DRAFT SUMMARY OF SUBMISSIONS – PLAIN LANGUAGE AMENDMENTS TO EXPOSURE DRAFTS

The example plain language light-touch exposure draft (example PLLT-ED) based on the Gardening and Landscaping Services Award exposure draft was published on 18 April 2019 along with a Statement [2019] FWC 2698 setting out the next steps.

A conference was held on 29 April 2019 and parties were asked to comment on the example PLLT-ED by 4.00pm, 9 May 2019. This summary incorporates submissions and reply submissions received in relation to the example PLLT-ED.

Interested parties are invited to review the draft summary of submissions to ensure their submissions are accurately characterised. If any party seeks an amendment to this draft summary of submissions they should notify amod@fwc.gov.au by 4.00pm, Thursday 23 May 2019.

ITEM	PARTY	DOCUMENT	DOC REF	SUMMARY OF ISSUE	NOTES
General	CFMMEU – C&G	Sub – 09/05/19	Para 3	Supports submission of CFMMEU – MD (2/5/19).	
	CFMMEU – M&E	Sub – 09/05/19	Para 2	Substantially relies on and adopts submissions of CFMMEU – MD (2/5/19) and CFMMEU – C&G (9/5/19).	
	ANMF	Sub – 09/05/19	Para 2	Agrees with CFMMEU – MD submission.	
	HIA	Sub – 09/05/19	Page 1	Notes that Construction Group of Awards will not go through the PLLT process until the substantive issues in the Construction Awards have been finalised. HIA provides comment in relation to the PLLT-ED in light of the potential for the highlighted changes to flow through to the Construction Group of Awards.	
	HSU	Sub – 09/05/19	Page 1	Supports and adopts submissions of CFMMEU –	

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	National			MD (2/5/19) and ANMF (9/5/19).	
	ABI	Sub – 09/05/19	Point 8	Supports a very confined roll out of the PLLT process – conscious of unintended consequences which can arise from even the most innocuous of drafting changes. Submits that further application of the PLLT process to other EDs should be confined to drafting features such as headings, archaic language. Asks that parties have the opportunity to comment on each ED.	
	FAAA	Sub – 09/05/19	Para 2	Only recently re-engaged with the Award review process – they are comfortable not to seek to expand the scope of the process. Assessed at least 12 distinct entitlements to consider in detail; not just in relation to the history of the entitlement in the *Aircraft Cabin Crew Award 2010* but also in relation to the history of the entitlements before the review. Reserve their position until after the PLLT-ED is published. Seek 6 weeks after the PLLT-ED is published to provide further submissions.	
	CFMMEU – MD	Sub – 10/05/19	Paras 3 – 5	Further to 2/5/19 submission, supports and adopt the additional matters raised in submissions of CFMMEU – M&E (9/5/19) and CFMMEU – C&G (9/5/19).	

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	Ai Group	Sub – 09/05/19	Paras 79 – 86	Continues to rely on April 2019 conference comments that Commission should exercise as light a touch as possible in order to avoid unforeseen substantive amendments to modern awards. Concerned that if a further substantial redrafting process occurs, parties will not have resources to devote to undertaking further reviews as comprehensively as may be necessary. Concerned that substantive variations may occur and awards may be amended in a manner not contemplated by s.138 nor in keeping with s.134. Request a very limited approach be taken when applying plain language drafting principles and Hospitality, Restaurant and Retail PLED wording across the system – note that award-specific matters will need to be taken into consideration. Submit that re-drafting process should be confined to making structural amendments, inserting standard clauses and relevant key decisions of common relevance. Notes that interested parties do not appear to have accepted Commission's invitation to identify clauses that require redrafting. Request the Commission continue to release all drafts in tracked-changes format and with tables identifying the basis for the changes.	
1	ANMF	Sub – 09/05/19	Para 3	**Clause 2 (Definitions – lead in words)** Re deleted text 'In this award~~, unless the contrary~~	

