

Australian Industry Group

Review of C14 Rates

Submission
(C2019/5259)

6 November 2023



C2019/5259 REVIEW OF C14 RATES

1. INTRODUCTION

1. The Australian Industry Group (**Ai Group**) files this submission in response to the statement and directions ¹ issued by the Fair Work Commission (**Commission**) on 22 September 2023 (**Statement**). Specifically, this submission:
 - (a) Responds to the provisional view expressed by the Commission at paragraph [8] of the Statement; and
 - (b) Addresses Attachment D to the Statement.

2. THE PROVISIONAL VIEW

2. The Commission has expressed the provisional view that the following principles should guide the completion of these proceedings: (**Provisional View**)
 - (1) The lowest classification rate in any modern award applicable to ongoing employment should be at least the C13 rate. (**Proposed Principle 1**)
 - (2) Any classification rate in a modern award which is below the C13 rate (including but not limited to the C14 rate) must be an entry-level rate which operates only for a limited period and provides a clear transition to the next classification rate in the award (which must not be less than the C13 rate). (**Proposed Principle 2**)
 - (3) The transition period for the purpose of (2) should not exceed six months.² (**Proposed Principle 3**)(collectively, **Proposed Principles**)

¹ *Review of certain C14 rates in modern awards* [2023] FWCFB 168.

² Statement at [8].

3. The Provisional View is said to have been reached as a consequence of the decision issued by the Expert Panel in the Annual Wage Review 2022 – 2023 (AWR), including in particular, the following passages of that decision: (emphasis added)

[8] We have decided to take two steps in relation to the NMW. First, for the reasons set out in section 5 of this decision, we have decided to end the alignment between the NMW and the C14 classification wage rate in modern awards – an alignment which has existed since 1997. The C14 rate is the lowest modern award minimum wage rate but was only ever intended to constitute a transitional entry rate for new employees. As such, it does not constitute a proper minimum wage safety net for award/agreement free employees in ongoing employment. A wider review, including supporting research, concerning the needs and circumstances of low-paid award/agreement free employees is required, but the interim step we have decided to take in this Review is to align the NMW with the current C13 classification wage rate, which in nearly all relevant awards is the lowest modern award classification rate applicable to ongoing employment. ...

...

[107] In short, the FMW was not established by reference to the needs of the low paid. It was simply aligned with the lowest classification rate established for what was then the Metal Industry Award 1984 –Part I (Metal Industry Award). The C14 classification which then appeared in the Metal Industry Award, and remains in the Manufacturing Award today, has only ever applied to an employee undertaking ‘up to 38 hours induction training’ and was never intended to apply on an ongoing basis to a person’s employment. Consistent with the approach taken in the *Safety Net Review – Wages – April 1997* decision, the quantum of the FMW remained aligned with the C14 classification rate while the *Workplace Relations Act 1996* (Cth) remained in effect and, by virtue of the 2009-10 Review decision, it was carried through when the FW Act came into operation. This approach has remained unchanged in every Review decision since.

[108] We do not consider that the position whereby the NMW is simply set by reference to the C14 rate should continue. This is particularly the case when almost all modern awards which contain a classification with a C14 rate prescribe a limit on the period employees can be classified and paid at that level, after which employees move automatically to a higher classification and pay rate. Further, an employee classified at the C14 rate under a modern award may be entitled to a range of additional earnings-enhancing benefits such as weekend penalty rates, overtime penalty rates, shift loadings and allowances to which an employee on the NMW will not be entitled. A comprehensive review of the NMW should be undertaken by reference to the budget standards research and other relevant material to arrive at a NMW amount which is set having proper regard to the needs of the low paid and the other considerations in s 284. That is beyond the scope of the current Review, but we discuss later the interim measure we intend to take in this Review having regard to all the mandatory considerations in the minimum wages objective.³

³ *Annual Wage Review 2022-23* [2023] FWCFB 3500 at [8] and [107] – [108].

