

REVISED SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

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

The summary has been revised to include feedback from the hearing on 6 December 2016 ([Transcript](#)).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	FPAA	Sub-30/06/16	2	Definitions – ‘Fire Technician’ Definition should include ‘routine maintenance/inspection & testing activities as described under AS1851’	Para 38	Not being pursued – email 08/08/16 Withdrawn. see Transcript-6Dec16 [PN381]
	MPG	Reply-03/08/16		No comment due to application being withdrawn.	Paras 130-132	
2	BusSA	Sub-30/06/16	2	Definitions – ‘fire sprinkler fitting’ Amend to direct the reader to the definition in clause 4.2(b). Where a definition is repeated in an award there is risk of inconsistency.	Para 5.1.2	AIG does not oppose BusSA sub, see Transcript-6Dec16 [PN381]
3	BusSA	Sub-30/06/16	2	Definitions – ‘Plumbing’ Amend to direct the reader to the definition in clause 4.2(a). Where a definition is repeated in an award there is risk of inconsistency.	Para 5.1.1	AIG does not oppose BusSA sub, see Transcript-6Dec16 [PN381]
4	ABI & NSWBC	Sub-1/07/16	7.2	Facilitative provisions Submit that clauses 15.5(c), 15.5(e) and 15.5(f) should be referenced in the table – see submission for suggested wording.	Para 12.1	
	BusSA	Reply-21/7/16		Agree with ABI & NSWBC above submission.	Para 6.2	
	MPG	Reply-3/08/16		Agree with submission of ABI & NSWBC however, slightly different wording suggested.	Paras 150-153	

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	AIG	Reply-3/08/16		Do not agree with ABI, AWU and MPG that proposed amendment be made. Such a change would change effect of provision in current award. Allows for agreement to be reached with a small group as well as the majority of employees. BusSA and CEPU support such retention.	Paras 3-6	
	AWU	Reply-8/08/16		Agree with ABI submission that table be amended.	Para 18	
5	BusSA	Sub-30/06/16	8.1	Types of employment Categories of employment are unclear regarding full-time and part-time weekly hire employees. Submits clause 11 be made a subclause of clause 10.	Para 5.1.3	Withdrawn. See Transcript-6Dec16 [PN388-389]
	MPG	Reply-3/08/16		Disagree with BusSA submission. No 'fourth category' of employment. Reflective of current award. No change necessary.	Paras 137-141	
	AIG	Reply-3/08/16		Disagree with BusSA submission. Clause as drafted reflects current award and is not unclear.	Para 7	
	AWU	Reply-8/08/16		Submits it is not unclear however understands BusSA submission—structure could be improved.	Para 20	

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6	BusSA	Sub-30/06/16	9	Daily hire employees – minimum hourly wage Method for calculating daily hire employee's minimum wage is unclear and should be clarified.	Para 5.1.4	
	MPG	Reply-3/08/16		Accepts BusSA submission. Proposes the following: "9.4 A daily hire employee must be paid no less than the: (a) minimum rate for the relevant classification provided in Clause 18.1; and (b) the lost time loading – daily hire employees provided in Clause 20.3(j)."	Paras 142-145	
	AIG	Reply-3/08/16		Do not agree with BusSA submission. Clause in ED reflects current award and is not unclear.	Para 8	
7	AWU	Sub-06/07/16	11.3(b)	Part time employment Current clause only refers to 'commencing' times. Should also include 'finishing' times.	Para 7	Party to send corro relating to daily hire employees. See Transcript-6Dec16 [PN411-PN419] (received, see sub-6/1216)
8A	AWU	Sub-06/07/16	12.1	Casual employment Span of hours for casuals is not specified. Suggest wording at clause 15.2(c) be inserted after 12.1 to rectify issue.	Para 8	Opposed by AIG, see Transcript-6Dec16 [PN381]. Party to send corro relating to daily hire employees. See Transcript-6Dec16 [PN411-PN419] (received, see sub-6/1216)