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				~~intention appears'.~~ Submits that the text is current in Nurses Award and Aged Care Award and removing the text could have unintentional consequences in terms of the meaning of award clauses. Submits this goes beyond a more technical change.	
2	CFMMEU – C&G	Sub – 09/05/19	Para 4	**Clause 2 (Definitions – training agreement)** Not clear where definition originates from. Submits new definition of 'training agreement' is inconsistent with other awards where 'training contract' or 'contract of training' is normally used and is not as precise. Submits it preferable to have consistent terminology across award and suggests the following: 'training contract or contract of training means an approved agreement for training registered with the appropriate State or Territory training authority or under the provisions of the appropriate State or Territory training legislation'.	
3	CFMMEU – MD	Sub – 02/05/19	Paras 3 – 6	**Clause 3 (The NES and this award)** 3.1 states 'The NES and this award contain the minimum conditions…" and 3.2 states 'The minimum conditions relate…" then only lists all the NES matters. Submit that 'minimum conditions' include the NES and award conditions not just the NES as indicated	

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				in 3.1. Suggest amending 3.2 to read 'The minimum conditions of the NES relate…".	
	ABI	Sub – 09/05/19	Point 2	3.1 states that the NES and the Award contain the minimum conditions of employment and 3.2 contains a list of minimum conditions which originate from the NEW, but does not contain a reference to that source. Submits that to clarify that minimum conditions come from both the Award and the NES, 3.2 should be amended. Suggest "The minimum conditions in the NES relate to the following matters …"	
4	Ai Group	Sub – 09/05/19	Paras 69 – 78	**Clause 4 (Coverage – cross-references in 4.4 and 4.5)** Notes that Commission proposed to amend coverage clauses dealing with on-hire employees and group training services to refer to the relevant industry as opposed to a clause reference. Submits that clauses to be inserted into particular awards will need to be tailored to take into account: • Some awards have occupational rather than industrial coverage; • Some awards have both industry and occupational coverage; and • Many award cover group apprentices as well as group trainees.	

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				Submits that wording in 4.4(b) constitutes a substantive amendment from wording in current 4.5 – the award does not currently refer to the host of apprentices and trainees as an 'employer'. Referring to a 'host' business as an 'employer' may inappropriately imply an employment relationship between the apprentice/trainee and the host business. Also submits that the sentence at the end of each of current 4.4 and 4.5 is missing from proposed 4.4. Submits that due to this omission, ambiguity potentially arises concerning the application of exclusions not contained within the definition of the industry. Notes that they made submission when 'on-hire' clauses were being developed and emphasised the importance of including the sentence in the model clause. Proposes that 4.4 be amended to excise any reference to a 'host' participating in a group training scheme being an 'employer'. Proposes that 4.4 be amended to include the following to ensure all exclusions in the Award not contained in 4.2 apply to on-hire employees and apprentices/trainees for a 'host' pursuant to a group training sheme: 'This clause operates subject to the exclusions from coverage in this award.'	
5	CFMMEU –	Sub – 09/05/19	Para 5	**Clause 4.5 (Coverage)**	

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	C&G			Clause 4.5(b) and (c) still refer to 'enterprise instrument' and 'state reference public sector transitional award'. Submit that neither type of instrument have any application so wording should be deleted.	
6	Ai Group	Sub – 09/05/19	Paras 44 – 47	**Clause 7 (Facilitative provisions for flexible working practices)** Submits that amendment to heading of clause 7 is too similar to clause 6 heading and may cause readers to conflate the 'flexible working practices' in clause 7 with 'requests for flexible working arrangements' Proposes amending the heading as follows: 'Facilitative provisions ~~for flexible working practices~~'	
7	CFMMEU – MD	Sub – 02/05/19	Paras 7 – 10	**Clause 10.1 (Part-time employment)** In 10.1 there has been a change of expression from 'pro-rata' to 'proportionate basis' Submit that two expressions may have similar meaning in common terms but 'pro-rata' has traditionally been used in a legal and industrial context Submit that the term is commonly understood by industry participants as it applies to the conditions of employment for part-time employees in particular Concerned that replacement of term with	