4. The following key propositions emerge from the Expert Panel’s decision:
- (a) The C14 classification level in the *Manufacturing and Associated Industries and Occupations Award 2020 (Manufacturing Award)* and the *Metal Industry Award 1984 – Part I (Metals Award)* ‘has only ever applied to an employee undertaking [u]p to 38 hours induction training’ and was never intended to apply on an ongoing basis to a person’s employment’.⁴ (**Key Proposition 1**)
 - (b) The C14 rate, as it applies in the modern awards system more generally, ‘was only ever intended to constitute a transitional entry rate for new employees’.⁵ (**Key Proposition 2**)
 - (c) One of the distinguishing features between employees receiving the National Minimum Wage (**NMW**) and those entitled to the C14 rate under modern awards is that the latter ‘may be entitled to a range of additional earnings-enhancing benefits such as weekend penalty rates, overtime penalty rates, shift loadings and allowances to which an employee on the NMW will not be entitled’.⁶ (**Key Proposition 3**)

(collectively, **Key Propositions**)

5. Ai Group opposes the Commission’s Provisional View. It should not, in our submission, be adopted, for the reasons set out in this submission. In particular, as we explain below, Key Proposition 1 misapprehends the operation of the C14 classification definition in the Manufacturing Award and Metals Award. To that end, we contest a fundamental basis underpinning the Provisional View.
6. If the Commission is nonetheless minded to consider varying any awards in the context of these proceedings by reference to proposals advanced by other parties and / or of the Commission’s own motion, such awards should each be separately considered, having regard to the circumstances pertaining to the

⁴ *Annual Wage Review 2022-23* [2023] FWCFB 3500 at [107].

⁵ *Annual Wage Review 2022-23* [2023] FWCFB 3500 at [8].

⁶ *Annual Wage Review 2022-23* [2023] FWCFB 3500 at [108].

relevant industry or occupation covered by them, the terms of the awards (including the way in which the C14 classification definition is expressed and how it intersects with other classification definitions), the value of the relevant work, the specific variations proposed and the impact that the variations would have on employers and employees covered by the awards.

7. The particular circumstances associated with an award may warrant an approach that deviates from the Provisional View. Indeed, they may demonstrate that the award should not be varied at all. In such circumstances, it would not be appropriate for the Commission to decide in general terms that the Provisional View will apply to all awards. Parties should be afforded a reasonable opportunity to ventilate award-specific issues and the process adopted by the Commission should facilitate a detailed consideration of them.
8. In the submissions that follow, we set out our key concerns with the Provisional View, the Proposed Principles and the Key Propositions.

Key Proposition 1 misunderstands the operation of the C14 classification description in the Manufacturing Award and Metals Award

9. In our respectful submission, Key Proposition 1 misunderstands the operation of the C14 classification definition as it applies under the Manufacturing Award and as it previously applied under the Metals Award, to the extent that it assumes that they have only ever applied while an employee undertakes up to 38 hours of induction training.
10. The Manufacturing Award defines the C14 and C13 classification levels as follows: (emphasis added)

A.4.3 Wage Group: C14

(a) Engineering/Manufacturing Employee—Level I

- (i) An Engineering/Manufacturing Employee—Level I is an employee who is undertaking up to 38 hours induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career path opportunities, plant layout, work and documentation procedures, work health and safety, equal employment opportunity and quality control/assurance.

- (ii) An employee at this level performs routine duties essentially of a manual nature and to the level of their training:
- performs general labouring and cleaning duties;
 - exercises minimal judgement;
 - works under direct supervision;
 - is undertaking structured training so as to enable them to work at the C13 level.

A.4.4 Wage Group: C13

(a) Engineering/Manufacturing Employee—Level II

- (i) An Engineering/Manufacturing Employee—Level II is an employee who has completed up to 3 months' structured training so as to enable the employee to perform work within the scope of this level.
- (ii) An employee at this level performs work above and beyond the skills of an employee at the C14 level and to the level of their skills, competence and training:
- works in accordance with standard operating procedures and established criteria;
 - works under direct supervision either individually or in a team environment;
 - understands and undertakes basic quality control/assurance procedures including the ability to recognise basic quality deviations/faults;
 - understands and utilises basic statistical process control procedures;
 - follows safe work practices and can report workplace hazards.

11. In addition, clause A.5.2 lists indicative tasks in respect of the C13 level:

A.5.2 For the purposes of clause A.4.4 (level C13) the following are the indicative tasks which an employee at this level may perform:

- assembles components using basic written, spoken and/or diagrammatic instructions in an assembly environment;
- repetition work on automatic, semi-automatic or single purpose machines or equipment;

- basic soldering or butt and spot welding skills or cuts scrap with oxyacetylene blow pipe;
- use selected hand tools;
- boiler cleaning;
- maintains simple records;
- repetitive packing in standard containers;
- uses hand trolleys and pallet trucks;
- assists in the provision of on-the-job training;
- non-trades cleaning up of wooden floors, punching of nails and sanding of wooden floors by machine or hand and/or application of all types of sealers and plastic coatings on wooden floors.