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8B	AIG	Sub-08/07/16	12.1	Definition of 'casual employee' – words 'as such' have been removed . The absence of these words substantially alters definition. Words have been relevant to the determination of disputes as to whether employee is a casual employee. Words should be re-inserted into definition, after 'engaged'.	Paras 245-247	Agreed, see Transcript-6Dec16 [PN381]
	AWU	Reply-8/08/16		Do not oppose AIG submission.	Para 21	
	BusSA	Reply-21/7/16		Agree with AIG submission.	Para 6.4	
	MPG	Reply-3/08/16		The issues raised by the AIG may be resolved in casual employment Full Bench proceedings AM2014/197.	Paras 155-157	
9	AIG	Sub-08/07/16	12.2	Casual employment Substantive change from current award term that should not be made. Clause 12.2 of ED cannot be read in a manner the enables any allowance to be taken into account in the calculation of a casual employee's rate of pay. Adopting wording in ED would increase the monetary obligations imposed upon employers by the award.	Paras 248-255	
	BusSA	Reply-21/7/16		Agree with AIG submission.	Para 6.5	
	AWU	Reply-8/08/16		Understands this is being dealt with as part of AM2014/197	Para 22	
10	AWU	Sub-06/07/16	13.8	Apprenticeship - Hours Beyond a working week of 38 hours, no further guidance is provided. Given apprentices may work part-time or full-time, suggest a cross-reference to clauses 11 and 15.	Para 9	Party to send corro relating to daily hire employees. See Transcript-6Dec16 [PN411-PN419] (received, see sub-6/1216)

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11	AIG	Reply-3/08/16	11.3(b), 12 and 13.8	Part-time employment, casual employment and apprentices Do not agree with AWU submissions on these clauses. Clauses are clear as drafted.	Paras 9-11	
12	MPMCA	Sub-30/06/16	13.14(d)(ii)	Adult apprentices <i>In response to question posed by Commission:</i> Clause does not contravene s.136 and satisfies s.139 thus is permitted. Provision has already been considered by AIRC during award modernisation.	Paras 4-6	
	FPAA	Sub-30/06/16		Provision should be retained.	Paras 19-20	
	BusSA	Sub-30/06/16		Term not permitted in award- modern awards must not include a discriminatory term – term discriminatory for reasons of age.	Para 5.2.2	
	BusSA	Reply-21/7/16		Disagree with FPAA, agree with MPG.	Paras 6.6, 6.7 and 6.14	
	NFIA	Sub-05/07/16		Clause is allowable but does not assist users as it commences ‘where possible...’ and does not provide any guidance on what is deemed ‘possible’.	Pg 1	
	MPG	Sub-05/07/16		Clause is allowable. However clauses 13.14(d)(i) and (ii) should not be included in Award as they are not enforceable.	Paras 18-24	
	MPG	Reply-3/08/16		Maintains earlier position. Clause 13.4(d) should be deleted.	Paras 17-28	
	AWU	Sub-06/07/16		Terms are allowable however given the ambiguous and aspirational nature of clause 13.4(d), if no disadvantage can be identified clause 13.4(d) should be deleted.	Paras 10-13	

