined in clause 2.	Para 5	See item 1
	Business SA	Reply-21/07/16		Partially agree. Supports deletion of repeated definitions, but submit definitions in clauses 4.2-4.5 should be retained.	Para 7.5	
8.	HSU	Sub-30/06/16	3.3	The National Employment Standards and this award The words 'whichever makes them more accessible' have been removed. They should be retained.	Para 23	
	UV	Sub-30/06/16		'Whichever makes them more accessible' should be retained.	Para 3	
	ABI & NSWBC	Reply-22/07/16		The wording of cl.3.3 consistent with decision [2014] FWCFB 9412 .	Para 5.1	
	AIG	Reply-22/07/16		This matter has already been determined by the Commission in [2015] FWCFB 9412 at [29]. Opposed to submissions by HSU and UV.	Para 216	

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9.	AIG	Sub-30/06/16	7	Facilitative provisions Clause 5.2 should be renumbered as 7.2.	Para 252	AMOD: drafting error – ED corrected.
	UV	Sub-30/06/16		Clause 7.2 is incorrectly numbered as 5.2.	Para 53	
	AFEI	Sub-08/07/16		Clause 7.2 is incorrectly listed as 5.2.	Para 3	
	Business SA	Reply-21/07/16		Agree with AIG, UV and AFEI.	Para 7.6	
	ACE	Reply-1/07/16		Supports AIG's and AFEI's submissions.	Paras 18-19	
10.	AFEI	Sub-08/07/16	7	Facilitative provisions Clause 13.1(b) should be for either agreement between an individual employee or a majority of employees.	Para 3	
	ACE	Reply-21/07/16		Supports AFEI's submissions.	Para 19	
	ASU	Reply-28/07/16		Oppose AFEI's submissions, agreement by majority employees would be substantial variation.	Para 20	
11.	AFEI	Sub-08/07/16	9	Full-time employment Clause should be changed to clarify a full-time employee is engaged to work 38 ordinary hours per week or an average of 38 ordinary hours per week.	Para 4	
	Business SA	Reply-21/07/16		Agree with AFEI submissions.	Para 7.7	
	ACE	Reply-21/07/16		Supports AFEI's submissions.	Para 19	
	UV	Reply-25/07/16		Disagree with AFEI's submissions. No clarification is necessary and definition is common to almost all awards.	Para 30	

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12.	AFEI	Sub-08/07/16	10	Part-time employment Clause should be changed to clarify a part-time employee is engaged to work less than 38 <u>ordinary</u> hours per week or an average of less than 38 <u>ordinary</u> hours per week.	Para 5	
	Business SA	Reply-21/07/16		Agree with AFEI's submissions.	Para 7.7	
	ACE	Reply-21/07/16		Supports AFEI's submissions.	Para 19	
	UV	Reply-25/07/16		Disagree with AFEI's submissions. No clarification is necessary and definition is common to almost all awards.	Para 31	
13.	AWU	Sub-06/07/16	11.1	Casual employment Clause should be amended to: <i>'A casual employee is an employee who is engaged and paid as a casual employee, and is not a part time or full time employee, and works a maximum of 38 hours per week.'</i>	Para 13	
	ABI & NSWBC	Reply-22/07/16		Oppose AWU submissions. No additional words are necessary.	Para 5.2	
	ACE	Reply-21/07/16		AWU's submissions are not clear and outcome sought is not apparent. Opposed.	Para 13	
14.	AFEI	Sub-08/07/16	11.1	Casual employment The words '...and is not a part-time or full-time employee' are unnecessary.	Para 6	
	Business SA	Reply-21/07/16		Agree with AFEI submissions.	Para 7.8	
	ACE	Reply-21/07/16		Supports AFEI's submissions.	Para 19	
	AWU	Reply-28/07/16		Disagree with AFEI's submissions. The words complete the definition.	Para 15	

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	ASU	Reply-28/07/16		Rejects AFEI's submissions. The words are necessary.	Para 8	
15.	HSU	Sub-30/06/16	11.3(c)	Casual employment – minimum engagement - <i>Response to question raised by Commission</i> The minimum engagement for a social and community services employee undertaking disability services work is two hours.	Para 38	All parties appear to agree on the interpretation of the clause, see Transcript - 6/12/16 [PN643]
	Business SA	Sub-30/06/16		Social and community services employees undertaking disability services work are covered by clause 11.3(c). The minimum engagement is two hours.	Para 6.2.1	
	UV	Sub-30/06/16		The minimum engagement of casual disability services employees is two hours.	Para 54	
	ACE	Sub-30/06/16		A casual social and community services employee undertaking disability services work is covered by clause 11.3(c).	Para 8	
	JA	Sub-01/07/16		It is clear the minimum engagement for casual employees undertaking disability services work is covered by clause 11.3(c).	Paras 4-5	
	AWU	Sub-06/07/16		AWU understands the clause covers social and community services employees undertaking disability services work.	Para 15	
	Business SA	Reply-21/07/16		Agree with UV, ACE and JA's submissions.	Para 7.9	
	ACE	Reply-21/07/16		Agree with JA's submissions.	Para 17	