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				'proportionate basis' may cause confusion amongst some readers Submit that 'pro-rata' be retained	
	ABI	Sub – 09/05/19	Point 3.1 – 3.4	Submits it is not accurate to assert that part-time employees receive proportionate pay and conditions to those enjoyed by full-time employees. Refers to para [14] in [2018] FWCFB 5986. Notes that issue has been referred to a separate Full Bench in Health Professionals and Horse & Greyhound Training. Proposes that drafting of the clause be reviewed after the Full Bench has determined the matter.	
8	CFMMEU – C&G	Sub – 09/05/19	Para 6	**Clause 10.3 (Part-time employment)** 10.3 word 'mutual' has been deleted. Submits that inclusion of the work is important to make clear that the agreement must be by consent and made without coercion. Submits that the word should be re-instated	
9	ABI	Sub – 09/05/19	Point 3.5	**Clause 10.4 (Part-time employment)** Cross-reference to clause 17 missing the word 'rates'.	
10	HIA	Sub – 09/05/19	Para 1	**Clause 11.2 (Casual employment)** Concerned that the removal of the words 'minimum period of engagement' and replacement with 'consecutive' may have unintended consequences	

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				given the different meaning of the words, and the general common understanding of 'minimum period of engagement'. Recommends that 11.2 read 'A casual employee is entitled to a minimum period of engagement of 3 hours'.	
11	CFMMEU – C&G	Sub – 09/05/19	Para 7	**Clause 11.4 (Casual employment)** Incorrect references in 11.4(n), (o) ad (p) to 'clause 8.6'. Should be to 'clause 11.4'. Incorrect references in 11.4(r) to 'clause 11.4(r)'. Should be to 'clause 11.4(q)'.	
12	CFMMEU – C&G	Sub – 09/05/19	Para 8	**Clause 12 (Apprentices)** Note that majority of clause is new and appears to reflect Hospitality PLED clause. Does not support the clause and notes that many awards contain more detailed clauses dealing with apprentices conditions of employment. Any re-drafting should be on award-by-award basis.	
	Ai Group	Sub – 09/05/19	Paras 6 – 7	Do not oppose moving conditions applicable to apprentices from Wages and Allowances to Types of Employment and Classification. Submits that a number of amendments will have a substantive impact on entitlements and employee obligations. Submits that many of the apprentice provisions were the product of recent detailed consideration	

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				and should not be altered lightly.	
13	Ai Group	Sub – 09/05/19	Paras 7 – 12	**Clauses 12.1 and 12.2 (Apprentices)** Note that 12.1 and 12.2 do not have an equivalent in either the most recent ED or the current award. 12.1 is not problematic. 12.2 appears to impose a new award derived obligation on employers to engage apprentices in accordance with State or Territory apprentices legislation. Submits necessity or merit for new requirement is not apparent; it is a substantive variation to entitlements and may have unintended consequences. Submits 12.2 should be deleted Submits that a number of amendments will have a substantive impact on entitlements and employee obligations. Submits that many of the apprentice provisions were the product of recent detailed consideration and should not be altered lightly.	
14	Ai Group	Sub – 09/05/19	Paras 13 – 16	**Clause 12.6(a) and (b) (Apprentices – Training)** 12.6(a) and 12.6(b) both constitute substantive amendments to the Gardening ED as it does not currently provide for an employee's attendance at an assessment without loss of continuity of employment and does not provide for payment for	

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				time spend in attendance at an assessment. Propose that 12.6(a) and 12.6(b) be amended to reflect existing entitlements as provided in 10.5(j)(i) and (ii) of current ED.	
15	Ai Group	Sub – 09/05/19	Para 20	**Clause 12.6(c) and (d) (Apprentices – Training – reimbursement of fees and textbooks)** Notes that PLLT-ED has not retained a clause equivalent to 10.5(i) of the current ED which allows an employer to meet its obligations re course fees and materials by paying relevant fees and costs directly the RTO. Submits 10.5(i) or an equivalent should be retained.	
16	HIA	Sub – 09/05/19	Paras 11 – 14	**Clause 12.6(c) (Apprentices – Training – payment directly to RTO)** 12.6(c) removes the capacity of employers meeting their reimbursement obligations by making payment of fees and textbook cost directly to the RTO (see 14.5(f) of current award). Notes that Onsite and Joinery awards include the capacity for the employer to pay costs directly to the RTO. The 2013 FB Decision re apprentices, trainees and juniors at para 357 made clear that payment directly to RTO satisfies an award reimbursement requirement. Recommends the continued inclusion of the term through insertion of the following at 12.6(f): '(f) An employer may meet its obligations under	

