



DECISION

Fair Work Act 2009
s 185—Enterprise agreement

Southern Ports Authority Trading AS Southern Ports
(AG2025/2772)

SOUTHERN PORTS MAINTENANCE AND OPERATIONS AGREEMENT 2025

Port authorities

COMMISSIONER LIM

PERTH, 3 SEPTEMBER 2025

Application for approval of the Southern Ports Maintenance and Operations Agreement 2025.

[1] Southern Ports Authority Trading AS Southern Ports (the **Applicant**) has made an application for the approval of an enterprise agreement known as the *Southern Ports Maintenance and Operations Agreement 2025* (the **Agreement**). The application was made under s 185 of the *Fair Work Act 2009* (Cth) (the **Act**). The Agreement is a single enterprise agreement.

[2] On the basis of the material contained in the application and accompanying declarations, I am satisfied that each of the requirements of ss 186, 187 and 188 as are relevant to this application for approval has been met.

[3] I note that the following clauses in the Agreement appear to be inconsistent with the National Employment Standards (**NES**):

- (a) Clause 49.2 – The Agreement states that domestic violence includes physical, sexual, financial, verbal or emotional abuse by an Immediate Family member. This definition appears to be inconsistent with s 106B of the Act which provides that family and domestic violence is violent, threatening or other abusive behaviour by a close relative of a person, a member of a person's household, or a current or former intimate partner of a person.
- (b) Clause 53 – The Agreement states that employment may be terminated by the employee by providing 2 weeks' notice and may be terminated by the employer on the provision of 4 weeks' notice, or payment in lieu of notice. Clause 29.1 of the *Port Authorities Award 2020* (the **Award**) states that the period of notice is 1 week for employees who have been employed for no more than 1 year.

[4] However, I am satisfied that under clause 4.2 of the Agreement, the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[5] The Agreement does not contain a workplace delegates' rights term, as required by s 205A (1) of the Act. Under s 205A (2), the workplace delegates' rights term in Clause 25A of the Award is taken to be a term of the Agreement.

[6] The Maritime Union of Australia, a Division of the Construction, Forestry and Maritime Employees' Union (**CFMEU**) (the **organisation**), being a bargaining representative for the Agreement, have given notice under s 183 of the Act that they want the Agreement to cover them. In accordance with s 201(2), and based on the declarations provided by the organisation, I note that the organisation is covered by the Agreement.

[7] The Agreement was approved on **3 September 2025** and, in accordance with s 54, will operate from 10 September 2025. The nominal expiry date of the Agreement is 31 December 2026.



COMMISSIONER

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SOUTHERN PORTS
ALBANY BUNBURY ESPERANCE

Southern Ports Maintenance & Operations Agreement 2025

Note – in accordance with s.205A of the *Fair Work Act 2009* (Cth) the most favourable term of the delegates' rights terms in the relevant modern awards, as determined by the Fair Work Commission, is taken to be a term of the agreement.

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Note – in accordance with s.205A of the *Fair Work Act 2009* (Cth) the most favourable term of the delegates’ rights terms in the relevant modern awards, as determined by the Fair Work Commission, is taken to be a term of the agreement.

Part A – General Terms & Conditions

Agreement Operation

1. Title

- 1.1 This agreement shall be known as the Southern Ports Maintenance and Operations Agreement 2025.

2. Coverage

- 2.1 This Agreement covers:

- a) Southern Ports Authority (ABN 30 044 341 250) (679 Murray Street, West Perth 6005, Western Australia) (Employer);
- b) Employees of the Employer who are engaged in Maintenance and/or Operations positions as set out in the classifications in Schedule A - Classifications;
- c) Construction, Forestry & Maritime Employees Union (CFMEU), subject to the Union applying to be covered by the Agreement pursuant to s183 of the Fair Work Act 2009 (Cth) (FW Act).

3. Length of Agreement

- 3.1 This Agreement shall commence operation 7 days after the day the Agreement is approved by the Fair Work Commission.
- 3.2 The nominal expiry date of this Agreement shall be the 31st of December 2026. However, this Agreement shall continue to operate beyond the nominal expiry date until it is replaced or terminated.
- 3.3 The Parties agree in good faith, to commence negotiations for the renewal of this Agreement at least six (6) months prior to the nominal expiry date.

4. National Employment Standards

- 4.1 This Agreement operates to the exclusion of any modern award or other industrial instrument. Any legislation, policy, procedure, or other document referred to in this Agreement is not incorporated into the Agreement and does not form part of it.
- 4.2 The Agreement will be read and interpreted in conjunction with the National Employment Standards (NES) under the Fair Work Act 2009 (Cth) (FW Act) as varied. Where there is any inconsistency between this Agreement and the NES, and the NES provides greater benefit, the NES provision will apply to the extent of the inconsistency.

5. Scope of General Terms and Conditions

- 5.1 The provisions set out in Part A – General Terms & Conditions, constitute the general terms and conditions that apply to all Employees covered by this Agreement, regardless of their Home Port location.

6. Interaction with Port Specific Parts

- 6.1 Each subsequent Port Specific Part of this Agreement contains provisions that apply specifically to employees engaged at that Port location. Where there is any inconsistency between the terms of Part A – General Terms & Conditions and the provisions set out in the

Port Specific Part, the Port Specific Part and the provisions therein shall prevail to the extent of the inconsistency.

- 6.2 Where a Port Specific Part contains a more beneficial entitlement than what is set out in Part A – General Terms & Conditions of this Agreement, the more beneficial entitlement shall apply to employees covered by that Port Specific Part, unless the Port Specific Part expresses otherwise. This shall not result in any duplication of entitlements, and employees shall not receive both the general entitlement under Part A – General Terms & Conditions, and the enhanced entitlement under the Port Specific Part, rather the more favourable provision shall be considered in full satisfaction of the relevant entitlement.

7. Interaction with Schedules

- 7.1 Schedules set out and referenced in this Agreement form part of Part A – General Terms & Conditions.

8. Individual Flexibility

- 8.1 Notwithstanding any other provisions of this Agreement, an Employee and Employer may agree to vary the effect of this agreement to meet the genuine individual needs of the Employee and the Employer.

- 8.2 The terms that an Employee and Employer may agree to vary the effect of are those concerning:

- a) hours of work;
- b) overtime rates;
- c) penalty rates and shift loadings;
- d) allowances; and
- e) leave loading.

- 8.3 The Employee and the Employer may agree to flexible working arrangements that, include but are not limited to the following:

- a) An Employee working Ordinary Hours outside of the Ordinary Hours of the workplace;
- b) An Employee working their part time Ordinary Hours over a different spread of days;
- c) An Employee receiving an hourly rate which incorporates allowances they are entitled to.

- 8.4 Any arrangement for individual flexibility under this clause must be genuinely agreed to by the Employee and the Employer. The arrangement must be in writing and signed by the Employer and the Employee (including the Employee's parent or guardian where they is under 18 years of age). A copy of the agreement must be given to the Employee within 14 days of it being agreed to.

- 8.5 The Employer must ensure that the terms of the individual flexibility arrangement:

- a) are about permitted matters under section 172 of the Fair Work Act 2009; and
- b) are not unlawful terms under section 194 of the Fair Work Act 2009; and
- c) result in the Employee being better off overall than the Employee would be if no arrangement was made.

- 8.6 The individual flexibility arrangement may be terminated:

- a) by the Employee or the Employer giving 28 days' notice of termination, in writing, to the other party; or
- b) at any time, by written agreement between the Employee and the Employer.

9. Definitions

9.1 For the purposes of this Agreement, unless the contrary intention appears:

- a) **'Act'** means:
 - i. the Fair Work Act 2009 (as amended).
- b) **'ADO'** means:
 - i. accumulated day off.
- c) **'Close Relative'** means:
 - i. the Employee's spouse, de facto partner, child, parent, grandparent, grandchild, or sibling; or
 - ii. a child, parent, grandparent, grandchild, or sibling of the Employee's spouse or de facto partner;
 - iii. a person related to the Employee according to Aboriginal or Torres Strait Islander kinship rules.
- d) **'CPI'** means:
 - i. the consumer price index as released by the September-to-September percentage change for All Groups CPI, Perth WA until such time there is a regional CPI applicable to the Esperance region (in which case this would apply in relation to Esperance only).
- e) **'FWC'** means:
 - i. the Fair Work Commission.
- f) **'Government Wages Policy'** means:
 - i. the public sector wages policy issued by the WA State Government from time to time.
- g) **'Guaranteed Hours'** means:
 - i. an Employee's hours of work that are guaranteed as set out in this Agreement and/or the individual contract of employment. Guaranteed hours may consist of ordinary hours and a set number of additional hours (overtime). Casual Employees are not guaranteed hours of work.
- h) **'Home Port'** means:
 - i. the specific Port at which an Employee is substantively employed by the Employer.
- i) **'Household Member'** means:
 - i. the members of the family living in the family house including persons legally adopted, persons in foster care and major care providers.
- j) **'Immediate Family'** means:
 - i. the Employee's spouse, de facto partner, child, parent, grandparent, grandchild, or sibling; or

