

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. No notes arose out of the hearing held on 6 December 2016 ([Transcript](#)). This summary has been updated to include notes arising from conference held on for 15 December 2016 ([Transcript](#)).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	ABI& NSWBC	Sub – 01/07/16	1	Title and commencement The words “as varied” should be removed from cl 1.2.	Para 2.2; page 4	No change – Transcript of 15/12/16 at [PN6]
2	HSU	Sub – 30/06/16	2	Definitions – casual ordinary hourly rate The definition of “casual ordinary hourly rate” should be deleted as it is not used anywhere in the award.	Para 12; page 4	The term “casual ordinary hourly rate” is used in Schedule B.2—Casual employees
3	AWU	Sub – 6/07/16	2 & 11	Definitions – casual ordinary hourly rate; and Casual Employment Delete “casual ordinary hourly rate” from cl.2 and insert “The casual loading is payable for all purposes.” at start of cl.11.4	Page 1	No change – Transcript of 15/12/16 at [PN16-35]
4	HSU	Sub – 30/06/16	2	Definitions – ordinary hourly rate Award contains a single classification structure with grades 1-7 so clause should reference an employee’s grade as opposed to the “employee’s classification”. Proposed wording provided.	Paras 6-8; page 3	No change – Transcript of 15/12/16 at [PN35-49]
5	HSU	Sub – 30/06/16	3.3	National Employment Standards and this award Reinstate words “whichever makes them more accessible”	Para 13; page 4	No change – Transcript of 15/12/16 at [PN50-55]
	ABI&	Reply sub –			Current wording consistent with Decision of	

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	NSWBC	22/07/16		23 December 2014 [2014] FWCFB 9412.	4	
6	HSU	Sub – 30/06/16	4	Coverage Clause 4.1 could be split into 2 at start of second paragraph. Clause 4.3 should sit under cl. 4.5 since it is one of the areas the award does not cover.	Para 16-18; page 4	4.1 split into 2 separate clauses – Transcript of 15/12/16 at [PN56-61]
7	NDS	Sub – 18/07/16	4	Coverage New award must include ongoing recognition of right of ADEs to continue using award.	Page 2	Substantive issue – Transcript of 15/12/16 at [PN62-85]
8	NDS	Sub – 18/07/16	4	Coverage New award must include ongoing recognition of right of organisations covered by award to use pro rata wage assessment tools other than the Supported Wage System (SWS).	Page 2	Substantive issue – Transcript of 15/12/16 at [PN62-85]
9	NDS	Sub – 18/07/16	4	Coverage New criteria should be developed to define employers covered by award.	Page 2	Substantive issue – Transcript of 15/12/16 at [PN62-85]
10	ABI& NSWBC	Sub – 01/07/16	5	Effect of variations made by the Fair Work Commission Clause more appropriately located as a sub-clause of ‘Title and Commencement’ clause after cl. 1.2 rather than as a standalone clause.	Para 2.1; page 4	No change – Transcript of 15/12/16 at [PN85]
11	AWU	Sub – 6/07/16	11.1	Casual Employment Clause is in conflict with minimum engagement requirement in cl. 11.6 as describes a casual employee as an employee engaged on an hourly basis. Reference to maximum hours per week is suggested and proposed wording to replace cl.11.1 provided.	Pages 1 - 2	No change – Transcript of 15/12/16 at [PN86]

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	ABI& NSWBC	Reply sub – 22/07/16		Oppose AWU’s submission, seeks to introduce new definition of “casual employee”.	Para 6.2; page 4	
12	AWU	Sub – 6/07/16	11.2 & 11.4	Casual Employment Swap locations of cl. 11.3 and 11.4 due to close conceptual relationship between them.	Page 1	Order of clauses changed – Transcript of 15/12/16 at [PN87-89]
13	HSU	Sub – 30/06/16	12	Classifications Clause may be better located at cl 15— Minimum wages.	Para 5; page 3	No change – Transcript of 15/12/16 at [PN91-94]
14	HSU	Sub – 30/06/16	15.2	Minimum wages Clause 15.2 cross references application of minimum rate of pay according to grades in table, with clauses 15.3, 15.5 and 16. Only cl.16 (Wage assessment—employees with a disability) relevant to minimum rates.	Para 19; page 5	Reference to 15.3 changed to 15.4 – Transcript of 15/12/16 at [PN95]
15	ABI& NSWBC	Sub – 01/07/16	15.3 (d) and (e)	Payment of wages These clauses should be joined together as per current award. Their separation produces an apparent inconsistency between clauses 15.3(b) and 15.3(e).	Para 8.1; page 7	To be determined after Full Bench have determined AM2016/8 – Transcript of 15/12/16 at [PN97]
16	NDS	Sub – 18/07/16	16.2	Wage assessment—employees with a disability Remove wage assessment tool, no longer used (at least seven identified). Use wording like that in cl.16.2(b) to show deletion.	Page 1	7 identified assessment tools removed 8 – Transcript of 15/12/16 at [PN99-104]
	ABI& NSWBC	Reply sub – 22/07/16		Do not oppose submission of NDS.	Para 6.3; page 4	