12. As can be seen from the above, an employee classified at C14 will be undertaking up to 38 hours induction training. In addition, an employee may be classified at C14 if:

- (a) They are *'undertaking structured training so as to enable them to work at the C13 level'*.⁷ When read with the C13 classification descriptor, at clause A.4.4(a)(i), it appears that such training may be completed over a period of up to three months; and / or
- (b) The employee is performing *'routine duties essentially of a manual nature'*, which require the employee to *'[exercise] minimal judgement'* and / or to work *'under direct supervision'*;⁸ and / or
- (c) The employee is performing *'general labouring and cleaning duties'*.⁹

⁷ Clause A.4.3(a)(ii) of the Manufacturing Award, final bullet point.

⁸ Clause A.4.3(a)(ii) of the Manufacturing Award, second and third bullet points.

⁹ Clause A.4.3(a)(ii) of the Manufacturing Award, first bullet point.

13. The award does not require that an employee classified at C14 *must* be undertaking training that will enable them to perform work at the C13 level. An employee classified at the C14 level can, therefore, be an employee who performs work of the nature described at paragraphs (b) and / or (c) above, indefinitely. Without seeking to comment on the incidence of employees being classified in this manner, we are aware of circumstances in which employees are, or have been, so classified. In such circumstances, they are generally engaged, on an ongoing basis, to perform unskilled work.
14. The corresponding classification descriptors in the Metals Award were in substantively the same terms.¹⁰ Accordingly, the same observations can be made about them.
15. To that end, we disagree with Key Proposition 1.

It is also not apparent that Key Proposition 2 is correct in respect of other awards

16. In its decision concerning the AWR, the Expert Panel observed that the C14 rate *'was only ever intended to constitute a transitional entry rate for new employees'*¹¹. In addition to our submissions above in relation to the Manufacturing Award; it is not clear that Key Proposition 2, which is cast more broadly, is true of other awards.
17. For example, the *National Electrical, Electronic and Communications Contracting Industry Award 1998*¹² prescribed a minimum wage that was only slightly higher than the C14 rate (and materially lower than the C13 rate) in relation to the lowest classification level (*'Electrical Worker Grade 1'*). An employee could be classified indefinitely at that level, as a labourer. It did not contemplate transitioning to the next level.¹³

¹⁰ Engineering/Production Employee - Level I and Engineering/Production Employee - Level II descriptors in Schedule D.

¹¹ *Annual Wage Review 2022-23* [2023] FWCFB 3500 at [8].

¹² AP791396CRV.

¹³ Clause 15.1 of the award.

Key Proposition 3 tells against the adoption of Proposed Principle 1

18. In its decision about the AWR, the Expert Panel drew the following comparisons between employees receiving the NMW and those classified at the C14 level in the awards system: (emphasis added)

[108] We do not consider that the position whereby the NMW is simply set by reference to the C14 rate should continue. This is particularly the case when almost all modern awards which contain a classification with a C14 rate prescribe a limit on the period employees can be classified and paid at that level, after which employees move automatically to a higher classification and pay rate. Further, an employee classified at the C14 rate under a modern award may be entitled to a range of additional earnings-enhancing benefits such as weekend penalty rates, overtime penalty rates, shift loadings and allowances to which an employee on the NMW will not be entitled.

...¹⁴

19. We agree. Indeed, the total earnings of employees covered by an award may significantly exceed the base rate prescribed by the instrument, by virtue of the various additional components listed in the extract above. So much can be seen from the Commission's analysis at Attachment D to the Statement, which, by way of example, identifies that under some awards, employees are entitled to an all purpose allowance which, once added to the C14 rate, results in a rate that exceeds the minimum C13 wage.
20. Whilst in the AWR, the Commission concluded that the C14 rate '*does not constitute a proper minimum wage safety net for award/agreement free employees in ongoing employment*'¹⁵, it does not necessarily follow that the lowest classification rate in a modern award applicable to ongoing employment should be at least the C13 rate, including for the reasons explained above.

¹⁴ *Annual Wage Review 2022-23* [2023] FWCFB 3500 at [108].

¹⁵ *Annual Wage Review 2022-23* [2023] FWCFB 3500 at [8].

