



# DECISION

*Fair Work Act 2009*

s.216AA - Application by an employer for approval of a variation of a supported bargaining agreement to add employer and employees

## **Worden Family Trust Trading As Tea Tree Gully Childcare Centre and Others**

(B2025/1527, B2025/1581, B2025/1587, B2025/1598, B2025/1599, B2025/1600, B2025/1601, B2025/1603)

## **Early Childhood Education and Care Multi-Employer Agreement 2024-2026**

Children's services

DEPUTY PRESIDENT WRIGHT

SYDNEY, 28 OCTOBER 2025

*Applications for variation of the Early Childhood Education and Care Multi-Employer Agreement 2024-2026*

[1] This matter concerns 8 applications for the approval of variations to the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* (**ECEC Agreement**) to add the respective employers, and their relevant employees, to its coverage. The details of each application, the relevant employers (**applicant employers**) and associated matter numbers are set out at Annexure A to this decision.

[2] The applications have been made under s.216AA of the *Fair Work Act 2009* (**FW Act**).

[3] The applicant employers are all engaged in the early childhood education and care (**ECEC**) sector. A similar batch of s.216AA applications concerning the ECEC Agreement was determined by the Commission in January 2025 with the decision<sup>1</sup> (*January 2025 variations decision*) approving some 33 variations. Further, a secondary decision<sup>2</sup> (*March 2025 variations decision*) was published on 18 March 2025 approving 136 variations. A series of other decisions have now followed.

[4] I have considered and determined these applications together for convenience. However, each has been assessed on its own merits having regard to the relevant supporting evidence and materials.

[5] Each applicant employer has made the application on the basis that a variation has been agreed with their relevant employees to include them in the coverage of the ECEC Agreement. The United Workers' Union (**UWU**) have countersigned a variation, and no concerns with any

of the applications have been raised by the UWU, the Independent Education Union of Australia or the Australian Education Union.<sup>3</sup>

[6] To the extent that the applications as originally made contained minor errors or omissions, I have waived the irregularities. Where this involved an issue with the variation itself, such as the variation not being signed as required or an incorrect entity reference, I have given leave under s.586(a) of the FW Act to amend the application to substitute the corrected documents. In some limited cases, I have also sought clarifying or confirming documentation or information to assist with the assessment of the relevant approval requirements.

[7] Under the FW Act, the variations have no effect unless approved by the Commission,<sup>4</sup> and these applications seek that approval. In all of the circumstances I have dealt with these matters without holding a hearing.

[8] The scheme of the FW Act, and its provisions relevant to these matters, were all comprehensively set out and discussed in the *January 2025 variations decision* and the *March 2025 variations decision*. I need not repeat that here; however, what follows should be read in conjunction with these earlier decisions. See also the *National Practice Leader's Statement* concerning applications of this kind issued by Deputy President Hampton on 30 April 2025.<sup>5</sup>

[9] Having considered the applications, I have determined to approve each of the variations that are now set out in this decision. That approval and my reasons for doing so, including briefly confirming my satisfaction with the various relevant statutory requirements and considerations, are set out below.

### **The making of the variations – s.216A, s.216AAA and s.216AB(1)(b)**

[10] Each of the applicant employers in this matter have agreed to a joint variation with their affected employees. The employees have approved the variations by a majority or unanimous vote in each case, via a proper ballot or vote of employees. In most cases the ballots were conducted by an independent ballot agent. In one application, less formal voting arrangements were applied; however, in each case I am ultimately satisfied that proper processes were utilised.

[11] The FW Act also requires that before an employer requests the employees to approve the proposed variation, it must take all reasonable steps to ensure that the terms of the agreement as proposed to be varied, and the effect of those terms, are explained to the affected employees and that the explanation is provided in an appropriate manner taking into account the circumstances and needs of the employees.<sup>6</sup> The FW Act also provides some examples of the kinds of employees whose circumstances and needs are to be taken into account.<sup>7</sup>

[12] The material provided with each of the applications supports a finding that these requirements have been met. The measures undertaken included the provision of comprehensive and accurate written explanations of the effect of the variation; and access to all relevant documents (including the ECEC Agreement, the relevant safety net modern awards and information about the Early Childhood Education and Care Worker Retention Payment (EWRP), in most cases both in hard copy and via electronic links.