- ii. a child, parent, grandparent, grandchild, or sibling of the Employee's spouse or de facto partner.
- k) **'Leading Hand' (LH)** means:
 - i. an Employee who has additional supervisory and leadership responsibilities in addition to performing the duties of their role.
- l) **'Lieu Time'** means:
 - i. time off from work utilising hours worked in lieu of pay.
- m) **'Maintenance Tradesperson Special Class'** means:
 - i. is an Employee who is a Maintenance Tradesperson who has completed additional training to the level of an engineering tradesperson – special class level II (qualifications set out in Schedule A - Classifications) and who has been allocated by the Employer to the position of Specialised Tradesperson or in the case of higher duties, the tasks of a Specialised Tradesperson (as set out in Schedule A - Classifications).
- n) **'Port'** has the meaning:
 - i. ascribed to that term in the Port Authorities Act 1999.
- o) **'Port Operations/Maintenance'** means:
 - i. any operation engaged in by Southern Ports Authority, at one or more of our Port Locations, and may include, but not be limited to:
 - ii. mooring and unmooring operations;
 - iii. work launch, pilot vessel and lines launch operations;
 - iv. the loading or unloading of all types of cargo including containers, motor vehicles and bulk liquid or non-liquid cargoes into or from ships;
 - v. the loading or unloading, into or from ships of ships' stores, coal or fuel oil (whether bunkers or not), passengers' luggage or mail, but excludes tugs, naval vessels, licenced foreign fishing vessels not exceeding 150 GRT, licenced (Australian registered) fishing vessels, private pleasure craft and other vessels as agreed unless requested by the vessel's agent;
 - vi. the receipt, delivery, storage, handling or preparation of all types of cargo including containers, motor vehicles and cargo in unit forms or other goods, for the purpose of loading or unloading such cargoes into or from ships, and including the monitoring, maintenance and repair of refrigerated containers and other equipment;
 - vii. the driving or operation of all mechanical appliances or equipment used in relation to the receipt, delivery, storage or handling of all types of cargo from and onto ships including the operation of ship's gear and all equipment on board a ship used in relation to loading and unloading;
 - viii. the haulage or trucking of all types of cargo or other goods from wharf sheds, wharf storage or stacking areas to the ship or from the ship to the wharf shed, storage or stacking area;
 - ix. clerical functions involved in the tallying, receipt, delivery, sorting and stacking, storage, or other work connected with the loading or unloading of cargo onto or from ships (whether in containers or not) or involved in the receipt, delivery, packing, unpacking, loading, unloading or storage of containers in preparation for loading into ships or after their discharge

from ships. In connection with the foregoing work it may include those engaged in manifesting, freighting, preparation of ship's cargo disposition, timekeeping, labour allocation, roster preparation, preparation and distribution of payrolls, maintenance stores functions, computer operation, operation of other equipment used in connection with electronic data processing, or any other clerical work in or in connection with stevedoring operations or a wharf office on a wharf or on a ship;

- x. maintenance, construction and repair work where such work is performed by maintenance tradespersons in relation to any vehicles, mechanical and/or electrical equipment, buildings, materials or facilities;
- xi. watching, guarding and protection duties in relation to the operational activities and functions specified in this definition;
- xii. general functions and duties such as the lashing and unlashings of containers, working in a ship's hold, driving of motor vehicles including buses, marshalling/ traffic management, general cleaning, cleaning and attendance to amenities areas and offices, cleaning and maintenance of containers, preparation and maintenance and repair of gear and equipment used in loading and unloading, packing and unpacking of containers, pallets or flats and the sorting, stacking, preparing or otherwise handling of loose goods and cargo, preparation and cleaning of ships' holds, removal or replacement of beams or hatches, plugging and unplugging of refrigerated containers, preparatory or closing work in relation to the loading or unloading of ships, the handling of dunnage or ballast, general inspection of vehicles and buildings, general duties in connection with the loading and unloading of ships and the provision of first aid;
- xiii. planning, controlling, coordinating and integrating stevedoring operations in connection with vessels, and/or cargoes allocated to the Employee by the Employer from time to time and the work of other stevedoring Employees in relation thereto and to compile records, reports and information in connection therewith.

p) **'Rostered Day Off' (RDO)** means:

- i. a pre-scheduled day off that forms part of a shiftworker's regular roster cycle, consisting of rostered working days and rostered non-working days (RDOs).

q) **'Shiftworker'** means:

- i. who for the purposes of the additional week of Annual Leave in the NES, is an Employee who is a shiftworker regularly rostered to work on Sundays and public holidays in a business in which shifts are continuously rostered 24 hours a day for 7 days a week.

r) **'State'** means:

- i. the State of Western Australia.

s) **'Tradesperson'** means:

- i. a person who holds a recognised Trade Certificate or Tradesperson's Rights Certificate and is able to exercise the skills and knowledge of that trade to the level of their training.

t) **'Union'** means:

- i. the Construction, Forestry & Maritime Employees Union (CFMEU).

Employment Arrangements

10. Types of Employment

- 10.1 Employees under this Agreement may be employed on a full-time, part-time or casual basis.
- 10.2 Full-time and part-time Employees may be engaged by the Employer on either a permanent basis, or under a temporary arrangement for a fixed/maximum term subject to any overriding limitations under the FW Act.
- 10.3 **Full-time** Employee means an Employee who works an average of thirty-eight (38) ordinary hours per week.
- 10.4 **Part-time** Employee means an Employee who is employed as such, who normally works less than an average of thirty-eight (38) ordinary hours per week. The terms of this Agreement will apply pro rata to part-time Employees based on their ordinary hours compared to a full-time Employee's hours, unless expressed otherwise.
- 10.5 **Casual** Employee means an Employee who is engaged on a casual basis by the Employer in accordance with the definition of a casual Employee under the FW Act. Casual Employees are to be utilised to assist with Port Operations/Maintenance manning requirements. The Employer will not be required to provide Casual Employees with any guarantee regarding hours of work. In addition:
- a) The minimum payment for a Casual Employee on any engagement will be for four (4) hours.
 - b) For each ordinary hour worked, a casual Employee must be paid the applicable Rate of Pay for the classification in which they are employed plus a casual loading of twenty-five percent (25%).
- 10.6 **Fixed/maximum term** means an Employee who is engaged for a fixed period of time, whose contract of employment and employment will automatically terminate at the end of that fixed term. **Fixed task** means an Employee who is employed for the duration of a specified task, whose contract of employment will automatically terminate at the end of that specified task.

11. General Employment Arrangements

- 11.1 Employees shall be available for allocation consistent with this Agreement.
- 11.2 There shall be no restriction on the allocation of Employees to tasks subject to competency and occupational health and safety considerations consistent with this Agreement.
- 11.3 An Employee shall transfer between tasks, work locations and operational activities (including those under the operation of another party where so allocated) as often as is required during the course of a shift consistent with this Agreement.
- 11.4 The Employees, Union, and Employer agree to support technology-based Improvement initiatives that deliver enhanced efficiency or an increase in quality in service delivery.

12. Day Workers

- 12.1 A Day Worker is an Employee who performs their ordinary hours of work between the days Monday to Friday inclusive but does not perform work on a shift roster.

13. Day Shift Workers

- 13.1 A Day Shift Worker is an Employee who performs their ordinary hours of work over a defined work cycle and may be worked on any or all days Monday through Sunday and where they are rostered to work regularly on Saturdays, Sundays and Public Holidays.

14. Continuous Shift Workers

- 14.1 A Continuous Shift Workers (CSWs) is an Employee who performs work on a regular shift roster worked continuously throughout the seven (7) days of each week, where they are rostered to work regularly on nights, and Saturdays, Sundays, and public holidays.

15. Permanent Guarantee Employees

- 15.1 Permanent Guarantee Employee (PGE) is an Employee who is guaranteed a minimum of number of hours, over a defined cycle, but who otherwise is considered to be a Permanent Part time Employee.
- 15.2 Subject to approved leave arrangements, PGEs shall be available for allocation to any shift in accordance with this Agreement.
- 15.3 A PGE who fails to accept and/or work any reasonable engagement shall, unless otherwise agreed by the Employer, have the level of guaranteed hours reduced by the number of hours not worked as required.
- 15.4 On the Friday of each week, an email detailing indicative PGE allocation for the next seven (7) days will be distributed to each PGEs nominated email address. This allocation is indicative only and not a guarantee of work or classification.

16. Classifications

- 16.1 Classifications and corresponding Levels are set out in Schedule A - Classifications.
- 16.2 The minimum Classification Level for any Permanent Employee will be Level 3.
- 16.3 A Port Specific Part may include additional Classifications, each of which will correspond to a designated Level accordingly.

17. International Trade Federation (ITF) Inspectors

- 17.1 The Parties recognise the invaluable role that the International Trade Federation (ITF) and its inspectorate plays in securing rights equality and justice for international seafarers.
- 17.2 To that end the Employer commits to the paid release of Employees who volunteer to attend ITF-endorsed training to learn how to conduct ITF vessel inspections subject to the following conditions:
- a) Limit of three (3) days' training per Employee during the term of their employment with the Employer;
 - b) Employer will pay Employees at their normal rate of pay to attend the training; and
 - c) Any other expenses incurred will be met by the ITF or the Employee.
- 17.3 Subsequent to having successfully completed this training Employees will be released during paid work time by the Employer to conduct ITF vessel inspections provided that:
- a) Limit of one ITF vessel inspection per Port, per week (across workforce not per individual) unless mutually agreed otherwise; and

- b) Inspection to be conducted at a mutually agreed time following consultation with relevant supervisor or line manager.

17.4 Where the Employer releases Employees in accordance with the provisions of this, then clause 20 will not apply.

Remuneration and Entitlements

18. Rates of Pay

- 18.1 Rates of Pay are set out in Schedule B – Rates of Pay
- 18.2 The Rates of Pay set out in Schedule B – Rates of Pay are inclusive of (except where otherwise provided for in this Agreement) any applicable allowance, penalty rates and/or shift loadings that would have otherwise applied if not for the operation of this Agreement.
- 18.3 The Rates of Pay set out in Schedule B – Rates of Pay Schedule B are payable to Employees only from the commencement date of this Agreement.

19. Apprentice Rates of Pay

- 19.1 Apprentices engaged by the Employer shall be paid at the following percentage of the applicable Level 6 Rate of Pay as set out in Schedule B – Rates of Pay:

Percentage of Level 6	
Year 1	42%
Year 2	55%
Year 3	75%
Year 4	88%

20. Higher Duties

- 20.1 The parties to this Agreement commit to co-operate to ensure the best utilisation of workforce skills on the basis that:
 - a) Employees will carry out all direction and duties that are within the scope of their skills, training, and abilities, while ensuring that safety and quality requirements of the work performed are maintained.
 - b) The skills of an Employee may, as required, be applied outside of their classification.
- 20.2 An Employee requested by the Employer to undertake higher duties shall be paid at the (higher) rate applicable to the task they are performing, in 30-minute increments (rounded up to the next 30-minute increment). The tasks and corresponding levels are set out in Schedule A.
- 20.3 The Employer has the right to determine an appropriate number and mix of classification of skills during any hours of work.
- 20.4 If the Employer requires an Employee to perform duties that are typically carried out by a Superintendent, the Employee shall be entitled to receive an additional payment reflecting the difference between their current Rate of Pay under this Agreement and the applicable

rate of pay for Superintendents (not covered by this Agreement) for the duration of such duties.