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	AIG	Reply-22/07/16		Do not oppose propositions from UV, the HSU, the AWU, ACE, JA and Business SA. Relevant employees are entitled to a two hour minimum engagement.	Paras 218-219	
	ASU	Reply-28/07/16		ACE and JA submissions should be rejected. All social and community services employees should be entitled to the same minimum engagement period.	Para 7	
16.	ASU	Sub-30/06/16	11.3(c)	Casual employment – minimum engagement 'All other employees' at 11.3(c) appears to include social and community services employees undertaking disability services work. The exemption at clause 11.3(a) should be deleted.	Paras 9-11	
	ABI & NSWBC	Reply-22/07/16		The ASU's submission is not a technical drafting matter. It is a proposed substantive change.	Para 5.3	
	UV	Reply-25/07/16		Not opposed to the ASU's proposal, but note it is a substantive claim.	Para 32	
	AWU	Reply-28/07/16		Agree with the ASU's submissions dated 30/06/16.	Para 12	
	AFEI	Reply-05/08/16		Oppose the ASU's submissions. This would be a substantive change.	Para 7	
	AIG	Reply-22/07/16		ASU's submission is a substantive change. Requires further submissions from ASU. Note proposal may be affected by AM2014/197 Casual Employment FB.	Para 219	

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17.	ACE	Sub-30/06/16	12.2	Classifications Omission of the word ‘their’ from the ED (between ‘advise’ and ‘employees’) when compared to the current award makes the meaning less clear. Propose to retain wording of the current award, clause 13.2.	Para 12	Agreed, see Transcript - 6/12/16 [PN650-PN653]
	Business SA	Reply-21/07/16		Agree with ACE’s submissions.	Para 7.10	
	AIG	Reply-22/07/16		Agree with ACE’s submissions.	Para 220	
	ASU	Reply-28/07/16		In response to ACE’s submissions, the ED language does not represent a substantive change. It provides a clearer interpretation of the entitlement.	Para 9	
	AFEI	Reply-05/08/16		Do not oppose ACE’s submissions.	Para 8	
18.	HSU	Sub-30/06/16	12.4(a)	Classifications – Progression – Response to question raised by Commission whether clause amended to ‘at each pay point within the level’ rather than ‘each level within the level’ The clause should read ‘at each pay point with the level’.	Para 39	All parties agree with the proposal put by the Commission, see Transcript - 6/12/16 [PN645]
	ASU	Sub-30/06/16		Do not oppose the Commission’s proposed change.	Paras 12-14	
	Business SA	Sub-30/06/16		Agree with the Commission’s proposed amendment.	Para 6.2.2	
	AIG	Sub-30/06/16		This is intended to mean ‘each pay point within the level.’ Do not oppose redrafting in these terms.	Para 253	
	UV	Sub-30/06/16		Agrees with Commission.	Para 55	

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	ACE	Sub-30/06/16		Agrees with Commission.	Para 9	
	JA	Sub-01/07/16		Agrees with Commission.	Paras 6-7	
	ABI & NSWBC	Sub-01/07/16		Agrees with Commission, proposal should be adopted.	Para 7.1	
	AWU	Sub-06/07/16		Agrees with Commission.	Para 16	
	AFEI	Sub-08/07/16		Agrees with Commission.	Para 7	
19.	AWU	Sub-06/07/16	13.1(a)(i)	Ordinary hours of work – Ordinary hours Drafting error. Insert ‘or’ after the semicolon.	Para 6	Agreed, see Transcript - 6/12/16 [PN645]
	Business SA	Reply-21/07/16		Agree with the AWU’s submissions.	Para 7.11	
	AIG	Reply-22/07/16		The AWU’s proposed amendment is not necessary.	Para 223	
20.	AFEI	Sub-08/07/16	13.2	Ordinary hours of work – Span of hours Clause should clarify that it does not apply to Sleepovers (cl 14.5), 24 hour care (cl 14.6), and Excursions (cl 14.7).	Para 9	
	ACE	Reply-21/07/16		Supports AFEI’s submissions.	Para 19	
	UV	Reply-25/07/16		Clause does not need clarification.	Para 33	
	ASU	Reply-28/07/16		Opposes AFEI’s submission, as substantive change should not be made during technical and drafting stage of review.	Para 12	

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21.	AFEI	Sub-08/07/16	14	Rostering Provisions for Broken shifts (cl 14.4), Sleepovers (cl 14.5), 24 hour care (cl 14.6), and Excursions (cl 14.7) should be in clause 13-Ordinary hours, not clause 14.	Para 8	
	UV	Reply-25/07/16		Oppose AFEI's submissions. The clauses are more logically grouped in clause 14.	Para 34	
	AWU	Reply-8/07/16		Disagree with AFEI's submissions.	Para 16	
22.	ASU	Sub-30/06/16	14.1(b)	Rostering arrangements – Rostered days off The word 'rostered' has been inserted in the ED clause. This reduces the entitlement in clause 25.3 of the current award. It appears to be a typographical error. If the insertion of the word was intentional, oppose this amendment.	Paras 15-16	
	Business SA	Reply-21/07/16		Disagree with the ASU. The inclusion of 'rostered' better reflects the purpose of the clause.	Para 7.12	
	AIG	Reply-22/07/16		Do not oppose deletion of 'rostered' sought by ASU.	Para 224	
	AFEI	Reply-05/08/16		Do not oppose the ASU's submissions.	Para 9	