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	AWU	Reply-8/08/16		Agree with CEPU. Clause is allowable but would not oppose deletion of clause.	Paras 9-10	
	AIG	Sub-08/07/16		This term could lead to discriminatory practices and should be deleted.	Paras 256-257	
	CEPU	Sub-11/07/16		Clause is allowable. Even though wording, 'where possible', does not force an entitlement, it brings people's attention to structuring a career path for workers without qualifications.	Pg 2	
	AIG	Reply-3/08/16		Maintain position in earlier submission. BusSA submission aligns with this position. Do not agree with submissions of FPAA, CEPU, MPN and NFIA. Do not agree with proposals to delete clause by AWU and MPG. This would change conditions found in current award.	Paras 12-14	
	ABI & NSWBC	Reply-4/08/16		Oppose submission of CEPU. Agree with submissions of BusSA and AIG	Para 1	
13	MPMCA	Sub-30/06/16	15.3	Early start Early start should be by agreement with the individual employee. Each employee may have personal circumstances that have to be taken into consideration on case by case basis.	Paras 1-3	
	FPAA	Sub-30/06/16		Various circumstances can arise such as single employee jobs, more than 3 employee jobs, emergency situations as well as each individual's circumstances. Award should be varied to reflect a mix of circumstances.	Paras 10-18	
	BusSA	Sub-30/06/16		No change necessary. Wording reflects current Award.	Para 5.2.1	
	BusSA	Reply-21/7/16		Agree with MPG submission.	Para 6.2	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
	ABI & NSWBC	Sub-1/07/16		As clause refers to 'employees', reasonable to assume it means a majority of employees as opposed to an individual employee. This is also consistent with clause 15.4	Para 12.2	
	MPG	Sub-05/07/16		Clause should read 'the majority of <u>affected</u> employees' (not 'majority of employees' as this may lead to confusion where groups of employees are working on various sites). These words accurately reflect nature of industry. Suggest these words be inserted into clauses 15.4, 16.2 and 26.2 as well.	Paras 11-15	
	MPG	Reply-3/08/16		Maintains earlier position. Decision as to whether facilitative provision should be utilised should only be made by those employees affected.	Paras 11-16	
	AWU	Sub-06/07/16		Wording is plural – 'employees'. Table should refer to 'majority of employees'. Suggest change to 'majority of <u>affected</u> employees' to improve clause.	Paras 4-5	
	AWU	Reply-8/08/16		Agree with submissions of MPG and ABI. Note BusSA submit change is unnecessary but given divergent views of parties, some clarity would be beneficial. Unsure if FPAA position is to change or retain current clause. Acknowledge risks to individual employees cited by CEPU but consider word 'employees' ambiguous and may not refer to agreement with individual employees.	Paras 5-8	

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	CEPU	Sub-11/07/16		Clause should be left how it is in current award. To change the wording to 'majority' of employees could substantially impact on an individual employee with commitments such as child care. No parties have raised this issue before.	Pg 1	
14	MPMCA	Sub-30/06/16	16.5 and 16.6	Overtime <i>In response to question posed by Commission:</i> Easier and more accessible to read all overtime provisions in one location.	Paras 7-8	
	FPAA	Sub-30/06/16		May be appropriate to move clauses 16.5 and 16.6 to clause 21-Overtime.	Paras 21-24	
	BusSA	Sub-30/06/16		Supports returning overtime meal break clauses, and moving overtime-rest break clause, to general overtime clause.	Para 5.2.3	
	MPG	Sub-05/07/16		Submit clauses should be inserted into clause 21 – Overtime.	Para 25	
	MPG	Reply-3/08/16		Clauses should be inserted into clause 21. Overtime as clause 21.6 – Overtime Meal Breaks and clause 21.7 – Overtime Rest Breaks (suggested wording in submission)	Paras 29-41	
	BusSA	Reply-21/7/16		Agree with MPMCA, FPAA and CEPU	Para 6.8	
	ABI & NSWBC	Sub-1/07/16		Appropriate that 16.5 and 16.6 are placed within the same clause. Most appropriate place to put them is clause 16; however, not opposed to them being placed in clause 21, provided they are kept together.	Para 12.3	

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	AWU	Sub-06/07/16		No strong opinion about where clauses are placed. Slight preference for clauses being moved back to clause 21.	Para 14	
	CEPU	Sub-11/07/16		Clauses would be better situated in clause 21. To avoid confusion, the clauses should be mentioned in clause 16.	Pg 2	
	AWU	Reply-8/08/16		Support CEPU's suggestion that clause be referenced at clause 16.	Para 11	
	AIG	Reply-3/08/16		No objection to current placement or placement in overtime clause. Slight preference for placement in overtime clause for ease of reading.	Paras 12-13	
15	BusSA	Sub 30/06/16	18.1	Daily hire employees—minimum hourly wage and Minimum wages-General Method for calculating daily hire employee's minimum wage is unclear and should be clarified. Clause should be amended to indicate minimum weekly rate is payable only to full time weekly hire employee.	Paras 5.1.4 and 5.1.5	No longer being pressed. See Transcript-6Dec16 [PN397]
	MPG	Reply 3/08/16		Disagree with BusSA. Part time and casual provisions deal with this issue and clarify the obligations established in Clause 18.1 of ED.	Paras 146-148	
	AWU	Reply 8/08/16		Disagree with BusSA. Part time and casual provisions make it clear wages are paid on pro rata and hourly basis.	Para 19	