- 20.5 When required for emergency response drills and rescues (not inclusive of training) the Employee will be paid one level above their contracted level.

21. Payment of Wages

- 21.1 Wages will be paid fortnightly into a bank account of the Employee's nomination.
- 21.2 In the case of underpayments due to errors in processing, the Employer will run an out of cycle payment in recognition of error.
- 21.3 Clause 21.2 will not apply where an Employee has failed to correctly record hours of work.

22. Annual Wage Increase

- 22.1 The Rates of Pay set out in Schedule B – Rates of Pay are inclusive of annual agreed increases in line with Government Wages Policy (GWP). For the term of the agreement, GWP as agreed, will be applied as follows:
- a) 2024 – 2%
 - b) 2025 – 2%
 - c) 2026 – 2%.
- 22.2 In the event this Agreement expires, and a new replacement Agreement has not yet been put to a formal vote, then the Rates of Pay set out in Schedule B – Rates of Pay will increase on 1 January 2027 in line with GWP or in the absence of GWP, Perth CPI for the September quarter preceding.

23. Meal Allowance

- 23.1 An Employee who, after completing a shift (Guaranteed Hours) in a single day, is required to work overtime time exceeding one (1) hour shall be entitled to either:
- a) a Meal Allowance (set out in clause 23.2) to cover the cost of a meal; or
 - b) at the Employer's discretion, be provided with an adequate and suitable meal by the Employer. If the Employer provides an adequate and suitable meal the Employee will not be entitled to the Meal Allowance set out in clause 23.2.
- 23.2 The Meal Allowance will be as follows for the applicable year:
- a) 2025 - \$24.20
 - b) 2026 - \$24.68.
- 23.3 In the event this Agreement expires, and a new replacement Agreement has not yet been put to a formal vote, then Meal Allowance as set out in clause 23.2b) will increase on 1 January 2027 in line with GWP or in the absence of GWP, Perth CPI for the September quarter preceding.

24. Electrical Nominee Allowance

- 24.1 An Employee who is required by the Employer to hold an Electrical Nominee Licence and is required to provide sign off on the installed electrical work of other electricians, will be paid a flat fortnightly allowance. The Electrical Nominee Allowance will be as follows for the applicable year and paid fortnightly:

a) 2025 - \$300.00

b) 2026 - \$306.00.

24.2 In the event this Agreement expires, and a new replacement Agreement has not yet been put to a formal vote, then Electrical Nominee Allowance as set out in clause 24.1b) will increase on 1 January 2027 in line with GWP or in the absence of GWP, Perth CPI for the September quarter preceding.

25. Travel Allowance

25.1 Where an Employee is required to travel from their primary place of employment to another location the Employer will supply transport.

25.2 The Employer will arrange and pay all necessary travel arrangements and reasonable costs as per Southern Ports Work Travel Procedure as amended from time to time.

25.3 An Employee while travelling on a normal workday will be paid their rostered hours at applicable Rate of Pay.

25.4 An Employee required to fly to Perth during hours that are outside normal work hours will be paid for two hours each way. In the event that Employees experience flight delays that cause travel to exceed two hours the Employer will, upon confirmation of such delay, provide payment equivalent to the duration of travel (rounded up to the next 30-minute increment). Such hours will be treated as additional hours.

26. Employee Wellbeing Allowance

26.1 The Employer will reimburse the costs, up to a maximum reimbursement amount of \$299 including GST, associated with:

a) a health and fitness membership (yoga, gymnasium, pool etc.); or

b) private health insurance.

per FBT year (1 April to 31 March), for all Employees covered by this Agreement in order to promote a healthy lifestyle.

26.2 The cost of the single membership must be for the Employee and not a family member.

26.3 However, where a family membership is purchased, which includes the Employee, the Employer shall reimburse the Employee a portion of this family membership based on the corresponding equivalent of up to 50% of the cost of any single membership or \$299 including GST, whichever is the lesser.

26.4 Reimbursement will be made upon production of a receipt, through the Employer's expenses claim process.

27. Phone Reimbursement

27.1 Work related phone calls will be paid for by the Employer. Phone accounts will be submitted by Employees once per quarter and paid within a fortnight of submission in accordance Southern Ports policies and procedures, as amended from time to time.

28. Salary Packaging

28.1 Employees will comply with the Southern Ports Salary Packaging Procedure as it stands as at the date of approval of the Agreement.

29. Superannuation

- 29.1 The Employer will make superannuation contributions to a complying superannuation fund in accordance with the minimum requirements set out in the Superannuation Guarantee legislation. For Full-time and Part-time Employees, contributions will be calculated based on the Employee's Guaranteed Hours, unless otherwise specified in this Agreement.

30. Income Protection

- 30.1 Employees shall be entitled to the benefits of an income protection insurance scheme, according to the insurance policy terms and conditions, taken out and paid for by the Employer.

31. Clothing and Protective Equipment

- 31.1 The Employer will provide work clothing to all Employees
- a) One pair of safety boots per year with the proviso that unserviceable boots will be replaced as required;
 - b) Four sets of working clothes per year which may, at the Employee's discretion, be overalls or trousers and shirts;
 - c) A '2 in 1' winter jacket and pants each two years;
 - d) A hard hat and safety vest as a personal issue on a needs basis;
 - e) General duty gloves on an as required basis;
 - f) One nylon carry bag as required;
 - g) Safety glasses as required;
 - h) Wet weather gear as required;
 - i) Earmuffs as required;
 - j) Specialist breathing apparatus on an as required basis;
 - k) Disposable overalls on an as required basis;
 - l) Sunscreen (Cancer Council approved) for use on the job as required;
 - m) 5 pairs of socks;
 - n) Belt;
 - o) Tradesman work jacket each two years.
- 31.2 The above issues can be varied to meet individual requirements subject to the agreement of the Employer.
- 31.3 Employees are required to wear work issued clothing whilst at work unless the Employer has approved otherwise (meetings, social events etc.).

*Hours of Work, Additional Hours and Penalty Rates***32. Ordinary Hours of Work**

- 32.1 The maximum number of ordinary hours an Employee is required to work will not exceed an average of thirty-eight (38) hours per week or 608 hours over a period of 16 weeks.
- 32.2 Clause 32.1 does not intend to restrict the arrangement of ordinary hours within the scope set out by this Agreement.

33. Rest Breaks

- 33.1 All Employees will be entitled to paid rest periods as follows:

Shift Length	Paid Rest Period
4 hours or less	No rest period*
7 or 8 hours	45 minutes in total (two (2) rest periods)
9 or 10 hours	60 minutes in total (three (3) rest periods)
11 or 12 hours	75 minutes in total (three (3) rest periods)

*NOTE: Where an allocated 4-hour shift extends past the fourth hour, a minimum 7-hour shift and 45-minute (single) break automatically apply.

- 33.2 The Employer may stagger the time of taking a meal or rest break to meet Port Operations/Maintenance requirements.

34. Reasonable Additional Hours

- 34.1 All Employees shall work reasonable additional hours, outside of their Guaranteed Hours or rostered hours, where required by the Employer.
- 34.2 The allocation of additional hours by the Employer to an Employee shall be based on specific time work requirements.
- 34.3 An Employee may refuse to work additional hours if they are unreasonable. For additional hours to be considered reasonable all relevant factors must be considered.
- 34.4 The relevant factors include:
- any risk to the Employee's health and safety
 - the Employee's personal circumstances, including family responsibilities
 - the needs of the workplace or enterprise
 - whether the Employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration, that reflects an expectation of, working additional hours
 - any notice given by the Employer to work the additional hours
 - any notice given by the Employee that they intend to refuse to work the additional hours
 - the usual patterns of work in the industry
 - the nature of the Employee's role, and the Employee's level of responsibility
 - any other relevant matter.

35. Shift Handovers

- 35.1 For the purpose of authorised shift handovers clause 34 does not apply.
- 35.2 A shift handover will be a maximum of thirty (30) minutes unless otherwise mutually agreed.
- 35.3 An Employee who is required for the purposes of a shift handover to commence early or remain at work will have those hours off-set to maintain a twelve (12) hour shift. (Example: an Employee who is required to attend work at 0530 for an authorised handover will end his or her shift at 1730.
- 35.4 An Employee who is required, for the purposes of an authorised shift handover, to remain at work and where that time cannot be offset, may, subject to the discretion of the Shift Superintendent, be paid a handover allowance equal to thirty (30) minutes of the applicable Rate of Pay set out in Schedule B – Rates of Pay.

36. Shift Breaks

- 36.1 Unless mutually agreed, an Employee who performs additional hours beyond the rostered hours of work must have a minimum ten (10) hour break before commencing the next day's work, regardless of normal rostering arrangements.
- 36.2 An Employee will not suffer a loss of pay for ordinary working time occurring during a minimum ten (10) hour break.
- 36.3 Should an Employee, in Agreement with the Employer, forgo the ten (10) hour break, payment shall be at the rate of 1.25 times the applicable Rate of Pay as set out in Schedule B – Rates of Pay, until such time as the Employee is relieved of duty.

37. Overtime

- 37.1 Overtime will be considered as:
- a) hours worked in excess of an Employee's Guaranteed Hours; or
 - b) hours worked outside the span of an Employee's ordinary hours; or
 - c) where expressed otherwise in this Agreement.
- 37.2 Any voluntary shift such as training, meetings (excluding disciplinary meetings), or ERT attendance that is not an operational shift (an operational shift means loading of vessels, unloading of vessels, moorings, unloading trains, Maintenance etc) will not attract the overtime penalty detailed in Clause 37.3.
- 37.3 Unless expressed otherwise in a Port Specific Part, overtime will be paid as 1.25 times the applicable Rate of Pay for overtime hours where clause 37.2 does not apply.
- 37.4 An Employee may elect to have overtime hours worked added to their lieu bank, in accordance with clause 38, instead of payment for the hours worked.

38. Lieu Days/Time

- 38.1 The following provisions shall apply in respect to the operation of Lieu Days/Time for permanent Employees:
- a) An Employee who works additional hours (overtime) will be paid for the additional hours unless the Employee chooses to accumulate the additional hours to be taken off as time in lieu.
 - b) Where Port Operations/Maintenance allows, the taking of lieu Days/hours will be

encouraged by the Employer.