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23.	HSU	Sub-30/06/16	14.2(b)	Rostering – Rest breaks between rostered work ‘A shift contiguous with’ has been changed in ED to ‘a shift incorporating’. An employee may be rostered to work before and/or after the sleepover period, therefore a shift cannot incorporate the start or end of a sleepover. Current award wording should be retained.	Para 26	Parties present at hearing did not oppose HSU submission. see Transcript - 6/12/16 [PN645-PN648]
	UV	Sub-30/06/16		A shift cannot ‘incorporate’ the start or end of a sleepover. The wording in the current award should be retained.	Para 56	
	AIG	Reply-22/07/16		Do not oppose retention of current award clause as submitted by the HSU.	Para 225	
	AFEI	Reply-05/08/16		Do not oppose the HSU’s submissions.	Para 12	
24.	HSU	Sub-30/06/16	14.3(d)	Rosters – Response to question raised by Commission Mail and facsimile should remain as methods of communicating roster changes.	Para 40	Agreed that mail and facsimile should remain but no agreement to re-draft the clause per AWU submission of 06/07/16, see Transcript - 6/12/16 [PN657].
	ASU	Sub-30/06/16		The methods should be maintained.	Paras 17-19	
	Business SA	Sub-30/06/16		Mail and facsimile should not be deleted.	Para 6.2.3	
	UV	Sub-30/06/16		Mail and facsimile must remain.	Para 57	
	ACE	Sub-30/06/16		Mail and facsimile should be retained.	Para 10	
	JA	Sub-01/07/16		Mail and facsimile should be retained.	Paras 8-9	
	ABI & NSWBC	Sub-01/07/16		The methods should be retained.	Para 7.2	

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	AWU	Sub-06/07/16		Suggest amending the clause to ‘... changes to rosters may be communicated by telephone, direct contact, email or, where necessary, mail or facsimile.’	Para 17	
	AFEI	Sub-08/07/16		Methods should remain available.	Para 10	
	Business SA	Reply-21/07/16		Agree with ABI & NSWBC and ACE submissions.	Para 7.13	
	AIG	Reply-22/07/16		AWU’s submissions are a substantive change and absent any material establishing the change is necessary, it should not be made.	Paras 226-228	
	ABI & NSWBC	Reply-22/07/16		Oppose the AWU’s submissions.	Para 5.4	
25.	HSU	Sub-30/06/16	14.3(e)	Rosters – Response to question raised by Commission The reference to ‘relieving staff’ should be deleted. There are no provisions in the award for a permanent employee without a roster.	Para 41	
	Business SA	Sub-30/06/16		Relieving staff does not need specific definition. If it is, it should be in clause 2 or 14.3.	Para 6.2.4	
	AIG	Sub-30/06/16		This phrase is well understood in the industry and does not require a specific definition.	Para 254	

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	UV	Sub-30/06/16		The reference to ‘relieving staff’ should be deleted. Alternatively, it should be defined as: ‘Relieving staff means a full-time or part-time employee whose roster has been changed according to 14.3(f)(iii), subject to clause 10.3.’	Paras 58-59	
	ACE	Sub-30/06/16		Not necessary to define ‘relieving staff’ in this context.	Para 11	
	JA	Sub-01/07/16		The meaning is clear and does not need definition.	Paras 10-11	
	ABI & NSWBC	Sub-01/07/16		Not necessary for ‘relieving staff’ to be defined.	Para 7.3	
	AWU	Sub-06/07/16		Supports the deletion of this clause.	Para 18	
	AFEI	Sub-08/07/16		Unnecessary to include a definition for ‘relieving staff.’	Para 10	
	ACE	Reply-21/07/16		Oppose HSU, UV and AWU’s submissions. Supports JA’s and AFEI’s submissions. Relies on own submissions dated 30/06/16 at [11].	Paras 8, 14, 17 and 19	
	ABI & NSWBC	Reply-22/07/16		Oppose the AWU’s submissions. Clause accurately reflects existing provisions of the award.	Para 5.5	
	AIG	Reply-22/07/16		The proposals by UV and the HSU would amount to a substantive change. A definition is not required for clause 14.3(e) to have effect and would limit the circumstances in which the clause applies. UV’s proposals should be dismissed.	Paras 230-235	