The consequences of Proposed Principle 2 are unclear

21. Proposed Principle 2 is in the following terms:

Any classification rate in a modern award which is below the C13 rate (including but not limited to the C14 rate) must be an entry-level rate which operates only for a limited period and provides a clear transition to the next classification rate in the award (which must not be less than the C13 rate).¹⁶

22. Respectfully, the intended application of Proposed Principle 2 is unclear. The Commission has expressed the view that any rate below the C13 rate '*must ... [provide] a clear transition to the next classification rate in the award*'. In theory, this objective might be achieved in one of at least the following two ways:

- (a) An award might provide that an employee classified at the C14 level is, upon engagement, entitled to the C14 rate for a specified period of time, after which they are entitled to be paid the C13 rate (notwithstanding that they remain classified at the C14 level, having regard to the nature of the work they perform, the skills and / or competencies they possess, etc). In such circumstances, the relevant employee may continue to perform the same, or substantially the same work; however, they would become entitled to a higher rate after a specified period of time. **(Approach 1)**
- (b) Alternatively, an award might provide a pathway for reclassification from the C14 level to the C13 level in accordance with a prescribed timeframe. That reclassification would, by extension, require an employer to pay the employee at least the C13 rate. **(Approach 2)**

23. Absent an understanding of how an award is proposed to be varied to give effect to Proposed Principle 2, it is impracticable to properly evaluate the consequences that its implementation may have.

24. For example, the *Vehicle, Repair Services and Retail Award 2020* (**Vehicle Award**) prescribes the C14 rate for employees classified as '*Vehicle RS&R*

¹⁶ Statement at [8].

industry employee – Level 1.¹⁷ It defines a Level 1 employee as follows:
(emphasis added)

Vehicle industry RS&R—employee—Level 1 R1 (entry)

An employee at Level 1 is an employee who has undertaken little or no formal or informal training. A Level 1 employee may be undertaking up to 38 hours of induction training. The induction training may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career path opportunities, plant layout, work and documentation procedures, work health and safety, equal employment opportunity and quality control/assurance.

An employee at this level would acquire/possess skills relevant to the performance of routine duties essentially of a manual nature and to the level of their training:

- performs general labouring and/or cleaning duties;
- has basic numeracy skills;
- exercises minimal judgment;
- works to defined procedures and under direct supervision; and
- may be undertaking structured training so as to enable the employee to progress to a higher level.

Classifications contained within Level 1 R1

- Car cleaner/washer
- Workshop cleaner
- Car polisher—by hand
- Detailer—other
- Driveway attendant
- Office cleaner
- Parking attendant
- Process worker
- Tradesperson's assistant (see also Level 2)
- Employee not elsewhere prescribed

¹⁷ Clause 16.2 of the Vehicle Award.

25. As can be seen from the above, an employee may be classified indefinitely at the C14 level under the Vehicle Award. Whilst employees classified at that level *may* be undergoing training (i.e. induction training or '*structured training so as to enable the employee to progress to a higher level*'), the classification descriptor is not confined to such employees. Rather, it contemplates various roles that could be performed by employees indefinitely at the C14 level (e.g. '*[c]ar cleaner/washer*', '*[w]orkshop cleaner*' etc).
26. Approach 1 would, by way of example, result in a '*workshop cleaner*' classified at Level 1 receiving the rate prescribed by clause 16.1(a) for Level 1 for a specified period of time, after which they would receive the rate prescribed by the award for Level 2 (although they would, as such, remain classified at Level 1 and they would continue to perform the role of a workshop cleaner).
27. Approach 2 would require the definitions for Levels 1 and 2 to be fundamentally revisited, such that an employee could only be classified at the lower level for a specified period of time, after which they would be required to be reclassified to Level 2.
28. It is axiomatic that Approach 1 and Approach 2 would result in increased employment costs.¹⁸ The specific consequences that would flow from Approach 2, however, would depend upon the manner in which it is implemented. For example, would it result in a misalignment between the skills possessed by the employee and those contemplated by the C13 classification description? Would it result in employees classified at the C14 level routinely being reclassified to the C13 level, such that employers would continually need to employ new employees to perform work at the C14 level? This would further increase employment costs in relation to recruitment, training, onboarding etc.

¹⁸ Section 134(1)(f) of the Act.

The time limit created by Proposed Principle 3 is arbitrary

29. The Commission has proposed that the transitional period for any rate below the C13 rate should be no more than six months. The basis upon which an outer limit of six months has been deemed appropriate is not clear.
30. It would not be appropriate to apply a one-size-fits-all approach to the imposition of an outer limit to the application of the C14 rate. Any consideration of whether the C14 rate applies on a transitional basis and if so, the duration of that transitional period, should be determined on an award-by-award basis, where a specific variation is proposed, taking into account the circumstances in which that award applies and the impact that the proposed variations would have. For example, the seasonal nature of the work undertaken in certain sectors may be relevant to the Commission's consideration of the aforementioned matters. In others, it may be appropriate to have regard to the period of time in fact required for an employee to obtain the qualification(s), develop the skill(s), undertake the training, acquire the competencies and / or gain the experience required in order to be able to perform the work contemplated at the C13 level.