- c) Lieu hours may be deferred to meet Port Operations/Maintenance requirements providing such notice of deferment is given by 1530 on the day prior to the rostered lieu day or such later period if agreed by the Employee. Provided that an Employee who has made other arrangements for the rostered lieu hours and is unavailable to work shall not be compelled to defer their lieu hours. If an Employee's scheduled lieu hours are deferred, then the clearance of that day shall be at a time convenient to the Employee.
- d) Where an Employee is clearing lieu hours on a particular day, he/she will not be entitled to claim either sick leave or compassionate leave in substitution for the lieu hours.
- e) An Employee may only accumulate lieu hours to a maximum equivalent to eight days (based on employment arrangement) unless otherwise agreed between the Employee and the Employer in writing. This arrangement will be reviewed 12 months from the commencement of the Agreement.

Leave Entitlements

39. Annual Leave

39.1 Full time and part time Employees are entitled to Annual Leave in accordance with the National Employment Standards (NES) and the provisions set out in this Agreement.

39.2 In summary the NES provides for:

- a) For each year of completed service with the Employer, Employees are entitled to:
 - i. 4 weeks of paid Annual Leave; or
 - ii. 5 weeks of paid Annual Leave for a shiftworker.

39.3 Annual Leave accrues according to ordinary hours worked but does not accrue during any period of unauthorised absence, unpaid leave or unpaid authorised absence (other than Community Service Leave or period of stand down).

39.4 Any untaken leave in one year cumulates to the next year. Untaken Annual Leave is paid out on termination at the amount that the Employee would have received had they taken the leave.

39.5 Notice to take Annual Leave is preferably a minimum of two (2) weeks prior to the commencement of the leave period. The Employer commits to not unreasonably refusing requests for Annual Leave.

Cashing out Annual Leave

39.6 An Employee may elect to cash out a portion of their accrued Annual Leave subject to the following:

- a) paid Annual Leave must not be cashed out if the cashing out would result in the Employee's remaining accrued entitlement to paid leave being less than one year's accrual;
- b) each cashing out of a particular amount of paid Annual Leave must be by a separate Agreement in writing between the Employer and the Employee; and
- c) the Employee must be paid the full amount that would have been payable to the Employee had the Employee taken the leave that the Employee has foregone.

Direction to take Annual Leave

- 39.7 Where an Employee has in excess of ten (10) weeks of Annual Leave the Employer and Employee will, in the first instance, attempt to reach agreement for the Employee to reduce or eliminate the Annual Leave.
- 39.8 Where the Employer and Employee have genuinely attempted to reach agreement to reduce excessive Annual Leave but agreement is not reached, the Employer may direct the Employee to take Annual Leave. An Employer may only direct an Employee if:
- a) the period of Annual Leave directed to be taken is not less than one (1) week; and
 - b) the Employer provides a minimum of eight (8) weeks and maximum of 12 twelve months' notice prior to the commencement; and
 - c) the Employee retains a minimum of six (6) weeks accrual of Annual Leave following the Employer direction.

40. Personal/Carers Leave

- 40.1 Employees will be entitled to Paid Personal/Carers Leave in accordance with the NES, when they are absent due to:
- a) personal illness or injury; or
 - b) for the purposes of caring for an Immediate Family Member, Household Member or Close Relative who is sick or injured or have an unexpected emergency and requires the Employee's care and support.
- 40.2 An Employee is entitled to up to ten (10) days of Paid Personal/Carers Leave that accrues progressively during a year of service according to their ordinary hours of work.
- 40.3 Absences on Paid Personal/Carers Leave is paid at the applicable Rate of Pay set out in Schedule B – Rates of Pay.
- 40.4 Personal/Carers Leave not used in any one year will accrue to the next year.
- 40.5 In all cases of Personal Leave, the Employee must, if practicable, notify the Employer of their inability to attend for duty within 24 hours of the commencement of their absence. If it is not practicable to notify the Employer within 24 hours, the Employee must notify the Employer as soon as possible. Where practicable the notice should include the nature of the illness or injury and how long the Employee expects to be away from work.
- 40.6 In all cases of Personal Leave, the Employer may require the Employee to provide evidence of illness, injury or death and the Employee must then provide the Employer with a medical certificate from a registered health practitioner or statutory declaration that the Employee was unable to work because of injury or personal illness. Where the period of absence is extensive or where in the Employer's opinion the circumstances require confirmation of the reason for the absence, the Employer may require the Employee to produce a legally qualified medical practitioner's certificate that the Employee was unable to attend for work.
- 40.7 Paid Personal/Carers Leave is not applicable to Casual Employees.

41. Compassionate Leave

- 41.1 Employees are entitled to three (3) days Compassionate Leave per occasion (in accordance with the NES, as outlined in this clause) where:
- a) a member of their Immediate Family, Household or Close Relative:

- i. contracts or develops a personal illness, or sustains a personal injury, that poses a serious threat to his/her life; or
- ii. dies; or
- iii. a child is stillborn, where the child would have been a member of the Employee's Immediate Family or Household, if the child had been born alive; or
- iv. the Employee or the Employee's spouse or de facto partner have a miscarriage.

41.2 Except in the case of Casual Employees, Compassionate Leave is payable at the Employee's applicable Rate of Pay for the Guaranteed Hours the Employee would have worked had they not proceeded on the leave.

41.3 In order to be entitled to compassionate leave the Employee must provide the Employer with evidence to satisfy a reasonable person. The Employer may require the Employee to provide proof to satisfy a reasonable person of the relationship between the Employee and the person they are taking compassionate leave for. Examples of evidence to satisfy a reasonable person could include but are not limited to a statutory declaration, a doctor's note, or a death notice.

42. Public Holidays

42.1 Public Holidays shall be in accordance with the NES with relevant days and part-days to be observed as gazetted for the work location. In accordance with the Public and Bank Holidays Act 1972 (WA), the following days are Western Australian Public Holidays:

- a) New Year's Day (1 January);
- b) Australia Day (or when that day falls on a Saturday or Sunday, the first Monday following the 26 January);
- c) Labour Day (Monday on or first Monday following the 1 March);
- d) Good Friday;
- e) Easter Sunday;
- f) Easter Monday;
- g) ANZAC Day (25 April);
- h) WA Day (Monday on or first Monday following the 1 June);
- i) Celebration Day for the Anniversary of the Birthday of the Reigning Sovereign (being the day which it is celebrated and is to be observed generally within the State);
- j) Christmas Day (25 December);
- k) Boxing Day (26 December); and
- l) any other day or part-day declared or prescribed by or under a law of the State to be observed generally within the State (or a region of the State) as a public holiday.

42.2 An Employee who is not classified as a shift-worker and would ordinarily be rostered to work on a day gazetted as a Public Holiday shall be entitled to leave without loss of pay. Such leave shall be paid at the applicable Rate of Pay as set out in Schedule B – Rates of Pay.

Working on a Public Holiday

- 42.3 Where work is performed on a gazetted Public Holiday, other than a Closed Port Day (clause 43), the Employee shall:
- a) accrue time in lieu equivalent to the hours worked; and
 - b) be paid the applicable Rate of Pay as set out in Schedule B for the hours worked; or
 - c) at the Employee's election, be paid for the hours worked at two hundred (200) percent (2x) the applicable Rate of Pay as set out in Schedule B – Rates of Pay.
- 42.4 Where an Employee works a gazetted Public Holiday a four (4) hour minimum engagement period shall apply.
- 42.5 The night shift that falls from the conclusion of the day shift New Year's Eve until the commencement of the day shift on New Year's Day shall be treated as a public holiday if worked.
- 42.6 When any Public Holiday falls on an Employee's RDO or set ADO, the Employee will be paid their Guaranteed Hours or alternatively, they may elect to accrue the hours as time in lieu to allow a paid day off on a mutually agreed day in the future.

43. Closed Port Days

- 43.1 Employees shall not be required to work on Closed Port Days unless by mutual Agreement.
- 43.2 Closed Port Days, as agreed, will be:
- a) Christmas Day;
 - b) Anzac Day;
 - c) Labour Day;
 - d) Good Friday; and
 - e) another day (Lumper's Picnic Day) nominated by agreement between a majority of the Employees at each Port location.
- 43.3 As per clause 43.2e), Lumper's Picnic Day will be a twenty-four (24) hour closed day elected by the Employees with 'skeletal' labour requirements for critical operations to be mutually agreed between the Parties; and
- a) Employees will endeavour to provide as much notice as possible as to when Lumper's Picnic Day will be taken with a minimum of ten (10) weeks' notice to apply.

Working on a Closed Port Day

- 43.4 Where work is performed on a Closed Port Day, the Employee shall:
- a) accrue time in lieu equivalent to the hours worked; and
 - b) be paid two hundred and fifty (250) percent (2.5x) the applicable Rate of Pay set out in Schedule B – Rates of Pay for the hours worked.
- 43.5 Where an Employee works a Closed Port Day a four (4) hour minimum engagement period shall apply.
- 43.6 When any Closed Port Day falls on an Employee's RDO or set ADO, the Employee will be paid their otherwise standard working day (Guaranteed Hours) or alternatively, they may elect to carry the hours to their Lieu bank to allow a paid day off on a mutually agreed day in the future.

44. Long Service Leave

- 44.1 An Employees shall be entitled Long Service Leave in accordance with the Long Service Leave Act 1958 (WA) (or the relevant Act where the legislation is replaced), with the following improved conditions;
- a) Thirteen (13) weeks leave, at the applicable Rate of Pay, will be available after seven (7) years continuous service with the Employer;
 - b) Where the employment ends after five (5) years continuous service, pro rata Long Service Leave will be available be paid out on termination, except where termination is due to serious misconduct;
 - c) Employees may take pro rata Long Service Leave after five (5) years of continuous service;
 - d) For each subsequent period of seven (7) years continuous service the Employee will be entitled to an additional thirteen (13) weeks Long Service Leave on their applicable Rate of Pay;
 - e) Any entitlement to Long Service Leave accrued up to 1 January 2024 will be as per the Employees previous terms and conditions. From 1 January 2024 Long Service Leave will accrue in accordance with clause 44 of this Agreement.