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				cluse 14.5(e) by paying any fees and/or cost of textbooks directly to the RTO.'	
	Ai Group	Sub – 09/05/19	Para 17	Submits that employer's liability should be by reference to fees charged by' a RTO as opposed to fees 'paid by an apprentice themselves'. Submits that proposed clause 12.6(c) should reflect 10.5(f)(i) in the current ED as difficulties may arise in circumstances where the relevant amounts are paid by someone other than the apprentice (eg. a parent).	
17	HIA	Sub – 09/05/19	Paras 6 – 10	**Clause 12.6(c) (Apprentices – Training – reimbursement of fees and textbooks)** Notes the word 'prescribed' before 'course' and 'textbook' has been removed; potentially widens the scope of reimbursement of course and textbook fees beyond those prescribed for the Apprentices training. Notes that Onsite and Joinery awards include the word 'prescribed' and the 2013 FB Decision re apprentices, trainees and juniors noted in para 362 'to vary the award … cost of prescribed textbooks'. Submits 12.6(c) be re-drafted to reflect current drafting and include 'prescribed' before 'courses' and 'textbooks'.	
	Ai Group	Sub – 09/05/19	Para 18	Further proposes that an employer's liability to pay for textbooks should reflect 10.5(f)(ii) of the current ED to avoid potentially extending the materials and	

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				cost the employer is required to meet.	
18	Ai Group	Sub – 09/05/19	Para 19	**Clause 12.6(d) (Apprentices – Training – reimbursement of fees and textbooks)** Notes that wording of the requirements of 12.6(d)(iii) substantively amends the requirements currently in 10.5(g)(ii) of the current ED. Submits proposed 12.6(d)(iii) should be amended to reflect the existing clause in the ED.	
19	HIA	Sub – 09/05/19	Paras 15 – 21	**Clause 12.6(e) (Apprentices – satisfactory progress)** Submits that new drafting in 12.6(e) has separately identified 'satisfactory progress' as the trigger for reimbursement of course fees and textbook costs but 14.5(e) of the current award maintains that training fees and textbook costs are payable 'unless there is unsatisfactory progress'. Submits that 15.6 of the Onsite Award and 13.12(a) of the Joinery Award also state 'unless there is unsatisfactory progress'. Concerned that the change in drafting could result in unintended consequences. Note that the 2013 FB Decision re apprentices, trainees and juniors at para 355 provided commentary and at para 357 confirmed the appropriate use of the words 'unsatisfactory progress'. Submits that 12.6(e) be deleted and 12.6(c) be	

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				amended as follows: '…(not provided or otherwise made available by the employer) that the apprentice is required to study, for the purposes of the apprenticeship, unless there is unsatisfactory progress.'	
20	Ai Group	Sub – 09/05/19	Para 21	**Clause 12.7(d) (Apprentices – Block release training)** Submits that in 12.7 'reasonable travel costs' an employer is required to reimburse an employee are broader than the 'excess reasonable travel costs' required for reimbursement in current ED clauses 10.5(c)(ii) and (iii). Submits that accommodation costs in 10.5(c)(ii) are limited to those incurred "while travelling (where necessary)" and reasonable expenses are limited in 10.5(c)(iii) to those incurred "while travelling". Submits that the omission of these limitations constitutes a substantive amendment.	
21	Ai Group	Sub – 09/05/19	Paras 22 – 24	**Clause 12.7(g) (Apprentices – Block release training – payment reduction)** Submits that the equivalent clause dealing with t payment reductions in the current ED is 10.5(e)(iii). Submits that to the extent that 12.7(g) limits a reduction in payment made pursuant to 12.7(f) circumstances, this constitutes a substantive amendment and narrows conditions under which a payment reduction may apply.	