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	HSU	Reply-26/07/16		Prefer 'relieving staff' be removed, but agree with UV's submissions on proposed wording as an alternative to removal.	Para 16	
	ASU	Reply-28/07/16		Supports and adopts the position of the parties that seek to delete 'relieving staff'.	Para 13	
26.	HSU	Sub-30/06/16	14.3(f)	Rostering – Change in roster The reference to clause 28 is meaningless and misleading. Clause 28 does not contain any provisions that relate to changing a roster once the roster has been posted.	Paras 27-30	
	ACE	Reply-21/07/16		Oppose the HSU's submissions. The HSU's analysis is incorrect.	Para 6(b)	
	AWU	Reply-28/07/16		Supports the HSU's submissions.	Para 5	
27.	HSU	Sub-30/06/16	14.4 and 14.5	Rostering arrangements – Broken shifts <i>Response to question raised by Commission</i> A sleepover does meet the definition of a shift for the purposes of payment for a broken shift when work is performed contiguously with the beginning and end of a sleepover period.	Paras 42-44	
	ASU	Sub-30/06/16		A sleepover does not meet the definition of a shift for purposes of payment for a broken shift.	Paras 21-22	
	Business SA	Sub-30/06/16		A sleepover shift under clause 14.5 does not meet the definition of a clause 14.4(b) broken shift.	Para 6.2.5	

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	UV	Sub-30/06/16		A sleepover would meet the definition of a broken shift if the work was performed contiguously with the beginning and the end of a sleepover period.	Para 60	
	ACE	Sub-30/06/16		It does not meet the definition of a shift for the purposes of payment for a broken shift.	Para 12	
	JA	Sub-01/07/16		Work performed both before and after a sleepover does not constitute a broken shift.	Paras 12-16	
	AWU	Sub-06/07/16		A sleepover does not meet the definition of a shift for the purposes of broken shifts.	Para 19	
	AFEI	Sub-08/07/16		Time spent performing a sleepover would not be a 'shift' for the purpose of payment for a broken shift.	Para 11	
	Business SA	Reply-21/07/16		Disagree with UV submissions. Refer to 6.2.5 of own submissions dated 30/06/16.	Para 7.14	
	ACE	Reply-21/07/16		Oppose HSU and UV's submissions. Supports JA's and AFEI's submissions. Relies on own submission dated 30/06/16 at [12].	Paras 6(d), 9, 17 and 19	
28.	AIG	Sub-30/06/16	14.6(c)	Rostering arrangements – 24 hour care The ED has introduced a substantive change compared to the current award. The second and third sentences of clause 25.8(a) of current award should be retained.	Paras 255-256	