The potentially significant consequences for employers

31. As demonstrated by Attachment D to the Statement (and our analysis of it, attached to this submission), a number of awards do not conform with the Commission's Provisional View, including:
 - (a) The *Air Pilots Award 2020*;
 - (b) The *Airline Operations Ground Staff Award 2020*;
 - (c) The *Business Equipment Award 2020*;
 - (d) The *Cement, Lime and Quarrying Award 2020*;
 - (e) The *Concrete Products Award 2020*;
 - (f) The *Electrical, Electronic and Communications Contracting Award 2020*;
 - (g) The *Graphic Arts, Printing and Publishing Award 2020*;

- (h) The *Horticulture Award 2020*;
- (i) The *Joinery and Building Trades Award 2020*;
- (j) The Manufacturing Award;
- (k) The *Meat Industry Award 2020*;
- (l) The *Nurses Award 2020*;
- (m) The *Premixed Concrete Award 2020*;
- (n) The *Rail Industry Award 2020*;
- (o) The *Seafood Processing Award 2020*;
- (p) The *Sugar Industry Award 2020*;
- (q) The *Textile, Clothing, Footwear and Associated Industries Award 2020*;
- (r) The *Timber Industry Award 2020*;
- (s) The Vehicle Award;
- (t) The *Wine Industry Award 2020*; and
- (u) The *Wool, Storage, Sampling and Testing Award 2020*.

32. As explained earlier in this submission, it is not clear, at this stage in the proceedings, how Proposed Principle 2 might be implemented in the context of any award. Nonetheless, it can be observed that:

- (a) The relevant classification levels in some awards contemplate the performance of substantive roles on an indefinite basis. This includes the Manufacturing Award and Vehicle Award, as explained earlier in this submission. Other examples include the *Business Equipment Award 2020*, the *Electrical, Electronic and Communications Contracting Award 2020*, the *Joinery and Building Trades Award 2020*, the *Rail Industry Award 2020* and the *Sugar Industry Award 2020*. The implementation of the Provisional View

in relation to such awards is likely to have a significant impact upon employers covered by it.

- (b) Some awards provide for transition from the C14 level by reference to criteria that does not expressly refer to a specific period of time. For example, under the *Nurses Award 2020*, a ‘student enrolled nurse’ is ‘a student undertaking study to become an enrolled nurse’¹⁹. An employee cannot transition to being classified as an ‘enrolled nurse’ until they have completed the requisite training. Similarly, the *Meat Industry Award 2020* defines a Level 1 employee as ‘a person with no experience in the industry undergoing on-the-job training for an initial period of at least 3 months’²⁰. Any proposals to vary those awards would necessarily give rise to industry or occupation specific considerations, which should be carefully considered before determining whether and if so, how, they are varied.

33. It is trite that the Provisional View, if adopted, would in some contexts potentially result in significant changes to the relevant awards. Importantly, they may increase employment costs and the regulatory burden in a material way. A raft of other practical consequences might also flow. Without understanding the specific variations that would be made to the affected awards, however, the nature and extent of the impact cannot properly be assessed.

The application of the modern awards objective

34. The Commission can exercise its power to vary an award in these proceedings only if it is satisfied that the variation is necessary to achieve the modern awards objective.²¹ Section 134(1) of the *Fair Work Act 2009 (Act)* defines the modern awards objective and lists various matters that must be taken into account for the purposes of ensuring that the relevant award(s) provide a fair and relevant minimum safety net.

¹⁹ Clause A.3 of the award.

²⁰ Clause A.3.1 of the award.

²¹ Section 157(1) of the Act.

35. It has long been acknowledged that: (emphasis added)

[32] No particular primacy is attached to any of the s.134 considerations and not all of the matters identified will necessarily be relevant in the context of a particular proposal to vary a modern award.

[33] There is a degree of tension between some of the s.134(1) considerations. The Commission's task is to balance the various s.134(1) considerations and ensure that modern awards provide a fair and relevant minimum safety net of terms and conditions. The need to balance the competing considerations in s.134(1) and the diversity in the characteristics of the employers and employees covered by different modern awards means that the application of the modern awards objective may result in different outcomes between different modern awards.