[13] The variation in each case has been made under the relevant terms of the FW Act.<sup>8</sup>

### **The making of the applications – s.216AA**

[14] The applications were made within 14 days after the variations were made.

[15] Section 216AA(2)(b) requires that the application be accompanied by “a copy of the agreement as proposed to be varied.” The applicant employers have ultimately provided a copy of the ECEC Agreement and the relevant variation, which is, in effect, an additional page confirming their addition to the coverage consistent with the schedule of employers within the Agreement – Part G. Accordingly, on any view, a copy of the agreement as proposed to be varied was provided with the applications.

[16] The variations have been signed as required by the FW Act and *Fair Work Regulations 2009 (Regulations)*. As stated earlier, in one application, the UWU represented the employees and signed the variation on their behalf. In others, an identified employee representative, who would be covered by the ECEC Agreement if the variation is approved, has signed the variation consistent with regulation 2.10B of the Regulations.

[17] The applications (as amended where required) are all validly made. This meets the requirements of s.216AA of the FW Act.

### **The other approval requirements – s.216AB**

#### **Consistency with the supported bargaining authorisation requirements**

[18] The Commission must approve the variation if it is satisfied (amongst other requirements and exceptions) that it would have been required to make a supported bargaining authorisation under s.243 and s.243A of the FW Act. These requirements are modified by s.216AC to remove any reference to an authorisation application being made and to remove certain other considerations from s.243(1)(b).<sup>9</sup>

[19] Without being definitive, this means in effect that the Commission must consider whether it is appropriate for the applicant employers and their affected employees to bargain together with (join) the existing covered employers and their relevant employees, by being added to the agreement made by them, having regard to:

- The prevailing pay and conditions within the relevant industry or sector (including whether low rates of pay prevail in the industry or sector) – s.243(1)(b)(i);
- Whether the employers have clearly identifiable common interests – s.243(1)(b)(ii);  
and
- Any other matter considered appropriate – s.243(1)(b)(iv).

[20] Further, the Commission must not approve a variation where an employer to be covered is already covered by a single-enterprise agreement that has not passed its nominal expiry date,

unless it is satisfied that the employer's main intention in making the agreement was to avoid being specified in a supported bargaining authorisation – ss.243A(1) and (3).

[21] The evidence before the Commission is consistent with the notion that the circumstances of the applicant employers and their affected employees are harmonious with those found by the Full Bench in making the relevant authorisation. This includes the prevailing pay and conditions and the existence of relevant common interests. In that light, I will not in this decision set out detailed findings about these matters. Having considered all of the circumstances of each application, I am readily satisfied that s.216AB(1)(a) has been met in each case.

[22] I also note that each of the applicant employers has confirmed to the Commission that they have already applied for, or will do so within a stated period, the EWRP grant funding from the Commonwealth Government.<sup>10</sup>

[23] There are no relevant single-enterprise agreements applying to the parties and this means that the restriction in s.243A(1) does not apply.

**Has each variation been genuinely agreed to by the majority of affected employees in accordance with s.216AB(1)(b) and s.216AD of the FW Act?**

[24] As cited earlier, each of the variations have been approved by a majority of valid votes cast by the affected employees at each employer. This meets the requirements of s.216AB(1)(b).

[25] Section 216AD provides, in effect, that the Commission must apply the terms of s.188 with the stated modifications in its assessment as to whether each variation has been genuinely agreed. In applying these requirements, I have adopted an approach that is consistent with that taken in the earlier decisions of the Commission.<sup>11</sup>

[26] In all of these matters, I have found that the variation in each case has been genuinely agreed. Accordingly, I am also satisfied that the requirements of s.216AB(1)(c) of the FW Act have been met.

**General building and construction work**

[27] Section 216AB(2) of the FW Act prevents a variation of this kind being approved if it were to cover employees in the general building and construction industry. The variations include only employees of a kind who are already covered by the ECEC Agreement and its facilitating authorisation,<sup>12</sup> and the variations may be approved.