Long Service Leave at Half Pay

- 44.2 An Employee may request the Employer grant a period of Long Service Leave that is;
- a) twice as long as the period to which the Employee is entitled to at half the Rate of Pay.

45. Short Leave

- 45.1 Full-time and part-time Employees are entitled to three (3) days short leave per annum. Short leave can be taken for reasons such as a wellness day, birthdays, children's events, and other similar occasions subject to the agreement with their Manager, provided that the Employer will not unreasonably refuse a request to take accrued short leave. This leave does not accrue from year to year.

46. Parental Leave

- 46.1 The Parental Leave provisions in the Act will apply except to the extent varied by this Agreement.
- 46.2 All Employees will, after 12-month's continuous service, be entitled to the following paid Parental Leave as part of their entitlement to a total of 52 weeks' Parental Leave in relation to the birth of a child:
- a) After 12 months continuous service an Employee who is a primary caregiver who commences Parental Leave as provided under provisions of clause 46 shall be entitled to have the first 12 weeks as paid Parental Leave which may be used flexibly.
 - b) After 12 months continuous service, an Employee who is a non-primary caregiver proceeding on Parental Leave shall be entitled to have the first two (2) weeks as paid Parental Leave which may be used flexibly.
 - c) To be entitled to Parental Leave, an Employee must give Employer a medical certificate at least ten (10) weeks before the expected date of birth stated in the certificate and written notice of the intention to take Parental Leave stating the first

and last days of the intended leave.

- d) To be entitled to adoption leave the Employee must as soon as reasonably practicable provide the Employer with a statutory declaration stating their intention to apply for adoption leave in order to become the primary caregiver of the child and of the first and last days of their intended leave.

46.3 Absence on Parental Leave:

- a) does not break continuity of service of an Employee; and
- b) unpaid leave is not to be taken into account when calculating the period of service for the purpose of this Agreement.

46.4 An Employee on a fixed term contract may not be granted Parental Leave for any period beyond that Employee's period of engagement.

46.5 Unless agreed otherwise between the Employer and Employee, the Employee may apply to change the period of Parental Leave on one occasion and at least four weeks prior to the commencement of the changed arrangements.

46.6 An Employee may in lieu of or in conjunction with Parental Leave access any Annual Leave or Long Service Leave entitlements which they have accrued, subject to the total amount of leave not exceeding 52 weeks.

47. Community Services Leave

47.1 Employees (including casual Employees) are entitled to Community Service Leave, in accordance with the NES and relevant State Legislation, as outlined in this clause, to attend:

- a) jury service (clause 47.2); or
- b) a voluntary emergency management activity with a recognised body to deal with an emergency or natural disaster (clause 47.3).

47.2 **Jury Services Leave** is provided where an Employee is summoned and attends jury duty in accordance with the *Juries Act 1957 (WA)*. In such circumstances:

- a) the Employee shall advise the Employer of the absence and the expected duration prior to the commencement of leave; and
- b) upon return to work, provide certification declaring the attendance for the specified period; and
- c) the Employee shall be paid their guaranteed hours at the applicable Rate of Pay as set out in Schedule B – Rates of Pay for the duration of absence.

47.3 **Emergency Services Leave** shall be granted to an Employee who is an active volunteer member of state Emergency Service, St John Ambulance Brigade, Volunteer Fire & Rescue Service, Bushfire Brigades, Volunteer Marine Rescue Service Groups, DFES or any other voluntary emergency units to allow attendances at emergency/disaster situations as declared by the recognised authority. In such circumstances:

- a) The Employee shall advise the Employer of the absence and where possible, the expected duration of leave, as soon as practicable; and
- b) Upon return to work, provide certification from the emergency organisation declaring the attendance for the specified period; and
- c) The Employee shall be paid their rostered hours at the applicable Rate of Pay as set out in Schedule B for the duration of absence.

48. Defence Force Leave

- 48.1 An Employee is entitled to Defence Service Leave of up to two (2) weeks per year to fulfill service obligations in the Australian Defence Force Reserves, including training and operational duty. Employees must provide appropriate notice and evidence when requesting this leave.
- 48.2 In the first year of Australian Defence Force Reserve service, Employees may be granted an additional two (2) weeks of paid leave to support their participation in training, including induction requirements.
- 48.3 Part time Employees are entitled to Defence Force Leave as set out in this clause on a pro-rata basis.
- 48.4 If an Employee receives external compensation or attending Defence Service activities, they must reimburse Southern Ports for any wages paid during the absence.
- 48.5 Employees may additionally choose to utilise annual or Long Service Leave for the purposes of attendance.

49. Family and Domestic Violence Leave

- 49.1 The Employer recognises that Employees may sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, the Employer is committed to providing support to Employees that experience domestic violence.
- 49.2 Domestic violence includes physical, sexual, financial, verbal or emotional abuse by an Immediate Family member.
- 49.3 General measures in relation to the management of domestic violence include:
- a) Proof of domestic violence may be required and can be in the form of an agreed document issued by the Police Service, a Court, a doctor, a Domestic Violence Support Service or lawyer.
 - b) All personal information concerning domestic violence will be kept confidential. No information will be kept on an Employee's personal file without their express written permission.
 - c) No adverse action will be taken against an Employee if their attendance or performance at work suffers as a result of experiencing domestic violence.
 - d) The Employer's contact will be a nominated member of the HR department who will have skills and knowledge in managing domestic violence and privacy issues.
 - e) An Employee experiencing domestic violence may raise the issue with their immediate supervisor or the nominated human resources representative. The supervisor may seek advice from the nominated human resources representative if the Employee chooses not to make contact with the human resources department.
 - f) Where requested by an Employee, the nominated human resources representative will liaise with the Employee's supervisor on the Employee's behalf, and will, in consultation with the Employee, make a recommendation on the most appropriate form of support.
- 49.4 An Employee experiencing domestic violence or has an immediate family member experiencing domestic violence requiring the Employees support, will have access to ten paid (10) days per year of paid special leave for medical appointments, legal proceedings and other activities related to domestic violence. This leave will be in addition to existing

leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval. Additional leave may be drawn from an Employee's available accrued personal leave balance.

- 49.5 An Employee experiencing domestic violence will be referred (with their consent) to the Employee Assistance Program (EAP) and/or other local resources. The EAP shall include professionals trained specifically in domestic violence.

50. Purchased Leave

- 50.1 Employees may opt to purchase additional Annual Leave in accordance with the Southern Ports Purchase of Annual Leave Procedure, as amended from time to time.

51. Occupational Health and Safety

- 51.1 The Employer shall maintain a safety policy which demonstrates the commitment of the Employer and its Employees to Occupational Health and Safety and accident prevention in accordance with Federal and State Occupational Health and Safety Legislation and other relevant legislative requirements.
- 51.2 The Employer will maintain, as part of its Safety policy, a commitment to the observance of induction procedures on Occupational Health and Safety for all new Employees.
- 51.3 The Employer will regularly review and update induction handbooks on Occupational, Health and Safety procedures as required.
- 51.4 The Employer and the Employees shall take appropriate measures to ensure a safe and healthy working environment prevails in accordance with the Occupational Health and Safety Policy and relevant Federal and State legislation; and
- a) promote and maintain safety procedures;
 - b) provide appropriate equipment and ensure that it is properly used;
 - c) maintain records relating to work related injuries;
 - d) institute a system for reporting and investigating accidents;
 - e) provide effective safety training;
 - f) ensure that medical and first aid services are available as required by the Occupational Safety and Health Act;
- 51.5 provide the opportunity through its formalised site committee to have safety matters raised, considered and resolved including recommendations to eliminate or reduce hazards;
- 51.6 avoid the consumption of alcohol or use of drugs such that their own safety or the safety of any other person at work is not endangered; and
- 51.7 may appoint, by Agreement a Port Doctor for consultation where concern for the health of an Employee arises for an independent assessment at no cost or loss of wage to that Employee.
- 51.8 Adequate amenities and facilities will be provided including a crib room and toilet and shower facilities for both genders.
- 51.9 A Hatchman will be utilised for loading and unloading of cargo in the hold in accordance with marine orders 32.
- 51.10 The Employer will ensure that regular site inspections and audits will be conducted to identify OH&S issues, that require actions to be taken and endeavour to hold monthly

‘walkthroughs’ of the Port to identify any safety issues that may be outstanding. Monthly safety meetings will also be held involving safety representatives and union delegates to discuss and address safety concerns in the workplace. Action plans and timelines will be created and adhered to in relation to any safety concerns raised at these meetings.

52. Motor Vehicle Policy

- 52.1 Employees will comply with the Southern Ports Motor Vehicle Policy and Procedure as amended from time to time.

Termination and Redundancy

53. Termination of Employment

- 53.1 Employment may be terminated by:
- a) the Employer on the provision of 4 weeks’ notice, or by payment in lieu of notice;
 - b) the Employer on the provision of 5 weeks’ notice where an Employee is over 45 years old and has completed more than 2 years continuous service;
 - c) the Employer without notice if an Employee commits any act of Serious Misconduct (as defined within in the Act and clause 66 Formal Disciplinary Procedure). In such circumstances remuneration will only be paid to the time of summary termination; or
 - d) the Employee providing 2 weeks’ notice.

54. Redundancy

- 54.1 Redundancy occurs where the Employer no longer requires the Employee’s job to be done by anyone and terminates their employment accordingly.
- 54.2 Where the Employer is required to reduce labour numbers, consultation will occur in accordance with clause 58.
- 54.3 Where the proposed reduction has resulted from ‘Economic Downturn’ (as defined in clause 55) then the process outlined within clause 55 shall apply.
- 54.4 No Employee shall be made redundant whilst labour hire Employees, contractors and/or Employees of contractors engaged by the Employer, are performing work that is performed, or has previously been performed, by Employees covered by this Agreement.

Redundancy Selection

- 54.5 Where the Employer is contemplating redundancy, the Employer will take all practicable steps to mitigate the impact of redundancies on the Employees. These steps will include, but not be limited to:
- a) The option of voluntary redeployment within any of the Employer's other operations (subject to the availability of suitable positions and the suitability of the Employee's skills, experience and attributes);
 - b) The option of agreed retraining to increase the skill of affected Employees and their ability to remain employed with the Employer;
 - c) The option of reduced hours of work or roster changes as agreed between the Parties, for mutually agreed set period; and/or
 - d) Any other measures as agreed between the Parties pursuant to clause 55.

