

## IN THE FAIR WORK COMMISSION

### Four yearly review of modern awards – Finalisation of exposure drafts (AM2019/17)

### Exposure draft – *Road Transport (Long Distance Operations) Award (the Draft)* - AM2014/211

### Reply Submissions of the National Road Transport Association (NatRoad)

#### Background

1. These submissions are filed on behalf of the National Road Transport Association (**NatRoad**). They follow on from the NatRoad submission lodged on 4 March 2019, in respect of the publication of the Draft.<sup>1</sup>
2. On 21 November 2019, the Transport Workers Union (TWU) made a submission<sup>2</sup> that addresses other issues that it believes arise from the publication of the Draft on 14 October 2019.<sup>3</sup>
3. In this submission we respond to the TWU submission by way of reply but note that the issue raised by the TWU has not been previously flagged and was not raised in prior hearings or submissions. To the extent that the TWU wishes to now agitate other issues that are not in fact within the ambit of settling otherwise agreed Award terms, we indicate that it is the NatRoad view that the TWU should make separate application in order to advance its arguments, if pressed.

#### Payment for work on a public holiday

4. The statement in paragraph 3 of the TWU submission that “Clause 25.3(b) is in conflict with clauses 10.8 and 11.4 which require payment for a minimum of 8 hours or 500kms for both casual and part-time employees” is incorrect.
5. Clause 25.3(b), in relation to payment for work on a public holiday as it relates to full-time and part-time employees provides that “An employee must be paid for a minimum of 4 hours’ work.” This payment is in addition to the payment to be made to the employee who would normally work ordinary hours on that day at the relevant percentage rate (i.e. 20% or 30%) of the applicable minimum weekly rate.
6. Clause 11.4 addresses the minimum engagement terms for casual employees and has no correlation with the terms set out in clause 25.3(b) as that clause only provides terms for full-time and part time employees.
7. Clause 10.8 provides that a part-time employee who is engaged according to the hourly driving rate method must be paid a minimum of 8 hours’ pay. A part-time employee working on a public holiday which is an “agreed” day of the week on which they will be

<sup>1</sup> <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/exposure-draft-ldo-revised-150219.pdf>

<sup>2</sup> <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201917-211-sub-twu-211119.pdf>

<sup>3</sup> <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/ma000039-ed-tracked.pdf>

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required to commence work on a long distance operation is already entitled to payment at the relevant percentage rate (i.e. 20% or 30%) of the applicable minimum weekly rate, plus an addition 4 hours at a minimum. Payment at 20% of the applicable minimum weekly rate is equal to 1 days' work and therefore equates to 8 hours minimum pay.

8. In the circumstance of a part-time employee who is requested to work on a public holiday which is not an "agreed" day of the week, the provisions of clause 10.7 apply.
9. The TWU submission should therefore be disregarded.
10. NatRoad does not have any concerns with the provisions of the Draft.

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**3 December 2019**