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16	MPMCA	Sub-30/06/16	18.8	Payment of wages <i>In response to question posed by Commission:</i> Clause already specifies ‘bank or similar transfer’ which means payment by electronic means.	Paras 9-12	Discussion as to whether FB in AM2016/8—payment of wages is dealing with this issue, clarified it will not. Item to be discussed at conference for this Award. See Transcript-6Dec16 [PN401-406]
	FPAA	Sub-30/06/16		Clause should specify payment by electronic means is acceptable method. Suggested wording in submission.	Paras 25-27	
	BusSA	Sub-30/06/16		Supports specifying ‘payment by electronic means’	Para 5.2.4	
	BusSA	Reply-21/7/16		Partially agree with FPAA. Proposed wording of FPAA acceptable but submits the draft’s reference to ‘any combination of these’ be retained.	Pages 18-19, paras 6.9, 6.16	
	ABI & NSWBC	Sub-1/07/16		Submit that current wording, ‘bank or similar transfer’ allows for payment of wages by electronic means. Express reference to ‘electronic transfer’ could be included to avoid ambiguity.	Para 12.4	
	MPG	Sub-05/07/16		Proposed new clause (wording in submission) which includes express reference to ‘electronic funds transfer’	Paras 26-32	
	MPG	Reply-03/08/16		Maintains earlier submission. Decision on this clause may have to wait until after AM2016/8-Payment of wages decision issued.	Paras 42-57	
	NFIA	Sub-05/07/16		Electronic payment of wages is an acceptable method of payment. Support s MPG submission.	Pg 1	
	AWU	Sub-06/07/16		Clause should be updated by removing words, ‘bank cheque, bank or similar transfer’ and adding ‘electronic fund transfer’.	Para 15	

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	AWU	Reply-8/08/16		Amended position is that reference to 'electronic funds transfer' be included but no payment method is removed.	Paras 12-13	
	CEPU	Sub-11/07/16		Payment by electronic means is acceptable and words to that effect should be inserted into the award. Suggested wording in submission.	Pg 2	
	AIG	Reply-3/08/16		Agree that term 'electronic funds transfer' should be included. Do not agree that term 'bank cheque' be removed. Better to retain all possible means of payment. Do not agree with MPG submission to rewrite payment of wages clause.	Paras 14-17	
17	FPAA	Sub-30/06/16	20.3(f)	Allowances - <i>In response to question posed by Commission:</i> Allowance is only payable to adults. For clarity, ED should define 'sprinkler fitter employee' and 'adult sprinkler fitter employee' (suggested definitions in submission)	Paras 28-31	
	BusSA	Sub-30/06/16		Apprentices are also entitled to this allowance (refers to clauses 18.2(b)(iii), 18.2(c)(iii)).	Para 5.2.5	
	ABI & NSWBC	Sub-1/07/16		Allowance is only payable to adults. This reflects provision at 21.1(g) of the current award.	Para 12.5	
	MPG	Sub-05/07/16		No, Clause 20.3(f) is payable to an apprentice, but only at the applicable apprentice "percentage"	Para 30	
	MPG	Reply-3/08/16		Maintains earlier submission.	Paras 58-69	