- e) Where voluntary redundancies are offered and there are more expressions of interest from Employees than available redundancies then; subject to the relevant trade qualifications of the impacted Employees, The Employer will give preference to Employees with the longest lengths of service (first on, first off).
- f) Where the provisions contained within this Agreement fail to avoid the requirement for forcible redundancy then; subject to relevant trade qualifications of the impacted Employees, The Employer will give preference to Employees with the shortest lengths of service (last on, first off).

54.6 Where an Employee has been informed that they have been, or will be made, redundant the Employee will be allowed paid leave of up to eight (8) hours at the applicable Rate of Pay for the purpose of seeking alternative employment. This leave taken by the Employee, need not be taken in consecutive increments (Employee's discretion).

Redundancy Pay

54.7 An Employee whose employment is terminated by reason of redundancy is entitled to the following amount of redundancy pay, at the Employee's applicable Rate of Pay, in respect of a period of service:

- a) Four (4) weeks' payment for each year of completed service. This will be capped at forty (40) weeks.
- b) A week's payment shall mean the Rate of Pay multiplied by the Employee's relevant weekly ordinary hours.
- c) Any reduction in weekly hours resulting from 'Temporary Changes' as envisaged within clause 55, will not have the effect of reducing an Employee's entitlements under this clause.
- d) The severance entitlements outlined within this clause are exclusive of and additional to, Employees' entitlements to relevant notice in accordance with clause 53.1.

55. Economic Downturn Flexibility

55.1 This clause is intended to provide the Employer, the Employee and the Union with Agreement Flexibility for the purpose of managing operational requirements and minimise the need for potential redundancies in the case of significant Economic Downturns that may affect the Employer's sustainability.

55.2 For the purpose of this clause an 'Economic Downturn' is defined as a significant decline in trade, revenue, or economic conditions that negatively impacts the ability of the Employer to sustain its current operations and workforce.

Temporary Changes

55.3 In the event of an Economic Downturn, the Employer may implement Temporary Changes to term and conditions of employment, including but not limited to:

- a) adjusting hours of work; and
- b) modifying work rosters; and
- c) providing alternative job roles or responsibilities.

55.4 Temporary changes in accordance with this clause require the agreement between the Employer and the affected Employee. Where multiple employees are impacted, the agreement must be reached with the majority of affected Employees.

55.5 All changes under this clause shall comply with applicable legalisation.

Notification

- 55.6 The Employer shall provide written notice to all employees whose terms and conditions of employment are likely to be impacted by the changes.
- 55.7 The written notice is to include:
- a) the nature and causes of the Economic Downturn;
 - b) the specific changes to be implemented;
 - c) the expected duration of the changes; and
 - d) a brief explanation of the rationale for these changes.

Duration

- 55.8 Temporary changes under this clause shall not exceed twelve (12) months. The Employer may review and extend this period, if necessary, subject to further consultation with affected employees.

Consultation

- 55.9 The Employer agrees to consult with affected employees and their representatives prior to implementing changes under this clause. The consultation will be in accordance with clause 58.

Reinstatement of Terms

- 55.10 Upon the conclusion of the Economic Downturn, the Employer shall reinstate the original terms and conditions of employment or negotiate new terms in good faith with affected employees and in accordance with consultation provisions set out in clause 58.

56. Roster Value

- 56.1 Rostering arrangements contained in this Agreement are based on the operational requirements of the Company as established by the Parties during negotiation of this Agreement.
- 56.2 Whilst this Agreement continues to apply, the Company shall not, without consultation in accordance with Clause 58 and majority agreement with the affected Employee group, alter:
- a) the aggregate number of working days within a roster; or
 - b) the aggregate number of duty free days within a roster; or
 - c) the aggregate value of the roster.

Consultation and Dispute Resolution

57. Dispute Resolution

57.1 If a dispute relates to:

- a) a matter arising under this Agreement;
- b) the National Employment Standards; or
- c) any matter pertaining to the relationship between the Employer and the Employees.

this term sets out the procedures to settle the dispute provided that nothing in this term prevents a party to a dispute from applying to a court for orders in relation to a contravention or proposed contravention of a civil remedy provision.

57.2 An Employee is entitled to a representative of their choice for the purposes of the procedures in this term.

57.3 The Union may raise a dispute in a representative capacity for an Employee or Employees.

57.4 Where the Union raises a dispute in a representative capacity, the Union is not required to identify or provide evidence of Employee(s) on behalf of whom the dispute is raised (other than where circumstances are such that the Employer cannot properly understand the dispute unless the Employee(s) are identified).

57.5 In the first instance, the parties to the dispute will try to resolve the dispute at the workplace level.

57.6 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.

57.7 The Fair Work Commission will deal with the dispute by conciliation and/or arbitration. The Fair Work Commission may otherwise deal with the dispute as it sees fit, including by the exercise of any of its powers or functions under the Act.

57.8 A decision made by the Fair Work Commission is subject to an appeal against the decision of a single member of the Fair Work Commission to the Full Bench of the Fair Work Commission under and in accordance with s 604 of the Act and not this term.

57.9 To the extent possible, the parties to a dispute intend that a decision of the Fair Work Commission under this term will be subject to judicial review and that the Full Bench deal with any appeal under this term in accordance with its statutory function in s 604, exercising only powers and functions conferred on it by the Act, and not in its capacity as a private arbitrator.

57.10 It is a condition of validity that any decision of the Fair Work Commission under this term is legally correct. A decision that is not legally correct may be appealed to the Federal Court of Australia on that ground.

57.11 While the parties are trying to resolve the dispute using the procedures in this term:

- a) the parties will maintain the status quo existing immediately prior to the subject matter of the dispute arising, unless an Employee has a reasonable concern about an imminent risk to his or her health or safety; however
- b) the Employer may direct an Employee to perform other available work, on the same terms and conditions of Employment, if it is reasonable to do so to protect the health, safety or welfare of Employees.
- c) For the avoidance of doubt, the status quo is defined as 'the action giving rise to

the dispute being withdrawn, and the situation immediately prior to the action giving rise to the dispute applying until the dispute is settled’.

- 57.12 An Employee who raises a dispute under this clause is entitled to participate in the procedure provided for in this clause without loss of pay.
- a) Employees who are directly involved in the preparation of a case for conciliation or arbitration, or who are required as a witness in an arbitration, are entitled to do so without loss of pay.
 - b) In the event that the parties to the dispute fail to agree on the identity or number of persons who qualify under this term, the question will be determined by the Fair Work Commission as part of the dispute.

58. Consultation

Notification of Change

- 58.1 The parties to this Agreement acknowledge the rights and responsibilities of each other in relation to consultation about change.
- 58.2 Specifically, the Employer recognises its responsibility to genuinely consult with Employees, their representatives (where nominated), and the Union, about any change that is likely to have significant effect on them.
- 58.3 The Employer will genuinely consider the views and advice of the Employees, their representatives (where nominated), and the Union. Accordingly;
- a) Where the Employer is likely to introduce change(s) that are likely to have significant effect on Employees; or proposes to introduce a change to the regular roster or ordinary hours of work of Employees, the Employer undertakes to notify the Employees who may be affected by the proposed change(s), and the Union.
 - b) Without limiting the generality thereof, significant effect includes;
 - c) Termination of employment
 - d) Changes to the composition, operation, or size of the workforce
 - e) Major changes in the skills required of Employees
 - f) The elimination or diminution of job opportunities, promotion opportunities or job tenure
 - g) The alteration of hours of work
 - h) The need for retraining or transfer of Employees to other work or locations
 - i) The restructuring of jobs
 - j) The use of contractors
 - k) Change(s) to the legal or operational structure of the business
 - l) Structural changes to the Employer’s operations

Company Duty to Discuss Change

- 58.4 The Employer undertakes to discuss with the affected Employees, the introduction of the proposed change(s), the effects the changes are likely to have on Employees, measures to avert or mitigate any adverse effects of such changes on Employees and give prompt consideration to matters raised by the Employees, their representatives (where nominated), and the Union in relation to the proposed change(s).
- 58.5 The parties to this Agreement agree to participate in these discussions in good faith.

- 58.6 The discussions shall commence as early as practicable after the Employer has determined that it is likely to implement the proposed change(s).
- 58.7 For the purposes of such discussion, the Employer undertakes to provide in writing to the Employees concerned, their representatives (where nominated) and the Union, all appropriate relevant information about the proposed change(s) including the nature of the proposed change(s), the expected effects of the changes on Employees and any other matters likely to affect Employees.

Implementation of Change

- 58.8 It is agreed that, after the Employer has given careful and genuine consideration to the views of Employees and provided consultation has occurred in accordance with this clause between the Employer and relevant Employees in relation to the implementation of the proposed change(s); the proposed change(s) may be implemented with seven days' notice.
- 58.9 Where there is a disagreement over:
- a) the application of this clause;
 - b) the implementation of the change(s) which have been the subject of consultation under this clause; and/or
 - c) the actual subject of the proposed change
 - d) the matter may be placed into dispute pursuant to the Disputes Resolution Procedure of this Agreement.

NOTE: Whilst a matter is being progressed according to this clause and subject to there being no stoppage of work as a result of a matter raised under this clause, the status quo will remain. The status quo will be the state of affairs that existed prior to the matter that has been put in dispute.

Changes to Regular Roster and/or Ordinary Hours of Work

- 58.10 Where the Employer proposes to introduce a change to the regular roster or ordinary hours of work of Employees:
- a) the Employer must notify the relevant Employee(s) of the proposed change; and
 - b) clauses 58.11 to 58.17 will apply.
- 58.11 The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 58.12 If:
- a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - b) the Employee or Employees advise the Employer of the identity of the representative;
 - c) then the Employer must recognise the representative.
- 58.13 As soon as practicable after proposing to introduce the change, the Employer must:
- a) discuss with the relevant Employee/s the introduction of the change; and
 - b) for the purposes of the discussion, provide to the relevant Employee/s:
 - i. all relevant information about the change, including the nature of the change; and
 - ii. information about what the Employer reasonably believes will be the effects of the change on the Employee/s; and

- iii. information about any other matters that the Employer reasonably believes are likely to affect the Employees; and
- iv. invite the relevant Employee/s to give their views about the impact of the change (including, but not limited to, any impact in relation to their family or caring responsibilities).