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	ACE	Reply-21/07/16		Does not support AIG's submissions. Redrafting does not appear to be an issue of substantive change.	Para 18	
	Business SA	Reply-21/07/16		Agree with AIG's submissions.	Para 7.16	
	UV	Reply-25/07/16		Disagree with AIG's submissions. The words do not change the entitlement.	Para 36	
	HSU	Reply-26/07/16		Do not agree with AIG's submissions.	Para 15(a)	
	AWU	Reply-28/07/16		In response to AIG's submissions, AWU does not consider anything is lost in the redrafting.	Para 14	
	AFEI	Reply-05/08/16		Agree with AIG's submissions. ED now limits provision of care so that it must relate to a specific care plan. This is substantive change.	Para 11	
29.	UV	Sub-30/06/16	14.6(d)	Rostering arrangements – 24 hour care The words 'for eight hours' should be added after the word 'normally'.	Para 61	
	Business SA	Reply-21/07/16		Disagree with UV's submissions. Neither the current award nor ED provide an eight hour sleep period during a 24 hour shift.	Para 7.17	
	ABI & NSWBC	Reply-22/07/16		Oppose UV's submissions.	Para 5.6	
	AIG	Reply-22/07/16		Oppose UV's submissions. May be a substantive change.	Paras 237-238	
	AFEI	Reply-05/08/16		Oppose UV's submissions, would be a substantive change.	Para 10	
	ACE	Reply-21/07/16		Oppose UV's submissions, would be a substantive change.	Para 10	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
30.	ASU	Sub-30/06/16	14.7(b)(iii)	Rostering arrangements – Excursions <i>Response to question raised by Commission</i> All the provisions in clause 14.5 apply to sleepovers.	Paras 23-24	
	Business SA	Sub-30/06/16		An employee is only entitled to the sleepover allowance in clause 14.5(e). The clause is already clear, but if the Commission wishes for further clarity, propose the following: ‘Payment of the sleepover allowance in accordance with clause 14.5(e).’ [Note: clause reference in submission was 14.5(c), this has been amended to 14.5(e) to be consistent with context of submission]	Para 6.2.6	
	AIG	Sub-30/06/16		An employee is only entitled to the sleepover allowance provided for in clause 14.5(e).	Para 257	
	ACE	Sub-30/06/16		A sleepover is not an excursion – clause 14.5(a) specifically defines sleepover to exclude excursions under clause 14.7. Employee only entitled to allowance in 14.5(e).	Para 13	
	JA	Sub-01/07/16		An employee is entitled to only the allowance prescribed by clause 14.5(e). Propose the clause be amended to read ‘Payment of a sleepover allowance in accordance with the provision of clause 14.5(e).’	Paras 17-20	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	ACE	Reply-21/07/16		Supports JA's submissions.	Para 18	
	ABI & NSWBC	Sub-01/07/16		Employees supervising clients in excursion activities involving overnight stays from home are entitled only to the benefits prescribed in clause 14.7, excluding the benefits in clause 14.5.	Para 7.4	
	AWU	Sub-06/07/16		An employee performing a sleepover is entitled to all provisions of clause 14.5.	Para 19	
	AFEI	Sub-08/07/16		An employee working on an excursion would receive the sleepover allowance but is not entitled to other provisions of clause 14.5 while working on an excursion.	Para 12	
	Business SA	Reply-21/07/16		Disagree with the AWU's submissions. Clause 14.7(iii) to 'the provision' of clause 14.5. Expansion of this entitlement to the 'provisions' would amount to a substantive change. Agree with AIG and JA submissions. Disagree with the ASU's submissions. The specific provision of clause 14.5 was referenced, not provisions. Rely on own submissions dated 30/06/16.	Paras 7.15, 7.18 and 7.19	
	ACE	Reply-21/07/16		Oppose the AWU's submissions. Supports JA's and AFEI's submissions. Relies on own submissions dated 30/06/16 at [13].	Paras 15, 17 and 19	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	UV	Reply-25/07/16		Agree with submissions from ABI, ACE, AIG, Business SA and JA. Only the allowance at clause 14.5(e) is payable to an employee supervising clients in excursion activities involving overnight stays away from home.	Para 37	
	HSU	Reply-26/07/16		Agree with ASU's submissions. Do not agree with submissions by several parties; lack of reference to the remaining entitlements would result in an employee not being paid if required to perform work of an emergency nature overnight, or entitled to sleeping facilities.	Paras 14 and 15(b)	
	ASU	Reply-28/07/16		Refutes submissions by ABI & NSWBC and JA.	Paras 15-16	
	AWU	Reply-28/07/16		Agree with the ASU's submissions dated 30/06/16.	Para 12	
31.	HSU	Sub-30/06/16	16,19,20, Sch E, Sch F, Sch G, Sch H	Wage and Allowances tables All wage and allowances tables in ED would benefit from each figure being identified as a percentage or dollar figure in each cell as well as at the top of the column.	Paras 19-21	Agreed, see Transcript - 6/12/16 [PN657]
	AIG	Reply-22/07/16		Not opposed to the HSU's general submissions. Note the ED clauses are expressed in a manner that is consistent with other EDs.	Para 255	
	AWU	Reply-28/07/16		Supports the HSU's submissions.	Para 5	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
32.	AIG	Reply-22/07/16	16.1, 16.2. 16.3	Minimum wages The preamble to the tables at each clause appears to create an obligation for an employer to pay the weekly and hourly rates prescribed to all employees, including part-time and casual employees and those to whom the transitional pay equity order or equal remuneration order applies. AIG assumes that is not the intention. The preamble should be removed.	Paras 239-240	