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				Submits that 12.7(g) should be amended to remove the limitation to reduction in payments to employees eligible for government assistance made pursuant to clause 12.7(f) to circumstances where an employee 'chose not to see' such assistance.	
22	Ai Group	Sub – 09/05/19	Paras 25 – 31	**Clause 13 (Classifications)** Submits that current ED clause 7 operates to explain how the classification structure operates or applies for the purposes of the award but does not require the employer to actively undertake a process of classifying employees in accordance with the award. Submits amendment would result in a substantial and new obligation on employers without any established necessity for this change. Submits that classification provisions are important, but do not impose discrete obligations on employers to classify their workforce accordingly. Submits that in practice many employers use job titles which do not exactly replicate the classification titles and that the imposition of an obligation to classify in accordance with the classification structure would impose a major regulatory burden. Notes that they have strongly and successfully opposed various union claims for award variations to impose this requirement. Submits that amending the clause in accordance with PL Guidelines to avoid the use of passive	

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				voice is not appropriate in this circumstance.	
23	ABI	Sub – 09/05/19	Point 4.1 – 4.2	**Clause 14 (Ordinary hours of work)** Submits that new Note at the beginning of the clause is unnecessary as clause already prescribes the maximum weekly hours. Submits that absent a clear justification for its insertion, they do not support its inclusion.	
	Ai Group	Sub – 09/05/19	Paras 25 – 31	Submits that new Note is misleading as it potentially encourages lay readers to conflate the concept of 'maximum weekly hours' with 'ordinary hours per week' – the two concepts are different and should not be confused. Also oppose inclusion of Note as 'ordinary hours or work and rostering' are neither ancillary nor supplementary terms for the purposes of s.55(4).	
24	CFMMEU – MD	Sub – 02/05/19	Paras 10 – 14	**Clause 14.1 (Ordinary hours of work)** 14.1 re-drafted wording deletes 'per week' with reference to the average of 38 ordinary hours over a 4 week cycle Submit that deletion of words would lead to a substantive change Submit amending 14.1 to read 'A full-time employee is an employee who works 38 ordinary hours per week or an average of 38 ordinary hours per week over a 4 week cycle…	

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	ABI	Sub – 09/05/19	Point 4.3	The words 'per week' have been removed from 14.1 with respect to averaging of ordinary hours. Submit that wording should be 'or an average of 38 ordinary hours per week over a 4 week cycle in accordance with clause 15.1.'	
	Ai Group	Sub – 09/05/19	Paras 48 – 56	Submits that 14.1 restricts the ordinary hours per week referred to, to full-time workers only. This is not the effect of 8.1 of the current ED. Submits that it may be inferred that 8.1 of the current ED is intended to set the ordinary hours of work for employees in general as opposed to full-time employees only. Submits that the proposed clause is a substantive amendment and if adopted may not meet the requirements of s.147. Concerned that proposed new wording is drafted as though it defines full-time employment as opposed to regulating ordinary hours of work. Should be amended to read: '~~A full-time employee is an employee who works~~ The ordinary hours of work will be 38 ~~ordinary~~ hours per week or an average of 38 ~~ordinary~~ hours over a 4 week cycle in accordance with clause 15.1.'	
25	CFMMEU – C&G	Sub – 09/05/19	Para 9	**Clause 17.4(c) (Adult apprentice rates)** Submits that wording in 17.4(c) changes the effect of the clause and is a reduction from existing	