**Any existing single interest authorisation**

[28] Section 216AB(3) of the FW Act prevents a variation of this kind being approved if the employer concerned is already specified in a single interest employer authorisation.

[29] This does not apply to any of the applicant employers.

[30] These findings collectively meet the requirements of s.216AB of the FW Act.

## **Other considerations – s.216AE**

[31] Section 216AE of the FW Act provides a (further) discretionary basis to refuse the approval of a variation of this kind. This applies where the Commission considers that compliance with the terms of the agreement may result in a person:

- committing an offence against a law of the Commonwealth; or
- being liable to pay a pecuniary penalty in relation to a contravention of such a law.

[32] The variation in each case is to join an existing approved enterprise agreement following a process consistent with the terms of the FW Act. There is no basis for any finding as contemplated by s.216AE in these matters.

## **Conclusions and approvals**

[33] Given my satisfaction with all of the relevant requirements, and having assessed the related considerations, I am required to approve each of the variations.

[34] The variations are approved and attached to this decision as Annexure B.

[35] The Commission has a discretion under s.216AF of the FW Act to determine the date of effect of the variations. In the absence of contrary proposals, the variations in this matter will operate from today (28 October 2025).

[36] In conclusion, I observe that with these approved variations, the ECEC Agreement now covers some 516 employers and over 45,800 employees.



DEPUTY PRESIDENT

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## ANNEXURE A

**Applicants and Matter Numbers**

<b>Matter Number</b>	<b>Business name</b>	<b>Trading name</b>
B2025/1527	Worden Family Trust	Tea Tree Gully Childcare Centre
B2025/1581	St Paul's Children Centre Inc	St Paul's Children Centre
B2025/1587	MEL JV Trading Hawthorn East Pty Ltd	Maples Early Learning – Hawthorn East
B2025/1598	Joey's Pouch Early Years Educational and Preschool Centre Inc	
B2025/1599	Hastings Pre School and Long Day Care Centre Inc	Hastings Preschool and Long Day Care Centre
B2025/1600	The Trustee for Lead Early Learning Centres Trust	Lead Early Learning Centre St Ives
B2025/1601	Cobar Developments Pty Ltd	Collaroy Plateau Preschool Stellar Start
B2025/1603	Wee Watch Pty Ltd	Rosebery Cottage

## ANNEXURE B

## Variations

## DOCUMENT 1: Proposed variation

### Proposed variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026*

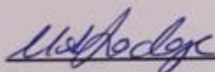
Pursuant to section 216A of the *Fair Work Act 2009* (Cth), the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* be varied by inserting into Part G of the Agreement the following:

Business name	Trading name	Address	ABN/ACN
Worden Family Trust	Tea Tree Gully Childcare Centre	1220 North Est Road, St Agnes SA 5097	ABN 69 917 393 094

### Signatures

#### Employer/Employer representative

I am authorised to sign this Variation on behalf of the Employer listed in the Variation



Signature

Michelle Lodge

Full Name

Office Manager/owner

Title/Authority to Sign

1220 North East Road, St. Agnes SA 5097

Address (including State and Postcode)

**United Workers Union**

On behalf of employees



Signature

**Larissa Harrison**

Full Name

**Director, UWU**

Title/Authority to Sign

**101 Henley Beach Road, MILE END SA 5031**

Address (including State and Postcode)

## Proposed Variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026*

Pursuant to section 216A of the *Fair Work Act 2009* (Cth), do you approve the proposed variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* by inserting into Part G of the Agreement the following:

Business name	Centre name and address	ABN/ACN
St Paul's Children Centre Inc	St Paul's Children Centre, 57 Princes Highway, Kogarah, NSW, 2217	ABN: 38587617153

## Signatures

### Employer Representative

I am authorised to sign this variation on behalf of the Employer listed in the variation



Signature

Yun Li

Full Name

Director

Job Title

B501/1 Link Road, Zetland NSW 2017

Address (including State and Postcode)

**Employee Representative**

I am an affected employee and am acting as the representative to sign the variation in accordance with Regulation 2.10B of the Fair Work Act Regulations 2009.