	Business SA	Sub-30/06/16		Preamble be amended to reflect employer's obligation to pay their employee the minimum wage appropriate for that employee's classification. Additionally, currently ED refers to employee in both singular and plural terms. Propose amendment: <i>'An employer must pay an employee the following minimum wage for ordinary hours worked by that employee for their classification'</i> .	Paras 6.1.4 – 6.1.6	
	UV	Reply-25/07/16		Not opposed to Business SA's submissions. The clause should also refer to the employee's pay point – add <i>'and pay point'</i> to Business SA's proposed amendment.	Para 38	
	ASU	Reply-28/07/16		Oppose Business SA's submissions. They represent substantive changes.	Para 17	
	AFEI	Reply-05/08/16		Any wording immediately prior to the tables should be removed.	Para 13	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
33.	Business SA	Sub-30/06/16	17.2(b)	Wage-related allowances – First aid allowance – casual and part-time employees Wording of clause has changed between current award and ED. The ED change is unnecessary. Wording of current award clause should be retained.	Para 6.1.7	Agreed that clause 17.2(b) ED should be replaced with clause 20.4(b) of the current award, see Transcript - 6/12/16 [PN657]
	AIG	Reply-22/07/16		Do not consider Business SA's proposed change necessary, but do not oppose it.	Para 241	
	UV	Reply-25/07/16		Agree with Business SA's submissions.	Para 39	
34.	HSU	Sub-30/06/16	17.2(c)	Wage-related allowances – Heat allowance <i>Response to question raised by Commission</i> Clauses 17.2(c)(i) and (ii) apply to all employees. Therefore the clause remains relevant.	Paras 45-46	Agreed that clause 17.2(c) of ED should be retained, see Transcript - 6/12/16 [PN657]
	ASU	Sub-30/06/16		Do not oppose ED redrafting, but submit clause 17.2(c) should be retained and no further amendment made.	Paras 26-27	
	UV	Sub-30/06/16		Clauses 17.2(c)(i) and (ii) apply to all employees. Some employees (although increasingly unlikely) will have worked for same employer for 25 years, so clause 17.2(c)(iii) applies. Provision not obsolete.	Paras 62-63	
	JA	Sub-01/07/16		While clause probably rarely used. May still apply. Do not object to the retention of this clause.	Paras 21-22	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	AFEI	Sub-08/07/16		Clause 17.2(c) appears to have nominal application due to the requirement to be employed at the current place of work prior to 8 August 1991.	Para 13	
	AIG	Reply-22/07/16		Agree with HSU, JA and UV submissions.	Para 242	
35.	AFEI	Sub-08/07/16	17.3(a)	Expense-related allowances – Clothing and equipment The introduction of additional sub-headings in clause 17.3 means the need to read the clause as a whole may not be clear enough. To clarify, propose clause 17.3(a)(i) should state ‘subject to sub-clause 17.3(c)(a)(iii) and (iv), where the employer requires ...’	Para 14	
	Business SA	Reply-21/07/16		Agree with AFEI’s submissions.	Para 7.20	
	ACE	Reply-21/07/16		Supports AFEI’s submissions.	Para 19	
	AIG	Reply-22/07/16		Do not oppose reference to clause 17.3(a)(i) operating subject to clause 17.3(a)(iii). Do not consider clause 17.3(a)(i) operates subject to clause 17.3(a)(iv).	Para 342	
	UV	Reply-25/07/16		Note AFEI’s proposal to amend the clause to clarify that it needs to be read as a whole to be properly understood. Do not see a need to qualify each sub-clause.	Para 41	
	AWU	Reply-28/07/16		Not opposed to AFEI’s intentions, but do not consider the proposed wording necessary.	Para 17	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
36.	ACE	Sub-30/06/16	17.3(b)(i)	Expense-related allowances – Meal allowances The change of wording to ‘at least one hour’ changes the trigger for the entitlement. Propose to delete those words from the clause.	Para 7	
	Business SA	Reply-21/07/16		Agree with ACE’s submissions.	Para 7.21	
	AIG	Reply-22/07/16		Agree with ACE’s submissions.	Para 244	
	UV	Reply-25/07/16		Do not agree with ACE. The ED wording has not changed the entitlement.	Para 42	
	AFEI	Reply-05/08/16		Do not oppose ACE’s submissions.	Para 14	
37.	AFEI	Sub-08/07/16	17.3(b)(i)	Expense-related allowances – Meal allowances Clause should state ‘ <i>subject to clause 17.3(b)(iii), where an employee is required ...</i> ’ [Amod note: clause reference changed from submission 17.3(iii) to 17.3(b)(iii)]	Para 15	
	ACE	Reply-21/07/16		Supports AFEI’s submissions.	Para 19	
	AIG	Reply-22/07/16		Do not oppose AFEI’s submissions.	Para 245	
	UV	Reply-25/07/16		AFEI’s proposed amendment would make the clause more difficult to read and would not clarify anything.	Para 43	
38.	AFEI	Sub-08/07/16	17.3(b)(iii)	Expense-related allowances – Meal allowances Clause should refer to clause 17.3(c)(b)(ii) and (iv).	Para 15	
	AIG	Reply-22/07/16		Do not oppose AFEI’s submissions.	Para 246	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	UV	Reply-25/07/16		AFEI's proposed amendment would make the clause more difficult to read and would not clarify anything.	Para 43	
39.	HSU	Sub-30/06/16	17.3(c)(iii)	Expense-related allowances – Travelling, transport and fares The new wording of the ED clause might imply an employee would not receive reimbursement because 'an employee is not entitled . . . if the expenses incurred exceed'. The current provision is an employee is not entitled to reimbursement above the standard agreed with the employer, but is entitled to reimbursement up to that amount.	Paras 24-25	Agreed that clause 17.3(c)(iii) ED should be replaced with clause 20.5(c) of the current award, see Transcript - 6/12/16 [PN658]