[34] Given the broadly expressed nature of the modern awards objective and the range of considerations which the Commission must take into account there may be no one set of provisions in a particular award which can be said to provide a fair and relevant safety net of terms and conditions. Different combinations or permutations of provisions may meet the modern awards objective.²²

36. Thus, any proposal to vary an award such that it conforms with the Provisional View must be considered in light of the various competing considerations identified by s.134(1) of the Act. Specifically, any proposal to increase the wage rates payable to employees performing work at the C14 level, or to mandatorily require the reclassification of employees to the C13 level after a period of time, must be assessed having regard to the following considerations that may weigh against the making of the variation(s):

- (a) The need to ensure that the minimum safety net is fair for both employers and employees;²³
- (b) The need to encourage collective bargaining;²⁴
- (c) The need to promote flexible modern work practices and the efficient and productive performance of work;²⁵

²² 4 Yearly Review of Modern Awards: Preliminary Jurisdictional Issues [2014] FWCFB 1788 at [33] – [34].

²³ Section 134(1) of the Act.

²⁴ Section 134(1)(b) of the Act.

²⁵ Section 134(1)(d) of the Act.

(d) The likely impact on employers, including on productivity, employment costs and the regulatory burden;²⁶ and

(e) The need to ensure a simple, easy to understand, stable and sustainable awards system.²⁷

37. A proper examination of the circumstances of an award may warrant an approach that deviates from the Provisional View or indeed renders the Provisional View inappropriate.

The potential impact on internal wage relativities

38. The implementation of the Provisional View risks disturbing internal relativities.

39. Typically, the work contemplated for the C14 level is unskilled, performed under supervision and requires limited if any specialist training. If employees performing such work are entitled to the C13 rate, this would clearly undermine the maintenance of relativities between the minimum wages payable to those employees *vis-à-vis* those performing work that requires greater skills, experience, competencies and / or training.

The potential relevance of work value considerations

40. In some instances, variations advanced in these proceedings may enliven considerations associated with work value, by virtue of s.157(2) of the Act, or simply as a discretionary matter that should be taken into account by the Commission. We note that a variation to modern award minimum wages can be made *only if* the Commission is satisfied that the variation is justified by ‘*work value reasons*’ and that making the variation outside the system of annual wage reviews is necessary to achieve the modern awards objective.²⁸

²⁶ Section 134(1)(f) of the Act.

²⁷ Section 134(1)(g) of the Act.

²⁸ Section 157(2) of the Act.

41. For example, if it is proposed that an employee would be entitled to the C13 rate after being employed at the C14 level for a period of 6 months, whilst continuing to undertake the same work, it may be argued that the value of the work does not justify the variation, having regard to the nature of the work, the skills and / or responsibility involved in performing the work and the conditions under which the work is done. This is likely to give rise to the need to consider detailed evidence about each of the aforementioned matters.

Conclusion

42. The Commission should not adopt the Provisional View, for all of the reasons set out in this submission.
43. To the extent that the Commission is nonetheless minded to consider specific variations proposed by interested parties (and / or the Commission) to vary any awards that do not conform with the Provisional View, the process proposed by Ai Group should be adopted because it would:
- (a) Ensure that respondent parties are on notice of the manner in which the Provisional View is proposed to be implemented.
 - (b) Result in a process that allows parties to properly ventilate, and the Commission to consider, matters that are specific to a given award, industry and / or occupation, including:
 - (i) The manner in which the existing classification structure operates;
 - (ii) The impact that the variation(s) would have on employers and employees covered by the award;
 - (iii) The history preceding the relevant aspects of the award;
 - (iv) The criteria that should apply to determining the circumstances in which an employee is to transition from the C14 to the C13 level, if at all;
 - (v) The modern awards objective;

(vi) Internal wage relativities; and

(vii) Work value considerations.

3. ATTACHMENT D TO THE STATEMENT

44. In an **attachment** to this submission, we have advanced submissions in response to Attachment D to the Statement, in relation to various awards, including where we disagree with the manner in which the relevant award has been characterised by the Commission.