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	AWU	Sub-06/07/16		Submit both allowances are also payable to junior employees.	Para 16	
	AWU	Reply-8/08/16		Agree with CEPU and MPG that all apprentices receive allowance.	Paras 14-15	
	CEPU	Sub-11/07/16		Apprentices, whether adult or not, receive this allowance.	Pg 3	
	AIG	Reply-3/08/16		Agree with ABI and FPAA that clause is only payable to adults. No necessity to create definition as proposed by FPAA. Do not agree with submissions of AWU, CEPU and MPG as their proposals depart from conditions of current award.	Paras 18-21	
18	AWU	Sub-06/07/16	21.1 and 22.1	Overtime Inconsistency or ambiguity between the penalty and overtime rates for plumbing and mechanical services employees. Suggest the rate at clause 21.1 be amended to 200% at column 3, row 5.	Paras 17-20	Withdrawn. See corro-05/12/16 and Transcript-6Dec16 [PN409].
	BusSA	Reply-21/7/16		Disagree with AWU sub. Unclear how inconsistency arises based on the AWU's submission. Opposed to increasing penalty rate from 150% to 200% of the ordinary hourly rate. This would amount to a substantive variation.	Paras 6.10 and 6.17	
	MPG	Reply-3/08/16		Does not agree with AWU submission.	Paras 118-122	
	AIG	Reply-3/08/16		Does not agree with AWU submission. Terms of ED replicate terms of current award. AWU's proposed changes should not be adopted.	Para 18	
	ABI & NSWBC	Reply-4/08/16		Oppose submission of AWU. Proposed increase to Saturday night penalty would amount to substantive variation of current award. Agree with reply submission of BusSA.	Para 2	

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19	AIG	Sub-8/07/16	22.1	Weekend work Table needs to be amended to reflect that the penalty payable is on the minimum hourly rate of pay and not the ordinary hourly rate, consistent with the current award.	Para 258	
	BusSA	Reply-21/7/16		Agree with AIG sub.	Para 6.11	
20	ABI & NSWBC	Reply-4/08/16	22.2	Shiftwork Agree with submission of AIG. Current drafting in ED will lead to substantive change. Submit wording in current award should be retained.	Para 3	
21	AWU	Sub - 06/07/16	22.2(a)	Terms of engagement for shiftworkers is insufficient and missing vital information provided in the schedules to the award. Wording suggested in submission.	Paras 21-24	
	AIG	Sub - 08/07/16		This clause substantially changes entitlements from those in current award and propose that current provisions be retained. Wording "midnight on Sunday and midnight on Friday" should not be replaced with "Monday to Friday". Retain existing wording. Paragraph (a)(ii) of the ED provides a higher penalty than in current award. This needs to be corrected. Penalties should be paid on minimum hourly rate and not ordinary hourly rate in accordance with current award.	Paras 259-263	
	BusSA	Reply-21/7/16		Agree with AIG submission.	Para 6.12	

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	MPG	Reply-3/08/16		MPG have previously submitted a proposal for variation of Clause 22 – Penalty Rates of ED. Issues raised by the AWU and AIG should be dealt with at the same time as the Master Plumbers Group application.	Paras 123-125, 158-161	
	AIG	Reply-3/08/16		Maintains position in earlier submission. This is not an issue related to drafting and technical matters in ED.	Paras 28-29	
	ABI & NSWBC	Reply-4/08/16		Oppose submission of AWU. Proposed amendments amount to substantive change.	Para 4	
22	FPAA	Sub – 30/06/16	Schedule B.3	All purpose rates of pay – fire sprinkler fitting - In response to question posed by the Commission: Allowance is entitled ‘trade’. Apprentices are not ‘tradesman’. Allowance not payable to apprentices and adult apprentices.	Paras 35-37	
	BusSA	Sub – 30/06/16		References to the fire sprinkler fitting trade allowance in the table for apprentices and adult apprentices are appropriate, however more accurate reference must be made.	Para 5.2.6	
	NFIA	Sub – 05/07/16		Allowance applies to fire sprinkler fitting tradespersons only.	Pg 1	
	MPG	Sub – 05/07/16		Allowance is not payable to a fire sprinkler fitter apprentice.	Para 33	
	MPG	Reply-3/08/16		Maintains earlier submission.	Paras 70-80	
	CEPU	Sub – 11/07/16		This is an allowance for trades persons only.	Page 3	