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				provision. 14.4 of Gardening Award provides that a currently employed employee entering an adult apprenticeship receives the higher of the current pay or the adult apprentice rate applicable to the year of the apprenticeship. 17.4(c) provides that the minimum rate applicable before entering the training contract would continue to be applicable to the employee 'throughout the apprenticeship'.	
	Ai Group	Sub – 09/05/19	Paras 57 – 59	Submits that in 17.4(c) referring to 'minimum rate that was applicable to the employee' amends the equivalent clause in the current ED, which preserves an entitlement to the 'minimum wage that applies to the classification specified …'. Submits that current wording more clearly identified the minimum rate the employee is entitled to. Submits that 17.4 should be amended to ensure that employee commencing an adult apprenticeship with an existing employee retain an entitlement only to the minimum wage applicable to the classification in 17.1 in which the adult apprentice was engaged immediately prior to entering into the training agreement.	
26	CFMMEU – C&G	Sub – 09/05/19	Paras 10 – 11	**Clause 17.6 (Higher duties)** 17.6 wording is significantly different to that contained in the existing award.	

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				Currently the clause refers to performing work which attracts a higher rate of pay and the proposed clause refers to performing work at a higher classification. Submits that an employer may require an employee to perform only one of the tasks performed by a higher classification and not the full range of duties of the higher classification. Submits that proposed wording is ambiguous and potentially detrimental to employees.	
27	CFMMEU – MD	Sub – 02/05/19	Paras 15 – 17	**Clause 19.1 (Allowances)** 19.1 re-drafted from '…entitled to under this clause' i.e. all allowances under clause 19, to '…entitled to under clause 19.1'. Submit that this has changed the meaning of clause 19. Suggest amending 19.1 to read 'An employer must pay an employee the allowances the employee is entitled to under clause 19'.	
	ABI	Sub – 09/05/19	Point 5.1	Submits that wording of 19.1 is problematic. Proposes amending 19.1 to read ' An employer must pay an employee the allowances the employee is entitled to under clause 19.'	
28	CFMMEU – C&G	Sub – 09/05/19	Para 12	**Clause 19.2 (Allowances)** 19.2 wording is ambiguous.	

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				Suggest amendment to read as follows: 'Allowances paid for **all purposes** are included in the rate of pay of an employee who is entitled to the allowance, and when calculating any penalties or loadings or payment while they are on annual leave.	
29	Ai Group	Sub – 09/05/19	Paras 32 – 36	**Clause 19.4(b)(i) (Allowances – Vehicle allowance)** Use of active voice in 19.4(b)(i) has the potential to cause greater confusion to the lay reader than retaining the current provision. Suggest the following amendment to retain active voice and maintain intended meaning: "… then the employer must pay the employee an allowance of $0.78 per kilometre travelled in accordance with such a direction."	
30	ABI	Sub – 09/05/19	Point 5.2	**Clause 19.4(b)(iii) (Allowances – Vehicle allowance)** In response to the FWC question, submits: An employee required to spend in excess of 24 hours travelling should receive: (a) an ordinary day's wages; and (b) payment for all additional time spent travelling in excess of 24 hours, up to a maximum of a further ordinary day's wages.	

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31	Ai Group	Sub – 09/05/19	Paras 60 - 64	**Clause 21 (Overtime)** Notes that proposed Note incorporates changes resulting from FB decisions in the Pharmacy and Retail awards. The inclusion of the Note in Retail was to compensate for the excision of clause 29.1 from the Retail PLED. 29.1 sets out sets out factors to be taken into account to determine whether or not overtime may be considered unreasonable. Gardening Award does not contain and equivalent clause and the rationale for inclusion of the Note does not apply. The proposed Note at 21 would potentially mislead a reader into misinterpreting the considerations referred to in s.62(3). Submits that overtime performed outside the spread of hours as defined in proposed 14 will not necessarily correspond with 'maximum weekly hours'. As such s.62(3) should not apply to all request for an employee to perform overtime. Recommends that the Note be deleted.	
32	Ai Group	Sub – 09/05/19	Paras 60 - 64	**Clause 21.3(c) (Overtime- rest period after overtime duty)** 21.3(c) amends current ED clause 13.3(c). Submits that proposed wording does not appear to make sense; does not seems to maintain an entitlement to be paid 200% for time worked in the relevant circumstances and the separate entitlement	

