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**Fair Work Commission: 4 yearly review of modern awards**

**AM2014/250 AWARD STAGE - GROUP 4 AWARDS**

**SUBMISSION**

**AUSTRALIAN BUSINESS INDUSTRIAL**

**- and -**

**THE NSW BUSINESS CHAMBER LTD**

**29 AUGUST 2018**

## 1. BACKGROUND

- 1.1 On 7 August 2018, the Fair Work Commission (the **Commission**) published a decision relating to a number of Group 4 awards as part of the 4 yearly review of modern awards (the **Decision**).<sup>1</sup>
- 1.2 Interested parties have been given an opportunity to comment on certain issues that were raised in the Decision.
- 1.3 This submission is made on behalf of Australian Business Industrial (**ABI**) and the New South Wales Business Chamber Ltd (**NSWBC**). ABI is a registered organisation under the *Fair Work (Registered Organisations) Act 2009*. NSWBC is a recognised State registered association pursuant to Schedule 2 of the *Fair Work (Registered Organisation) Act 2009*.
- 1.4 ABI and NSWBC appreciate the opportunity to provide this submission.

## 2. FUNERAL AWARD 2010

### *Overtime and Shift Workers*

- 2.1 ABI and NSWBC do not support the Commission's provisional view of the calculation of overtime for shift workers. In our submissions dated 20 April 2017<sup>2</sup>, ABI and NSWBC submitted that when a shift worker performs overtime, they are entitled to the overtime rate but not the shift loading because the shift loading is only payable with respect to the ordinary hours of work performed by a shift worker and the overtime rates apply instead, not in addition to.
- 2.2 ABI and NSWBC maintain this view and do not agree with any of the calculation methods explored by the Commission in the Decision which seek to apply shift loadings during a period of overtime.

## 3. ABORIGINAL COMMUNITY CONTROLLED HEALTH SERVICES AWARD 2010 AND CEMETERY INDUSTRY AWARD 2010

- 3.1 UV has suggested a variation to the casual loading clauses in a number of exposure drafts. The UV submission affects the exposure drafts for the *Car Parking Award 2010* (Car Parking Award), the *Aboriginal Health Award* and the *Cemetery Industry Award 2010* (Cemetery Industry Award).
- 3.2 In relation to this issue and the substantive matters raised at:
- (a) paragraph [20] of the Decision (Aboriginal Health Award); and
  - (b) paragraph [166] of the Decision (Cemetery Award),
- ABI and NSWBC have already provided submissions to the Commission on the issue of casuals receiving overtime under these awards and at what rate it is to be paid.
- 3.3 ABI and NSWBC provided those submissions in matter AM2017/51 - being proceedings before a Full Bench specifically for the purpose of dealing with the issue of overtime for casuals.

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<sup>1</sup> [2018] FWCFB 4175

<sup>2</sup> Paragraph 3.10 of [2018] FWCFB 4175.

3.4 Given that those proceedings are currently on foot, we respectfully submit that if there is any dispute between the parties in relation to whether casuals are entitled to overtime, the Full Bench in AM2017/51 should deal with the UV proposal, given that we would anticipate that the UV claim will be amongst the issues considered at a future time before the Full Bench in AM2017/51 (overtime for casuals). We also understand that directions will be issued for a timetable for the case management of AM2017/51, and which will provide an opportunity for interested parties to present their respective submissions in that forum.



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**On behalf of Australian Business Industrial and the NSW Business Chamber Ltd**

**29 August 2018**