

SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

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

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	ABI& NSWBC	Sub – 01/07/16	1	Title and commencement The words “as varied” should be removed from cl 1.2.	Para 2.2; page 4	
2	HSU	Sub – 30/06/16	2	Definitions – casual ordinary hourly rate The definition of “casual ordinary hourly rate” should be deleted as it is not used anywhere in the award.	Para 12; page 4	The term “casual ordinary hourly rate” is used in Schedule B.2—Casual employees
3	AWU	Sub – 6/07/16	2 & 11	Definitions – casual ordinary hourly rate; and Casual Employment Delete “casual ordinary hourly rate” from cl.2 and insert “The casual loading is payable for all purposes.” at start of cl.11.4	Page 1	
4	HSU	Sub – 30/06/16	2	Definitions – ordinary hourly rate Award contains a single classification structure with grades 1-7 so clause should reference an employee’s grade as opposed to the “employee’s classification”. Proposed wording provided.	Paras 6-8; page 3	
5	HSU	Sub – 30/06/16	3.3	National Employment Standards and this award Reinstate words “whichever makes them more accessible”	Para 13; page 4	
	ABI& NSWBC	Reply sub – 22/07/16		Current wording consistent with Decision of 23 December 2014 [2014] FWCFB 9412.	Para 6.1; page 4	

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6	HSU	Sub – 30/06/16	4	Coverage Clause 4.1 could be split into 2 at start of second paragraph. Clause 4.3 should sit under cl. 4.5 since it is one of the areas the award does not cover.	Para 16-18; page 4	
7	NDS	Sub – 18/07/16	4	Coverage New award must include ongoing recognition of right of ADEs to continue using award.	Page 2	
8	NDS	Sub – 18/07/16	4	Coverage New award must include ongoing recognition of right of organisations covered by award to use pro rata wage assessment tools other than the Supported Wage System (SWS).	Page 2	
9	NDS	Sub – 18/07/16	4	Coverage New criteria should be developed to define employers covered by award.	Page 2	
10	ABI& NSWBC	Sub – 01/07/16	5	Effect of variations made by the Fair Work Commission Clause more appropriately located as a sub-clause of 'Title and Commencement' clause after cl. 1.2 rather than as a standalone clause.	Para 2.1; page 4	
11	AWU	Sub – 6/07/16	11.1	Casual Employment Clause is in conflict with minimum engagement requirement in cl. 11.6 as describes a casual employee as an employee engaged on an hourly basis. Reference to maximum hours per week is suggested and proposed wording to replace cl.11.1 provided.	Pages 1 - 2	

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	ABI& NSWBC	Reply sub – 22/07/16		Oppose AWU’s submission, seeks to introduce new definition of “casual employee”.	Para 6.2; page 4	
12	AWU	Sub – 6/07/16	11.2 & 11.4	Casual Employment Swap locations of cl. 11.3 and 11.4 due to close conceptual relationship between them.	Page 1	
13	HSU	Sub – 30/06/16	12	Classifications Clause may be better located at cl 15— Minimum wages.	Para 5; page 3	
14	HSU	Sub – 30/06/16	15.2	Minimum wages Clause 15.2 cross references application of minimum rate of pay according to grades in table, with clauses 15.3, 15.5 and 16. Only cl.16 (Wage assessment—employees with a disability) relevant to minimum rates.	Para 19; page 5	
15	ABI& NSWBC	Sub – 01/07/16	15.3 (d) and (e)	Payment of wages These clauses should be joined together as per current award. Their separation produces an apparent inconsistency between clauses 15.3(b) and 15.3(e).	Para 8.1; page 7	
16	NDS	Sub – 18/07/16	16.2	Wage assessment—employees with a disability Remove wage assessment tool, no longer used (at least seven identified). Use wording like that in cl.16.2(b) to show deletion.	Page 1	
	ABI& NSWBC	Reply sub – 22/07/16		Do not oppose submission of NDS.	Para 6.3; page 4	

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17	ABI& NSWBC	Sub – 01/07/16	16.4	Wage assessment—employees with a disability Clause should read “Wage assessment tools referred to at clauses 16.2(a) to (v)” in order for it to make sense.	Para 8.2; page 7	
18	ABI& NSWBC	Sub – 01/07/16	16.5	Wage assessment—employees with a disability Clause should read “Wage assessment tools referred to at clauses 16.2(w) to (dd)” in order for it to make sense. The words “Analysis of Wage Assessment Tools used by Business Services” should be italicised to ensure consistency with the formatting in cl.16.4.	Para 8.3; page 7	
19	HSU	Sub – 30/06/16	16.9	Wage assessment—employees with a disability Transitional arrangement Clause can be removed, transitional provision, timeframes have passed.	Para 20; page 5	
	ABI& NSWBC	Sub – 01/07/16		Agrees with HSU.	Para 8.4; page 7	
	NDS	Sub – 18/07/16		Agrees with HSU	Page 1	
20	ABI& NSWBC	Sub – 01/07/16	17.1	Allowances New provision should be deleted, may be an additional legally enforceable term. Where an employer fails to pay an allowance they would be exposed to penalties for breaches of two separate award terms and commit two contraventions of the award.	Paras 2.3 -2.6; page 4	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
21	HSU	Sub – 30/06/16	18.5	Employees with disabilities – <i>Response to question raised by Commission</i> Matter should be considered as part of award phase and there should be no changes at this time.	Para 15; page 4	
	AWU	Sub – 6/07/16		Clause should not be changed at this time.	Page 2	
	NDS	Sub – 18/07/16		NDS would support change to superannuation clause only if such change would not impose additional cost or administrative burden on Australian Disability Enterprises (ADEs) and would not disadvantage employees with disability	Page 1	
22	HSU	Sub – 30/06/16	24.2	Public holidays Clause should cross reference applicable part of penalty rates clause, referring to cl. 20.4.	Para 13; page 4	
23	HSU	Sub – 30/06/16	Various	All wages and allowance tables in ED Percentages and dollar signs should be used for each individual figure, in addition to relevant sign at top of the column.	Paras 9-11; pages 3-4	
24	AWU	Sub – 6/07/16	Sched B	Casual employees Delete the word “casual” from row 3 of Table B.2.2 and row 2 of B.2.3 given that “ordinary hourly rate” would be the applicable defined term at clause 2 under earlier submission (Item 3).	Page 1	

List of abbreviations (in alphabetical order)

ABI&NSWBC	Australian Business Industrial and the New South Wales Business Chamber Ltd
AIG	Australian Industry Group
AWU	The Australian Workers' Union
HSU	Health Services Union
NDS	National Disability Services