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17	ABI& NSWBC	Sub – 01/07/16	16.4	Wage assessment—employees with a disability Clause should read “Wage assessment tools referred to at clauses 16.2(a) to (v)” in order for it to make sense.	Para 8.2; page 7	ED updated in accordance with submission – Transcript of 15/12/16 at [PN105-108]
18	ABI& NSWBC	Sub – 01/07/16	16.5	Wage assessment—employees with a disability Clause should read “Wage assessment tools referred to at clauses 16.2(w) to (dd)” in order for it to make sense. The words “Analysis of Wage Assessment Tools used by Business Services” should be italicised to ensure consistency with the formatting in cl.16.4.	Para 8.3; page 7	ED updated in accordance with submission – Transcript of 15/12/16 at [PN109-110]
19	HSU	Sub – 30/06/16	16.9	Wage assessment—employees with a disability Transitional arrangement Clause can be removed, transitional provision, timeframes have passed.	Para 20; page 5	Transitional provisions deleted – Transcript of 15/12/16 at [PN111-112]
	ABI& NSWBC	Sub – 01/07/16		Agrees with HSU.	Para 8.4; page 7	
	NDS	Sub – 18/07/16		Agrees with HSU	Page 1	
20	ABI& NSWBC	Sub – 01/07/16	17.1	Allowances New provision should be deleted, may be an additional legally enforceable term. Where an employer fails to pay an allowance they would be exposed to penalties for breaches of two separate award terms and commit two contraventions of the award.	Paras 2.3 -2.6; page 4	No change – Transcript of 15/12/16 at [PN113]

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
21	HSU	Sub – 30/06/16	18.5	Employees with disabilities – <i>Response to question raised by Commission</i> Matter should be considered as part of award phase and there should be no changes at this time.	Para 15; page 4	Parties to give further consideration to issue. Issue may form part of UV substantive claim – Transcript of 15/12/16 at [PN120-141]
	AWU	Sub – 6/07/16		Clause should not be changed at this time.	Page 2	
	NDS	Sub – 18/07/16		NDS would support change to superannuation clause only if such change would not impose additional cost or administrative burden on Australian Disability Enterprises (ADEs) and would not disadvantage employees with disability	Page 1	
22	HSU	Sub – 30/06/16	24.2	Public holidays Clause should cross reference applicable part of penalty rates clause, referring to cl. 20.4.	Para 13; page 4	No change – Transcript of 15/12/16 at [PN120-141]
23	HSU	Sub – 30/06/16	Various	All wages and allowance tables in ED Percentages and dollar signs should be used for each individual figure, in addition to relevant sign at top of the column.	Paras 9-11; pages 3-4	\$ and % symbols added to tables – Transcript of 15/12/16 at [PN141-143]
24	AWU	Sub – 6/07/16	Sched B	Casual employees Delete the word “casual” from row 3 of Table B.2.2 and row 2 of B.2.3 given that “ordinary hourly rate” would be the applicable defined term at clause 2 under earlier submission (Item 3).	Page 1	No change – Transcript of 15/12/16 at [PN143-148]

List of abbreviations (in alphabetical order)

ABI&NSWBC	Australian Business Industrial and the New South Wales Business Chamber Ltd
AIG	Australian Industry Group
AWU	The Australian Workers' Union
ED	Exposure Draft
HSU	Health Services Union
NDS	National Disability Services