yu cheng kao  
Signature

yu cheng kao.  
Full Name

Educator .  
Job Title

a 303 / 8 Bourke St Mascot NSW 2020 .  
Address (including State and Postcode)

## Proposed Variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026*

Pursuant to section 216A of the *Fair Work Act 2009* (Cth), do you approve the proposed variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* by inserting into Part G of the Agreement the following:

Business name	Centre name and address	ABN/ACN
MEL JV TRADING HAWTHORN EAST PTY LTD	Maples Early Learning - Hawthorn East, 760 Toorak Road, Hawthorn East, VIC, 3123	ABN: 54682889630  ACN: 682889630

## Signatures

### Employer Representative

I am authorised to sign this variation on behalf of the Employer listed in the variation



Signature

JARROD MACDONALD

Full Name

MANAGING DIRECTOR

Job Title

19 BATEMAN STREET ATTWOOD  
VIC 3049

Address (including State and Postcode)

**Employee Representative**

I am an affected employee and am acting as the representative to sign the variation in accordance with Regulation 2.10B of the Fair Work Act Regulations 2009.

  
\_\_\_\_\_  
Signature

*Elizabeth Dickut*  
\_\_\_\_\_  
Full Name

*Director*  
\_\_\_\_\_  
Job Title

*17 William Street, Hawthorn 3122 VIC*  
\_\_\_\_\_  
Address (including State and Postcode)

## Proposed Variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026*

Pursuant to section 216A of the *Fair Work Act 2009* (Cth), the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* be varied by inserting into Part G of the Agreement the following:

Business name	Centre name and address	ABN/ACN
JOEY'S POUCH EARLY YEARS EDUCATIONAL AND PRESCHOOL CENTRE INC	Joey's Pouch Early Years Educational and Preschool Centre Inc 40 Ewing Street Murwillumbah NSW 2484	95 658 150 146

## Signatures

### Employer Representative

I am authorised to sign this variation on behalf of the Employer listed in the variation



Signature



Full Name

Amy Lee Baker

Title

President

Address (including State and Postcode)

c/-40 Ewing Street Murwillumbah NSW 2484

**Employee Representative**

I am an affected employee and am acting as the representative to sign the variation in accordance with Regulation 2.10B of the Fair Work Act Regulations 2009.



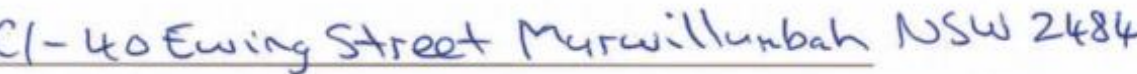
Signature



Full Name



Title



Address (including State and Postcode)

## Proposed Variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026*

Pursuant to section 216A of the *Fair Work Act 2009* (Cth), the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* be varied by inserting into Part G of the Agreement the following:

Business name	Centre name and address	ABN/ACN
HASTINGS PRE SCHOOL AND LONG DAY CARE CENTRE INC	HASTINGS PRESCHOOL AND LONG DAY CARE CENTRE 12 Muston Street Port Macquarie NSW 2444	49 280 641 550

## Signatures

### Employer Representative

I am authorised to sign this variation on behalf of the Employer listed in the variation

YES

Signature



Full Name

DONNA ANNE ELLEM

Title

~~SECONDARY TEACHER~~ Committee Secretary

Address (including State and Postcode)

183 THE BULKHEAD, PORT MACQUARIE NSW 2444

**Employee Representative**

I am an affected employee and am acting as the representative to sign the variation in accordance with Regulation 2.10B of the Fair Work Act Regulations 2009.



Signature

Full Name

Cassandra Lucas

Title

Early Childhood Teacher

Address (including State and Postcode)

72 Explorers Way  
Lake Cathie, NSW, 2445

## Proposed Variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026*

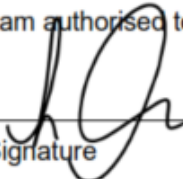
Pursuant to section 216A of the *Fair Work Act 2009* (Cth), the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* be varied by inserting into Part G of the Agreement the following:

Business name	Centre name and address	ABN/ACN
The Trustee for Lead Early Learning Centres Trust	LEAD EARLY LEARNING CENTRE ST IVES  75 Killeaton Street  St Ives  NSW 2075	23 624 705 419