Attachment: Submissions regarding Attachment D to the Statement

Award title	Clause	Classification	Weekly rate (or equivalent)	Transitional category	FWC Comment	Next classification up	Ai Group Submission
<i>Airline Operations – Ground Staff Award 2020</i>	18.3	Maintenance and engineering stream: Aircraft Worker 1	\$859.30 (at C14)	Category (ii) [sic] – undertaking up to 38 hours of induction training so as to enable them to work at Level 2. A Level 2 is an employee who has completed up to 3 months structured training (cl A.3).		Aircraft Worker 2 = \$882.80^	We rely on our submissions concerning the Manufacturing Award at [9] – [15]. The C14 classification description is drafted in substantially similar terms in both awards.
<i>Asphalt Industry Award 2020</i>	15.1	Skill Level 1	\$859.30 (at C14)	Category (i) – undertaking up to 38 hours induction training (cl 12.4)	Reflects the 'Minimum weekly wage'. However, the ordinary hourly rate of the classification taking into account payment of the industry and inclement weather allowances exceeds C13.	Skill Level 2 = \$907.00	The industry allowance is an all purpose allowance and is payable to all employees covered by the Award (see clause 17.2(b)). Its inclusion results in employees receiving a rate for all purposes of the award that exceeds the C13 rate. Accordingly, this award should not form part of these proceedings.

<i>Cement, Lime and Quarrying Award 2020</i>	16.2	Quarrying industry: Grade 1	\$859.30 (at C14)	Category (iv) – undertaking training to become competent in the Basic Quarry competency required at Grade 2 and above (cl B.1).	Reflects the 'Minimum weekly wage'. However, the ordinary hourly rate of the classification taking into account payment of the industry allowance exceeds C13.	Quarrying industry: Grade 2 = \$882.30	The industry allowance is an all purpose allowance and is payable to all employees covered by the award (see clause 18.2(a)). Its inclusion results in employees receiving a rate for all purposes of the award that exceeds the C13 rate. Accordingly, this award should not form part of these proceedings.
<i>Cement, Lime and Quarrying Award 2020</i>	16.2	Quarrying industry: Grade 2	\$882.30 (between C14 and C13)	Category (iv) – undertaking training to be assessed as competent in one or more core competencies (cl B.1).	Reflects the 'Minimum weekly wage'. However, the ordinary hourly rate of the classification taking into account payment of the industry allowance exceeds C13.	Quarrying industry: Grade 3 = \$939.00	The industry allowance is an all purpose allowance and is payable to all employees covered by the award (see clause 18.2(a)). Its inclusion results in employees receiving a rate for all purposes of the award that exceeds the C13 rate. Accordingly, this award should not form part of these proceedings.
<i>Cement, Lime and Quarrying Award 2020</i>	16.1	Cement and lime industry: Level 1	\$859.30 (at C14)	Category (iv) – undertaking the Basic competency training required at Level 2 and above. Employee will progress upon attaining	Reflects the 'Minimum weekly wage'. However, the ordinary hourly rate of the classification taking into	Cement and lime industry: Level 2 = \$902.20	The industry allowance is an all purpose allowance and is payable to all employees covered by the award (see clause 18.2(a)). Its inclusion results in employees receiving a rate for all purposes of the award

				the Basic competency and is developing the Yard competency and one element of the Production competency (cl A.1).	account payment of the industry allowance exceeds C13.		that exceeds the C13 rate. Accordingly, this award should not form part of these proceedings.
<i>Concrete Products Award</i>	16.2	Level 1	\$859.30 (at C14)	Category (iv) – undertaking employer’s induction program. At Level 2 employees must have satisfactory completed training required at this Level (cl A.1–A.2).	Reflects the ‘Minimum weekly wage’. However, the ordinary hourly rate of the classification taking into account payment of the industry allowance exceeds C13.	Level 2 = \$882.70	<p>This award should be allocated to category (v). The Level 1 classification is not transitory in nature. An employee could be engaged at that level on an indefinite basis.</p> <p>In any event, the industry allowance is an all purpose allowance and is payable to all employees covered by the award (see clause 18.2(b)). Its inclusion results in employees receiving a rate for all purposes of the award that exceeds the C13 rate. Accordingly, this award should not form part of these proceedings.</p>

<i>Concrete Products Award</i>	16.2	Level 2	\$882.70 (between C14 and C13)	Category (v) – see clause A.2–A.3.	Reflects the 'Minimum weekly wage'. However, the ordinary hourly rate of the classification taking into account payment of the industry allowance exceeds C13.	Level 3= \$914.90	The industry allowance is an all purpose allowance and is payable to all employees covered by the award (see clause 18.2(b)). Its inclusion results in employees receiving a rate for all purposes of the award that exceeds the C13 rate. Accordingly, this award should not form part of these proceedings.
<i>Electrical, Electronic and Communications Contracting Award</i>	16.2	Electrical worker grade 1	\$871.20 (between C14 and C13)	Category (v) – see clause A.2.	Reflects the 'Minimum weekly wage'. However, the ordinary hourly rate of the classification taking into account payment of the industry allowance exceeds C13.	Electrical worker grade 2 = \$900.70	The industry allowance is an all purpose allowance and is payable to all employees covered by the award (see clause 18.3(a)). Its inclusion results in employees receiving a rate for all purposes of the award that exceeds the C13 rate. Accordingly, this award should not form part of these proceedings.