58.14 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employee/s.

58.15 The Employer must give prompt and genuine consideration to matters raised about the change by the relevant Employee/s.

58.16 For the purposes of applying this clause 'relevant Employee/s' means the Employee/s who may be affected by the proposed change to regular roster or ordinary hours.

58.17 Following the consultation process outlined above; in the event that the Employer then makes a decision to implement the changes which have been the subject of consultation, the Employer may only do so in accordance with clause 58.8 & 58.9.

59. Employee Representative Committee

59.1 Employee Representative Committee (ERC) will be elected from the workplace and:

- a) There will be a minimum number of (4) four meetings each year for the ERC at each Port.
- b) The participants will be given notice at least seven (7) days before the scheduled time by the Employer.
- c) All Employee representatives will be elected by the workforce they represent
 - i. One per operational team
 - ii. One from day worker maintenance
 - iii. One from PGE/ casual
 - iv. Roster Representative
 - v. Three from SP management

59.2 There is a minimum requirement of two Employee representatives and two SP to constitute a meeting.

59.3 Subject to the MUA providing notice in accordance with the FWA, a representative of the MUA can attend and participate in meetings of the committee. If an MUA representative attends a meeting then SP senior management representatives will also attend the meeting.

Other Employment Matters

60. Continuity of Service Delivery

- 60.1 The Parties recognise and accept the requirement of the Employer to guarantee delivery of services to its customers. Accordingly, the Employees will not engage in unlawful industrial action which is a condition of employment for Employees.

61. Mental Health and Employee Assistance Programs

- 61.1 The Parties recognise the importance of managing mental health in the workplace and commit to the following principles accordingly:
- a) Continuous review of work practices with a view to minimising work-related stress;
 - b) Ready access to specialised mental health ‘first aid’ training for volunteer Employees in order to provide an initial point of contact within the workforce; and
 - c) The provision of an Employee Assistance Program (EAP) incorporating a variety of services (telephone/online/face-to-face counselling phone apps etc.)
- 61.2 In the interests of achieving the principles set out above the Employer will work with Employee Health and Safety Representatives (elected by the workforce) to contract provider organisations that Employees (and members of their immediate household) can engage with confidently.
- 61.3 Where requested by the workforce via their elected Health and Safety Representatives (HRPs) the Employer will make every effort to contract the services of at least two different EAP provider organisations for Employees (and members of their immediate household) to choose between (at no expense to Employees).
- 61.4 Notwithstanding the fact that caps on the number of sessions available to Employees (and members of their immediate household) shall be in accordance with company policy; the Employer will ensure that requests for additional sessions will not be unreasonably declined.
- 61.5 The Employer will make every effort to ensure that mental health ‘first aid’ training for volunteer Employees is provided by the organisation by a third-party provider at no cost to the Employee. Where approved, Employees attending Mental Health First Aid will do on paid time.

62. Training

Training Objectives

- 62.1 The parties to this Agreement recognise that in order to maintain and increase the ongoing efficiency and productivity of the port the parties commit themselves to:
- a) maintenance of the current highly skilled and flexible workforce;
 - b) providing Employees with career opportunities through appropriate training to acquire additional skill, and
 - c) following proper consultation and having regard to the requirements of a nationally accredited training association, the Employer shall develop a training program consistent with:
 - d) the current and future skills needs of the enterprise;
 - e) the size, structure and nature of the operations of the enterprise; and

- f) the need to develop vocational skills relevant to the enterprise and the waterfront industry through courses conducted by accredited educational institutions and providers.
- 62.2 It is intended that the training provided will be relevant to the needs of the Employer's operations.
- 62.3 Agreed training so identified and categorised shall be undertaken either on and/or off the job. Provided that if the training is undertaken during normal working hours the Employee concerned shall not suffer any loss of pay. The Employer shall not unreasonably withhold such paid training leave.
- 62.4 A training matrix identifying the programmed training to meet workplace skill and qualification requirements will be updated at least biannually.

External Training

- 62.5 Agreed training, as directed by the Employer so identified and categorised shall be undertaken either on and/or off the job. Provided that if the training is undertaken during normal working hours the Employee concerned shall not suffer any loss of pay.
- 62.6 Any costs associated with training (such as enrolment and the purchase of prescribed textbooks, excluding those which are available in the Employer's technical library), incurred in connection with the undertaking of training shall be paid by the Employer.
- 62.7 Travel costs incurred by an Employee undertaking training in accordance with this clause, which exceeds those normally incurred in travelling to and from work, shall be reimbursed by the Employer.
- 62.8 Agreed training, as requested by the Employee shall be undertaken either on and/or off the job.
 - a) The Employee will reimburse all costs associated with the training in the event they leave of their own accord within a 12-month period from completion of the course.
 - b) Any costs associated with enrolment and the purchase of prescribed textbooks, excluding those which are available in the Employer's technical library, incurred in connection with the undertaking of training shall be reimbursed by the Employer upon production of evidence of such subject to the presentation of reports of satisfactory progress.
 - c) The Employee concerned will not be remunerated for the time spent meeting the requirements of the training.
 - d) Employees are exempt from clause b)62.8b) if the training is included in the classifications table.
- 62.9 External training and assessments will be conducted by nationally accredited providers wherever appropriate.

On the Job Trainers

- 62.10 The Employer by agreement with the Employee will designate on the job trainers.
- 62.11 On the Job Trainers (OJT's) are qualified workplace trainers and assessors who carry out workplace training and assessment on an as needs basis
- 62.12 During the period in which the Employee is performing OJT duties, the Employee will be paid at one Level higher than their usual classification up to a maximum of Level 6.
- 62.13 The On-the-Job training referenced in this clause does not include the requirement for all Employees to mentor other Employees as part of their ordinary duties.

63. Union Recognition

- 63.1 Collective industrial relations will continue as a fundamental principle of the Employer.
- 63.2 To ensure all new Employees properly understand their rights under this Agreement, the union representative shall be allowed to explain to the new Employees how the terms of this Agreement operate and benefit the Employees.
- 63.3 The MUA may convene two (2) hour paid meetings, up to a maximum of six (6) times in each calendar year with all Employees who are members or potential members of the MUA. The Union will provide the Employer with reasonable advanced notice of the meetings. The Employer will not unreasonably withhold consent to those meetings.

64. Union Training Leave

- 64.1 Employee/s, nominated by the Union, will be granted Union Training Leave to attend MUA approved or nominated conferences and/or training in accordance with the following provisions:
- a) only one Employee per location, per shift team/team shall be able to be absent on this leave at any one time; and
 - b) the operating requirements permit the granting of leave; and
 - c) the scope, content and level of the training or attendance at a conference, is such as to contribute to a better understanding of Employee Relations and be of benefit to the Port/s as a whole.
 - d) Union Training Leave granted will count as service for all purposes; and
 - e) the Employee/s will provide the Employer with a minimum of twenty-eight (28) days' notice of the application to attend the training/conference; and
 - f) Union Training Leave, as set out in clause 64, will accumulate over the term of the Agreement as per the provisions herein.
 - g) The Employee taking Union Training Leave will meet expenses associated with attendance at such courses or seminars, but Union Training Leave may include travelling time necessarily required during normal working hours to attend such courses or seminars.
 - h) An application for Union Training Leave must be in writing and accompanied by a statement from the Union that it has nominated the Employee concerned for such course or seminar and support the application.
 - i) The Port will solely determine whether conditions have been met.
- 64.2 Union Training Leave as per the provisions set out above, clause 64 will be as follows per Port:
- a) Port of Albany:
 - i. ten (10) days per year of the Agreement, capped at maximum of thirty (30) days over the term of the Agreement.
 - b) Port of Bunbury:
 - ii. ten (10) days per year of the Agreement, capped at maximum of thirty (30) days over the term of the Agreement.
 - c) Port of Esperance:
 - i. twenty (20) days for the first year of the Agreement; and thereafter

- ii. fifteen (15) days per year, capped at fifty (50) days over the term of the Agreement.

65. Transmission of Business

- 65.1 If a business or part of a business of the Employer (the Transmitter) that engages Employees covered by this Agreement is transmitted from Southern Ports Authority, Employer (the Transmittee), the Employer will contractually require that the Employees the Transmittee decides to employ will:
- a) have their prior service with the Employer (or any prior Employer where that was contractually required of Southern Ports Authority, Port of Esperance) recognised for all purposes; and
 - b) be provided with the same terms and conditions of employment as those that apply to them in their employment with the Employer (or any prior Employer where that was contractually required of Southern Ports Authority, Port of Esperance)] at the time of such transmission.
- 65.2 Prior to any transmission of business, the Employer will consult with the affected Employees in accordance with the procedures outlined in clause 58 of this Agreement.
- 65.3 The Employers agrees to include the following as part of the consultation process:
- a) the potential for redeployment within the existing business (where vacant positions exist);
 - b) the availability of voluntary redundancies and nature of the package if the Transmittee has decided not to employ all affected Employees; and
 - c) the opportunities for employment with the Transmittee.
 - d) For the purpose of such consultation, the Employer will provide in writing the name of the Transmittee (if known at the time of consultation and not subject to any confidentiality restrictions imposed by the Transmittee).
 - e) The Employer agrees that, in circumstances of a transmission of business covered by this clause, it will apply the following approach with the aim of achieving a mutually acceptable outcome with each of the affected Employees:
 - i. offer the opportunity to internally redeploy and/or retrain to a suitable vacancy (where a vacancy exists);
 - ii. Where more than one person seeks to be internally redeployed to a suitable vacancy, the persons seeking redeployment to that vacancy will be required to participate in a merit based selection process with the criteria of skills required, experience and performance.
 - iii. provide with an opportunity to take a voluntary redundancy package as referred to in clause 54.5e) and
 - iv. make reasonable efforts to seek an offer of employment with the Transmittee (in a manner consistent with this clause).
 - f) In circumstances where the above process does not result in an agreed outcome for one or more of the affected Employees (i.e. through voluntary redundancy, redeployment or employment with the Transmittee), the Employer will consult with those remaining Employees (and their nominated representatives) in an attempt to determine appropriate arrangements to be applied in respect of those remaining Employees on the transmission of business.