	AIG	Reply-22/07/16		Does not oppose replacing ED clause with current award clause 20.5(c) to address the HSU's concern.	Para 247	
	ASU	Reply-28/07/16		Supports and adopts the HSU's submissions.	Para 18	
	AFEI	Reply-05/08/16		Do not oppose the HSU's submissions.	Para 15	
40.	Business SA	Sub-30/06/16	17.3(e)(ii)	Expense-related allowances – Board and lodging The current award and ED use term 'ruling cafeteria rates', which is difficult to interpret. Submit a definition be agreed between the parties and inserted into clause 2 or 17.3(e)(ii).	Para 6.1.8	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	AIG	Reply-22/07/16		AIG are not aware of any disputation arising from this term and do not consider a definition necessary.	Paras 248-249	
	UV	Reply-25/07/16		Agree with Business SA's submissions.	Para 40	
41.	HSU	Sub-30/06/16	19.1(a)	Overtime – Full-time employees <i>Response to question raised by Commission</i> The reference to 'disability services' should not be removed.	Paras 47-48	
	ASU	Sub-30/06/16		The reference to 'disability services' should be deleted as these employees are part of the social and community services stream.	Paras 28-30	
	Business SA	Sub-30/06/16		The reference to 'disability services' may be relevant.	Para 6.2.8	
	JA	Sub-01/07/16		Do not agree 'disability services' should be deleted. Wording of ED clause should be retained.	Paras 23-26	
	AWU	Sub-06/07/16		Agrees with Commission, supports deleting 'disability services' from table.	Para 20	
	ACE	Reply-21/07/16		Oppose the AWU's 6/07/16 submissions. No basis for the deletion of 'disability services' reference.	Para 16	
	AWU	Reply-28/07/16		Supports reasoning given by the Commission, but appreciates the HSU's reasoning. Not opposed to the term 'disability services' remaining for the reasons set out by the HSU.	Paras 8	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
42.	AWU	Sub-06/07/16	19.1(b)	<p>Overtime – Overtime rates – Part-time and casual employees Clauses 10.3, 13 and 19.1(b) are inconsistent with s.147 of the Fair Work Act 2009.</p> <p><i>Part-time employees:</i> provisions are inconsistent with the system of ordinary hours prescribed at clause 13 for all employees, and at clause 10.3 for part time employees. Either the provisions of clause 10.3 or clause 13 should be used for the purpose of observing overtime at clause 19.1(b).</p> <p><i>Casual employees:</i> provisions are inconsistent with clause 13. The provisions of clause 13 should be used for the purpose of observing overtime at clause 19.1(b). System of ordinary hours should be defined in the substantive clauses for part-time and casual employees, instead of dual construction with overtime clauses.</p>	Paras 7-12	
	ACE	Reply-21/07/16		The AWU's submissions are not clear and the outcome sought is not apparent. Opposed to their contentions.	Para 13	
	ABI & NSWBC	Reply-22/07/16		Oppose the AWU's submissions. The amendment would be a substantive change.	Para 5.2	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	ASU	Reply-28/07/16		There is also an inconsistency for part-time and casual employees between clause 13 and clause 19.1(b). The ASU does not oppose seeking a remedy to the drafting issues. The change to clause 11.1 as submitted by the AWU would be a substantive change.	Paras 10-11	
	AFEI	Reply-05/08/16		Do not agree with AWU's submissions. The definition of ordinary hours under the award is sufficiently clear. Unclear what AWU is proposing.	Para 6	
43.	AFEI	Sub-08/07/16	19.3	Overtime – Rest period after overtime The wording in the current award (clause 28.3) should be retained.	Para 16	See also item 44 and 45. Agreed that clause 19.3 ED should be replaced with clause 28.3 of the current award, see Transcript - 6/12/16 [PN658]
	ACE	Reply-21/07/16		Supports AFEI's submissions.	Para 19	
	AIG	Reply-22/07/16		Do not oppose AFEI's submissions.	Para 250	
	UV	Reply-25/07/16		Agree with AFEI. Rely on paras [64] and [65] of own submissions dated 30/06/16.	Paras 44-45	
44.	HSU	Sub-30/06/16	19.3(a)	Overtime – Rest period after overtime The current award terms 'termination of their ordinary work' and 'commencement of their ordinary work' have been replaced with 'start of work' and 'end of work'. Ordinary work implies the shift is rostered, expected and not additional work. Term 'ordinary work' should be retained.	Paras 31-32	Resolved through agreement in item 43, see Transcript - 6/12/16 [PN658]
	UV	Sub-30/06/16		Current award term 'ordinary work' should be retained, indicates rostered work.	Para 64	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	AIG	Reply-22/07/16		Do not oppose amendments proposed by the HSU and UV on the basis they are consistent with current award clause 18.3(a).	Para 251	
45.	HSU	Sub-30/06/16	19.3(a)	Overtime – Rest period after overtime The words ‘off duty’ in the current award have been replaced with ‘a break of’. The wording of the current award should be retained.	Para 33	Resolved through agreement in item 43, see Transcript - 6/12/16 [PN658]
	UV	Sub-30/06/16		The words ‘off duty’ should be retained. Consistent with current award and remainder of clause.	Para 65	
46.	HSU	Sub-30/06/16	20.1(a) and (b)	Penalty rates – Saturday and Sunday work The language used in the ED changes the entitlement. The wording needs to be changed to: (a) ‘ <i>Employees will be paid 150% of their minimum hourly rate for all ordinary hours worked on a Saturday</i> ’ and (b) ‘ <i>Employees will be paid 200% of their minimum hourly rate for all ordinary hours worked on a Sunday</i> ’.	Paras 34-36	