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				to time off without loss of pay. Submits that it seems to inappropriately combine these separate elements. Proposes amendment as follows: '… hourly rate until the employee is released from duty ~~has a break of at least 10 consecutive hours off duty without loss of pay for ordinary working time not worked~~. An employee will be paid for ordinary working time not worked until the employee has had a break of at least 10 consecutive hours off duty.'	
33	CFMMEU – MD	Sub – 02/05/19	Paras 18 – 23	**Clause 22.1 (Annual leave)** 22.1 contains new text 'Annual leave does not apply to casual employees'. Despite s.86 of FW Act, Workpac v Skene Federal Court Appeal ruling illustrates that a court may still determine that a 'casual employee' is entitled to annual leave under the NES. Waiting determination of Workpac v Rossato re entitlement of casual employees to paid leave under the NES and other issues. Submit that additional words may be misleading and should be deleted from PLLT-ED.	
	CFMMEU – M&E	Sub – 09/05/19	Paras 4 – 12	Submits that in 22.1 the phrase 'Annual leave does not apply to casual employees' raises concerns. Submit that modern awards and the NES determine the status of a casual employee differently – MAs	

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				determine based on way casuals are engaged and paid and NES determine based on legal meaning. Workpac v Skene summarised indicia of casual employment. MAs define a casual employee differently (clause 11.2 in PLLT-ED). Submit that new text obscures an employee's entitlement to annual leave and contradicts first part of proposed 22.1. Submit that new text removes entitlement to annual leave for employee designated as causal by the MA with no regard to their employment status for the purposes of the NES. Submit that if new text were incorporated, the application of the MA would have the effect of contravening s.55 and s.44 of the FW Act. Submit that if new text is read as a reference to casual employees under the NES, not under the Award it should be deleted as it essentially repeats that annual leave is provided in accordance with NES and the reference to casuals is inherently confusing in circumstances were a casual employee means different things under the Award and NES.	
	ABI	Sub – 09/05/19	Point 6.1 – 6.2	Submits that as this clause deals with the entitlement to annual leave, the wording should be amended to read: 'Casual employees are not entitled to annual leave'.	

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34	ANMF	Sub – 09/05/19	Page 2	**Clause 22.2(a) (Annual leave)** Submits proposed clause 22.2(a) 'Additional paid leave for certain shiftworkers' is not a technical change for the Nurses Award. Submits Nurses Award ED addresses the largely unique situation of the award, which currently provide 5 weeks of AL for all workers and 6 weeks for shift workers. Submits the proposed wording is inadequate to address this situation. Submits the proposed wording should not be replicated in Nurses Award.	
35	ABI	Sub – 09/05/19	Point 6.3	**Clause 22.3(b) (Annual leave)** Cross-ref to clause 17 missing the word 'rates'.	
36	Ai Group	Sub – 09/05/19	Paras 37 – 43	**Clause 27 (Public holidays)** Submits 27.1 inaccurately describes the content of 27 as supplementing to dealing with matters incidental to the NES provisions and 2nd sentence of 27.1 should be deleted. Submits that penalty rate and required payment in 27.2 are neither supplementary nor incidental incorrectly but relate to a different type of entitlement to the NES. Submits that 27.3 is a permitted term.	
37	ABI	Sub – 09/05/19	Point 7.1	**Clause 27.1 (Public holidays)**	

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				27.1 incorrectly refers to clause 22, which should be a reference to 27 instead.	
38	CFMMEU – MD	Sub – 02/05/19	Paras 18 – 23	**Clause 27.3 (Substitution of public holidays)** 27.3 has replaced 'concerned' with 'affected'. Submit that the change is potentially substantive. Submit that 'concerned' and 'affected' do not have the same meaning, or in some contexts even a similar meaning. Submit that the expression 'majority of employees in the workplace or part of the workplace affected' could be interpreted as meaning a narrower group of employees than in the workplace 'concerned'. Submit that rationale for change is unclear and clause is not clearer or simpler to understand as a result of re-drafting. Submit that 'concerned' should be re-inserted in place of 'affected'.	