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Our Ref: NK: 1410029

Associate to Vice President Hatcher
Fair Work Commission
80 William Street
EAST SYDNEY NSW 2011

Email: chambers.hatcher.vp@fwc.gov.au

Dear Associate,

**RE: AM2014/196 & 197 – 4 YEARLY REVIEW OF MODERN AWARDS –
COMMON ISSUES – CASUAL AND PART-TIME EMPLOYMENT
MARINE TOWAGE AWARD 2010**

We are the solicitors for the Maritime Union of Australia.

We refer to the statement of the Full Bench issued 22 December 2017 ([2017] FWCFB 6776). Attached to that statement was a draft determination varying the Marine Towage Award 2010.

We submit that the minimum engagement period for casual employees employed under the Marine Towage Award 2010 be set at 1 day for the following reasons:

1. The view expressed by the Full Bench in [2017] FWCFB 3541 at [408] is only a preliminary view and the Full Bench invited interested parties to provide submissions concerning the preliminary view;
2. The predecessors to the Marine Towage Award 2010 were the Tug and Barge Industry (Interim) Award 2002 and the Tugboat Industry Award 1999.
3. Clause 11.2.1 of the Tug and Barge Industry (Interim) Award 2002 provided:

11.2.1 Casual employees engaged for a period of less than seven days continuously will be paid the same rate of rate of pay per day as full-time employees plus 25% loading in lieu of leave. For the purposes of

PRINCIPALS:

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this clause one days' rate of pay means 1/7th of the rate of pay for the relevant classification.

4. Clause 8.3 of the Tugboat Industry Award 1999 provided:

8.3 Casual employment

A casual employee is to be employed on a daily basis.

5. Clause 9.6 of the Tugboat Industry Award 1999 provided:

9.6 Casual rates of pay

Casual employees will be paid at the rate of 1/7th of the appropriate weekly rate plus 20% loading in lieu of leave. However, a casual employee engaged to relieve another employee at the request of the latter will be entitled for each day worked to payment at the rate of 1/7th of the weekly rate.

6. The Full Bench in making the Marine Towage Award 2010 determined that minimum rates be set by reference to a minimum daily rate rather than a minimum hourly rate. (see clause 13.1)

In keeping with the historical context of the Marine Towage Award 2010 and the manner in which minimum rates under the award are set the Full Bench should amend the draft determination so that the new clause 10.3(d) reads:

- (d) The minimum period of engagement for a casual employees is 1 day.

Yours faithfully,

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