	Business SA	Sub-30/06/16		The wording of these clauses has been changed between the current award and the ED. Submit the words ‘for those hours worked’ is inserted at the end of subclauses (a) and (b).	Para 6.1.9	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	ACE	Reply-21/07/16		Oppose the HSU's submissions. The current award wording at clause 26 should be maintained.	Para 6(e)	
	AIG	Reply-22/07/16		Agree with change proposed by Business SA.	Para 252	
	UV	Reply-25/07/16		Not opposed to Business SA's submissions.	Para 46	
	AFEI	Reply-05/08/16		Agree with Business SA's submissions.	Para 16	
47.	ASU	Sub-30/06/16	21.1	Annual leave Supports inclusion of the note referencing ss.16 and 90 of the Fair Work Act.	Para 31	
	AWU	Reply-28/07/16		Agree.	Para 12	
48.	HSU	Sub-30/06/16	21.2	Annual leave – Additional leave for certain shiftworkers <i>Response to question raised by Commission</i> No additional clarification is required.	Paras 49-51	
	ASU	Sub-30/06/16		The 10 weekends should be counted over a 12 month period. A note with a reference to s.87(1) of the Fair Work Act should be included to indicate the purpose of the clause. Propose changing the title to 'Definition of Shiftworker for the NES'.	Paras 32-38	
	Business SA	Sub-30/06/16		Agree with the Commission. The clause should provide a period of time over which the 10 or more weekends are counted.	Para 6.2.9	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	ACE	Sub-30/06/16		The 10 or more weekends must occur in each year of service. Propose the clause be redrafted to: <i>'For the purposes of the NES, a shiftworker is an employee who works for more than four ordinary hours on 10 or more weekends in each year of service with their employer and is entitled to an additional week's annual leave on the same terms and conditions.'</i>	Para 15	
	UV	Sub-30/06/16		If the Commission decided to clarify the period, it would be the twelve month period over which the leave is accrued. This clause is identical to clause 23 of the <i>Aged Care Award</i> and consistency should be maintained between the two awards.	Paras 66-67	
	JA	Sub-01/07/16		The clause should clarify the reference to '10 or more weekends' applies to weekends worked in a year of service with the employer.	Paras 27-28	
	ABI & NSWBC	Sub-01/07/16		It would seem sensible to condition the language by a time period of 12 months.	Para 7.5	
	AWU	Sub-06/07/16		Supports suggested time frame put by the Commission.	Para 14	
	Business SA	Reply-21/07/16		Agree with ACE submissions.	Para 7.22	
	ACE	Reply-21/07/16		Oppose HSU and UV's submissions. Oppose ABI & NSWBC's submissions. Relies on own submissions dated 30/06/16 at [15].	Paras 6(f), 11 and 12	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	AIG	Reply-22/07/16		Suggest replacing ‘the NES’ with ‘s.87 of the Act’ to address ASU’s concern.	Para 254	
	UV	Reply-25/07/16		Oppose ACE’s submissions. Relies on own submissions dated 30/06/16.	Para 47	
	ASU	Reply-28/07/16		Oppose submissions of ACE, ABI & NSWBC and JA where the parties contend the entitlement to the fifth week of annual leave should be awarded at the completion of a year of service. This would reduce the entitlement for shiftworkers currently accruing annual leave.	Para 19	
	AWU	Reply-28/07/16		Agree with the ASU’s submissions dated 30/06/16.	Para 12	
	AFEI	Reply-05/08/16		Do not oppose the wording suggested by ACE in its submissions dated 30/06/16.	Para 17	
49.	ASU	Sub-30/06/16	21.2	Annual leave – Additional leave for certain shiftworkers Propose changing clause title to ‘Definition of Shiftworker for the NES’.	Paras 37-38	Agreed, see Transcript - 6/12/16 [PN658]
	AIG	Reply-22/07/16		Do not consider ASU’s proposed change to the heading necessary, but do not oppose.	Para 253	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
50.	HSU	Sub-30/06/16	Sch F.2.1	Summary of Monetary Allowances – Adjustment of expense-related allowances The applicable CPI figure for the board and lodging allowance has been changed from ‘Weighted average eight capital cities—CPI’ to ‘All groups’.	Para 37	Agreed, see Transcript - 6/12/16 [PN660-PN662]
	Business SA	Sub-30/06/16		Note the change of applicable CPI figure in the ED to ‘all groups’. Recognises that while the same figure is being used, the change may lead to confusion. The change should be reversed.	Para 6.1.10	
	Business SA	Reply-21/07/16		Agree with the HSU’s submissions.	Para 7.23	
	UV	Reply-25/07/16		Supports the use of ‘All groups’.	Para 48	
51.	AFEI	Sub-08/07/16	Schedules	Provisions relevant to the Equal Remuneration Order Do not support the removal of Schedule A of current award or the current arrangements of Schedules in the ED.	Para 1	

Note:

- Submissions that support another party’s submission in its entirety have not been included.
- Where submissions have what appears to be an incorrect clause reference, these have been corrected in the summary without comment. Comments have only been made in the notes column where there may be issues with determining the correct clause reference, or the clause is part of a proposed amendment.

List of abbreviations (in alphabetical order)

ABI & NSWBC	Australian Business Industrial & the NSW Business Chamber Ltd
ACE	Aged Care Employers
AFEI	Australian Federation of Employers and Industries
AIG	Australian Industry Group
ASU	Australian Services Union
ED	Exposure draft
HSU	Health Services Union – National Office
JA	Jobs Australia
UV	United Voice