<p><i>Graphic Arts, Printing and Publishing Award 2020</i></p>	<p>17.2</p>	<p>Level 1</p>	<p>\$859.30 (at C14)</p>	<p>Category (i) – An employee at this level is undertaking up to 38 hours of induction training. On completion of required training they will be reclassified to Level 2 (cl A.1).</p>		<p>Level 2 = \$882.80[^]</p>	<p>This award should be allocated to category (v).</p> <p>The final sentence of the Level 1 classification descriptor at clause A.1 provides that an employee will be reclassified to level 2 ‘on completion of the required training’; that being ‘training so as to enable them to work at level 2’ (see last bullet point at A.1). The Award does not provide for a specific period within which such training must be completed or a specific period of time within which an employee must transition from Level 1 to Level 2.</p> <p>Moreover, the award does not require that an employee must undertake the aforementioned training and / or transition to Level 2.</p>
<p><i>Joinery and Building Trades Award</i></p>	<p>19.1</p>	<p>Level 1</p>	<p>\$859.30 (at C14)</p>	<p>Category (i) – employee at this level will undertake up to 38 hours induction training.</p>	<p>Reflects the ‘Minimum weekly wage’. However, the ordinary hourly rate of</p>	<p>Level 2 = \$882.80[^]</p>	<p>This award should be allocated to category (v). The Level 1 classification is not transitory in nature. An employee could be</p>

				Employee must complete a competency assessment to perform Level 2 work (cl A.1.1–A.1.2).	the classification taking into account payment of the industry allowance exceeds C13.		engaged at that level on an indefinite basis.
<i>Manufacturing and Associated Industries and Occupations Award 2020</i>	20.1(a)	C14 / V1	\$859.30 (at C14)	Category (i) – C14: up to 38 hours induction training. However, a C13 employee must also have completed up to 3 months' structured training (cl A.4.3–A.4.4). V1: up to 38 hours induction training. However, a V2 employee must also met the requirements of a Certificate I (cl B.2–B.3).		C13 / V2 = \$882.80^	For the reasons set out in our submission at [9] – [15], this award should be allocated to category (v).
<i>Premixed Concrete Award</i>	16.1	Level 1	\$882.50 (between C14 and C13)	Category (iii) – an employee without industry skills, training to be a batcher, allocator, testing or plant assistant. An employee may work at this	Reflects the 'Minimum weekly wage'. However, the ordinary hourly rate of the classification taking into	Level 2 = \$890.10	The industry allowance is an all purpose allowance and is payable to all employees covered by the award (see clause 18.2(b)). Its inclusion results in employees receiving a rate for all purposes of the award

				level for up to 6 months (cl 12.4).	account payment of the industry allowance exceeds C13.		that exceeds the C13 rate. Accordingly, this award should not form part of these proceedings.
<i>Timber Industry Award 2020</i>	20.1(b)	Wood and Timber Furniture Stream: Level 1	\$859.30 (at C14)	Category (ii) – undertaking up to 3 months’ induction and skill development. Progression will occur on completion of induction and the core units of the Furnishing Industry Training Package and demonstrates competency to undertake Level 2 (cl B.1).		Wood and Timber Furniture Stream: Level 2 = \$882.80^	Per clause B.1.7, an employee will transition from Level 1 to Level 2 if the employee has ‘ <i>demonstrated competency to undertake duties at Level 2</i> ’, in addition to the ‘ <i>successful completion of the induction program and the core units of the Furnishing Training Package</i> ’. Thus, reclassification to Level 2 is not guaranteed upon completion of the training.
<i>Vehicle Repair, Services and Retail Award 2020</i>	16.2	Vehicle RS&R industry employee—Level 1	\$859.30 (at C14)	Category (i) – may be undertaking up to 38 hours of induction training. Note that a Level 2 employee is an employee who has completed 3 months structured training (cl A.1).		Vehicle RS&R industry employee—Level 2 = \$882.80^	For the reasons set out in our submission at [25], this award should be allocated to category (v).