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	AIG	Reply-3/08/16		Allowance should not be included in table for apprentices and adult apprentices. Aligns with submissions of FPAA, MPG, CEPU and NFIA. Do not agree with BusSA.	Paras 31-33	
	AWU	Reply-8/08/16		AWU agree with the majority that the allowance is not payable to apprentices and adult apprentices. Understand allowance not paid in accordance with reasoning provided by FPAA.	Para 16	
23	AIG	Sub – 08/07/16	Schedule C	<p>Summary of hourly rates – plumbing and mechanical services employees and irrigation installer employees</p> <p>The tables at C.1.6, C.1.7, D.1.6 and D.1.7 should reflect that the casual loading is calculated on the minimum hourly rate and not the ordinary rate.</p> <p>In tables C.1.6, C.1.7, D.1.6 and D.1.7 the penalty rates and shiftwork rates are calculated by adding them to the casual loading.</p>	Paras 264-265	
	MPG	Reply-3/08/16		<p>Supportive of AIG contention, however no necessity for making the change proposed by AIG, as the words provided in ED do no more or less than current award.</p> <p>Disagrees with AIG second submission on this clause regarding calculations in Tables C.1.6, C.1.7, D.1.6 and D.1.7.</p>	Paras 162-176	

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24	AWU	Sub – 06/07/16	Schedule E	Summary of hourly rates of pay - apprentices Shift work rates are missing from this schedule for apprentice hourly rates and should be included.	Para 25	
	AIG	Reply–3/08/16		Does not support inclusion of shift work rates for apprentices as proposed by AWU on basis it is not necessary.	Para 30	
	MPG	Reply–3/08/16		Agree with AWU submission.	Paras 126-127	
25	MPMCA	Sub – 30/06/16	Sched H.2	Peak Sports Apprenticeships <i>In response to question posed by the Commission:</i> List is current and meets the intent of the original proposal to establish the category of such an apprenticeship.	Paras 13-14	
	MPG	Sub – 05/07/16		The list of Peak Sports Bodies would accord with types of organisations that could be considered to be a Peak Sports Body.	Para 34	
	MPG	Reply–3/08/16		List is accurate and should not be changed.	Paras 81-91	
	CEPU	Sub – 11/07/16		Believes this list to be up to date.	Page 3	
26	MPG	Sub – 05/07/16	Sched I	Coverage (Training programs) Training for a plumber remains fundamentally the same as it was in 1997 in that the only way to become a registered plumber is through an apprenticeship.	Para 35	
	MPG	Reply–3/08/16		Schedule is accurate and up to date and should not be changed.	Paras 92-102	
	CEPU	Sub – 11/07/16		The only training to become a registered plumber is that of an apprenticeship. This has not changed since 1997.	Page 3	

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27	MPG	Sub – 05/07/16	Sched I	National Training Wage – allocation of traineeships to wage levels The only applicable training package is the ‘Construction, Plumbing and Services Integrated Framework’. However, current training package is titled, ‘Construction, Plumbing and Services Training Package’. All other references could be deleted from table.	Para 36	
	MPG	Reply-3/08/16		Support submissions of CEPU however maintain that the remaining packages be deleted as they do no work in this award. Acknowledge that a standard NTW clause may be inserted into all awards.	Paras 103-113	
	CEPU	Sub – 11/07/16		The packages listed in Schedule I generally do not apply to Plumbing or Fire Sprinkler Work. "Construction, Plumbing and Services Integrated Framework" is applicable although the Training package might be worded a bit differently.	Page 4	
28	FPAA	Sub-30/06/16	N/A	Proposed Clause - Shiftwork Propose putting ‘shift work’ clause into Award.	Paras 32-34	
	BusSA	Reply-21/7/16		This would be a substantive change. Opposed by BusSA.	Paras 6.1 and 6.13	
	AIG	Reply-3/08/16		Does not agree with FPAA submission. Separate clause not necessary.	Para 34	
	AWU	Reply-8/08/16		Agree with FPAA.	Para 17	

List of abbreviations (in alphabetical order)

ABI&NSWBC	Australian Business Industrial and NSW Business Chamber Ltd
AIG	Australian Industry Group
AWU	The Australian Workers' Union
BusSA	Business SA, the Chamber of Commerce and Industry South Australia
CEPU	Plumbing Trades Employees Union
ED	Exposure draft
FPAA	Fire Protection Association Australia
HBG	Hall and Baum Group
MPG	Master Plumbers Group
MPMCA	The Master Plumbers and Mechanical Contractors Association of NSW
NFIA	National Fire Industry Association