## Signatures

### Employer Representative

I am authorised to sign this variation on behalf of the Employer listed in the variation

  
\_\_\_\_\_  
Signature

Leanne Jundi  
\_\_\_\_\_

Full Name

Approved Provider  
\_\_\_\_\_

Title

25 Birdwood Road Georges Hall NSW 2198  
\_\_\_\_\_

Address (including State and Postcode)  
\_\_\_\_\_

**Employee Representative**

I am an affected employee and am acting as the representative to sign the variation in accordance with Regulation 2.10B of the Fair Work Act Regulations 2009.



---

Signature

Saveurn Prak

---

Full Name

Centre Manager

---

Title

104a arbutus street Canley heights NSW 2166

---

Address (including State and Postcode)

## Proposed Variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026*

Pursuant to section 216A of the *Fair Work Act 2009* (Cth), the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* be varied by inserting into Part G of the Agreement the following:

Business name	Centre name and address	ABN/ACN
COBAR DEVELOPMENTS PTY LTD	Collaroy Plateau Preschool	96 615 732 664
	38a Stella Street Collaroy Plateau NSW 2097	615 732 664
	Stellar Start	
	26 Plateau Road Collaroy Plateau NSW 2097	

## Signatures

### Employer Representative

I am authorised to sign this variation on behalf of the Employer listed in the variation



Signature

David Williams

Full Name

Director

Title

29 Acacia St Collaroy Plateau NSW 2097

Address (including State and Postcode)

**Employee Representative**

I am an affected employee and am acting as the representative to sign the variation in accordance with Regulation 2.10B of the Fair Work Act Regulations 2009.



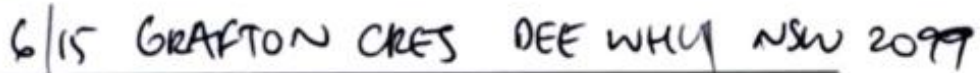
Signature



Full Name



Title



Address (including State and Postcode)

## Proposed Variation of the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026*

Pursuant to section 216A of the *Fair Work Act 2009* (Cth), the *Early Childhood Education and Care Multi-Employer Agreement 2024-2026* be varied by inserting into Part G of the Agreement the following:

Business name	Centre name and address	ABN/ACN
WEE WATCH PTY LTD	ROSEBERY COTTAGE 101 Rothschild Ave Rosebery NSW 2018	95 069 973 306

## Signatures

### Employer Representative

I am authorised to sign this variation on behalf of the Employer listed in the variation

  
\_\_\_\_\_  
Signature

Mirjana Cross  
\_\_\_\_\_  
Full Name

Early Childhood Teacher  
\_\_\_\_\_  
Title

39 Shaw Ave  
\_\_\_\_\_  
Address (including State and Postcode)

Kingsford NSW 2032  
\_\_\_\_\_  
Address (including State and Postcode)

**Employee Representative**

I am an affected employee and am acting as the representative to sign the variation in accordance with Regulation 2.10B of the Fair Work Act Regulations 2009.



Signature

Nataliya Potipako

Full Name

Educational leader

Title

99/22-24 Wassell St Matraville 2036 NSW

Address (including State and Postcode)

---

<sup>1</sup> [\[2025\] FWCA 282](#), issued on 28 January 2025.

<sup>2</sup> [\[2025\] FWCA 523](#), issued on 18 March 2025.

<sup>3</sup> These three organisations are covered by the ECEC Agreement and are default bargaining representatives.

<sup>4</sup> Section 216A(5) of the FW Act.

<sup>5</sup> [\[2025\] FWC 1179](#).

<sup>6</sup> Section 216AAA(1) of the FW Act.

<sup>7</sup> Section 216AAA(2) of the FW Act.

<sup>8</sup> Section 216A(4) of the FW Act.

<sup>9</sup> See *March 2025 variations decision* at [35], [36].

<sup>10</sup> See the *January 2025 variations decision* at [46] to [56].

<sup>11</sup> See *March 2025 variations decision* at [44] to [55].

<sup>12</sup> [\[2023\] FWCFB 176](#) at [60].