- g) It is agreed that, if such consultation does not result in an agreed outcome in respect of any of those Employees, the matter may be referred to Step 4 of the Dispute Resolution Procedure (as outlined in clause 57 of this Agreement) for conciliation and/or arbitration.
- h) The provisions contained within the Fair Work Act 2009 (Cth) relating to transmission of business shall be observed at all times during any proposed transmission of business.

66. Formal Disciplinary Procedure

- 66.1 Where the Employer arranges an interview/meeting with an Employee for the purpose of investigation of alleged misconduct, the Employee will, upon request, be entitled to representation; and sufficient time permitted (3 business days unless otherwise mutually agreed) for the Employee to arrange such representation.
- a) The Employer will accommodate representation via teleconference where physical attendance cannot be arranged.
 - b) Where it is reasonable to assume that the alleged misconduct, if found to have occurred, could result in the termination of the Employee's employment (Serious and Wilful Misconduct); an additional day will be provided for the Employee to arrange such representation (i.e. 4 business days unless otherwise mutually agreed).
- 66.2 In the event that the conduct of an Employee is deemed by the Employer to warrant formal disciplinary action:
- a) A verbal counselling session will take place in the first instance.
 - b) A written record will be provided to the Employee and a copy placed in the Employee's personal file, documenting the nature of the discussion, the improvements required of the Employee by the Employer, and the measures implemented by the Employer to assist the Employee to make such improvements (collectively the 'Improvement Plan').
 - c) A record of the verbal counselling discussion and Improvement Plan will remain in the Employee's personal file for a period of precisely twelve (12) calendar months from the date of discussion; after which it will be removed and no longer be relied upon for future disciplinary process or influence future Improvement Plans.
- 66.3 If the conduct of the Employee does not improve in the areas discussed during the initial verbal counselling session in accordance with this clause, the Employer may arrange a further meeting to review the identified continuing performance issue(s).
- a) The Employee will, upon request, be entitled to representation; and sufficient time permitted (up to seven days unless otherwise mutually agreed) for the Employee to arrange such representation.
 - b) The purpose of this meeting is to review the initial goals for improvement, the Employee's progress in achieving those goals, and the assistance provided by management in consultation with the Employee and (where applicable) his/her representative.
 - c) Where the Employer is able to demonstrate that there has not been adequate improvement in accordance with the Improvement Plan; a formal written warning may be issued directly to the Employee. A copy of this formal written warning will also be placed in the Employee's personal file.
 - d) The copy of the formal written warning will remain in the Employee's personal file

for a period of precisely twelve (12) calendar months from the date of issue; after which it will be removed and no longer be relied upon for future disciplinary process or influence future Improvement Plans.

- e) In the event that there continues to be no improvement in the Employee's conduct as discussed during the initial, verbal counselling session in accordance with this clause; the Employer may arrange a further meeting to review the identified continuing performance issue(s).
- f) The Employee will, upon request, be entitled to representation; and sufficient time permitted (up to seven days unless otherwise mutually agreed) for the Employee to arrange such representation.
- g) The purpose of this meeting is to review the initial goals for improvement, the Employee's progress in achieving those goals, and the assistance provided by management in consultation with the Employee and (where applicable) his/her representative.
- h) Where the Employer is able to demonstrate that there has not been adequate improvement in accordance with the Improvement Plan; a second or 'final' formal written warning may be issued directly to the Employee and the Employer may require the Employee to provide a written commitment to comply with the Improvement Plan. A copy of this formal written warning and the commitment to comply will also be placed in the Employee's personal file.
- i) The copy of the second/final formal written warning will remain in the Employee's personal file for a period of precisely twelve (12) calendar months from the date of issue; after which it will be removed and no longer be relied upon for future disciplinary process or influence future Improvement Plans.
- j) In the event of a further indiscretion related to the same issues covered in the previous steps; the Employer may take action to dismiss the Employee.
- k) There is no requirement on the part of the Employer to observe the previous steps within this clause in instances of Serious and Wilful Misconduct. Serious and Wilful Misconduct' means acts of physical violence, theft of company property and/or possession of alcohol or illegal drugs within the worksite.
- l) In circumstances where termination of employment is a potential outcome, a demonstrably independent third-party will be engaged to conduct the investigation in relation to the alleged misconduct and the standard of proof required (including, where applicable, based on balance of possibilities) will be suitably higher and proportionate to reflect the seriousness of the potential outcome.
- m) The Employer reserves the sole discretion to bypass the verbal counselling session and progress directly to the issuance of a formal written warning in instances where an Employee has engaged in misconduct deemed by the Employer to warrant such. Where the Employer chooses to exercise this right, it will still be a requirement to provide the Employee with an Improvement Plan as outlined in this clause.

66.4 The Employee may dispute the actions of the Employer at any stage of the Formal Disciplinary Process, in accordance with the clause 57 - Dispute Resolution.

67. Future Bargaining Processes

67.1 Before initiating formal voting procedures under sections 180 and 181 of the Fair Work Act 2009, the Employer shall take all reasonable steps to obtain in-principle majority agreement at each Port location via a preliminary voting process, in accordance with clause 67.

- 67.2 To facilitate the preliminary vote, the Union shall engage a third-party provider to conduct a voting process for Employees covered by the proposed replacement Enterprise Agreement.
- 67.3 The purpose of the preliminary vote is to determine whether a majority of Employees covered by the proposed replacement enterprise agreement at each Port location support its substantive terms and conditions.
- 67.4 Participation in the preliminary vote shall be restricted to Employees covered by the proposed replacement Enterprise Agreement.
- 67.5 For the purposes of this clause, majority agreement shall mean more than fifty (50) percent affirmative (yes) votes.
- 67.6 The Employer, the nominated Bargaining Representatives, and the Union may mutually agree in writing to waive the preliminary vote and proceed directly to the formal voting process under sections 180 and 181 of the Fair Work Act 2009.
- 67.7 Clause 67 does not override or replace the obligation to bargain in good faith or adhere to the enterprise agreement approval processes required by the Fair Work Act 2009.
- 67.8 The Union shall provide the Employer with written notification of the voting results from each Port location.
- 67.9 If any of the following conditions are met:
- a) the Union provides written confirmation that majority affirmative agreement has been achieved; or
 - b) a period of 28 calendar days has elapsed since the first preliminary vote was conducted; then
- the Employer may proceed to initiate formal voting procedures under sections 180 and 181 of the Fair Work Act 2009.

68. Study Assistance

- 68.1 Employees shall be entitled to Study Assistance in accordance with Southern Ports Study Assistance Procedure, as amended from time to time.

69. Labour Review

- 69.1 From 12 months after the commencement of this Agreement and thereafter at 12 monthly intervals, there shall be a review of the composition of the workforce.
- 69.2 The review will be conducted by the Employer in consultation with the ERC and the Union.
- 69.3 The Review will include, but not be limited to:
- a) Size and composition of the workforce;
 - b) Skills and training requirements;
 - c) Allocation and rostering practices; and
 - d) Equity of allocation and opportunity.
- 69.4 The Employer will provide for the discussions with the ERC and the Union all relevant data such as labour proposals, training plans, labour costs, hours, management of persons with disabilities. The scope of the review will be discussed between the Employer, the Union and Employees prior to the conducting of the review.

70. Use of Contractors and Labour Hire

70.1 The Employer will use direct employment as the preferred and predominant employment option within the organisation.

70.2 The Employer will not engage a contractor to supply personnel to fill any of the classifications covered by this Agreement with the intent of pursuing a reduction in wages and conditions of Employees or to erode permanency of employment.

70.3 The Employer shall only engage contractors/labour hire providers who apply wages and conditions to their employees that are no less favourable than provided for under the terms of this Agreement*, where the employees of those contractors/labour hire providers are performing work covered by this Agreement which would ordinarily be undertaken by the Employees.

*For the avoidance of doubt the relevant test of whether this requirement has been met will be a comparison with the terms applicable to a Casual Employee performing the same work.

70.4 The Employer may need to supplement their directly employed workforce with contract/labour hire employees from time to time in circumstances including:

- a) where specialist skills are required or where there is a need to work on specialised plant or equipment;
- b) where there are non-core skills and or work to be performed;
- c) for genuine 'project' work;
- d) in extraordinary and unforeseen circumstances; and
- e) when the use of contract labour would be considered a community or philanthropic service (by mutual agreement via consultation).

70.5 Where circumstances set out in clause 70.4e) arise, then the provisions of clause 70.3 shall not be deemed to apply.

70.6 In the event of a dispute arising in relation to the application of this clause the matter may be progressed in accordance with the provisions of clause 57 (Dispute Resolution Procedure).

Part B - Albany

1. Preamble

- 1.1 The provisions of Part B - Albany, together with the provisions contained in this Part, apply exclusively to Employees engaged by the Employer whose designated Home Port is the Port of Albany.

2. Definitions

- 2.1 For the purposes of applying Part B - Albany, the following definitions will apply:

- a) **'Day'** means:
 - i. A full calendar day, starting at midnight (12:00am) and ending at 11.59 pm the same day.
- b) **'Deckhand duties'** means:
 - i. assisting the MC5 with marine operations.
- c) **'MC5'** means:
 - i. Master Class 5.

3. Port Specific Classifications

- 3.1 Employees may be engaged in one of the following classifications:
- a) Maintenance Worker; or
 - b) Maintenance Worker / Deckhand; or
 - c) MC5 (Master Class 5); or
 - d) MC5 Relief (Master Class 5 Relief).
- 3.2 Employees will be assigned a Classification Level in accordance with Schedule A - Classifications, based on the duties they are normally and regularly required to perform in their role.
- 3.3 Where an Employee performs tasks that are assigned a higher level than their primary role, Part A – General Terms & Conditions, clause 20 - Higher Duties will apply.
- 3.4 The principal place of employment will be at the port of Albany facilities, however from time-to-time Employees may be required to attend another location for a specific purpose such as training.
- 3.5 Transfer to locations outside of the port of Albany, whether on a short-term or long-term basis, for purposes other than training, is by mutual agreement only. Transfer for training purposes will be in accordance with the Part A – General Terms & Conditions provisions of this Agreement.

4. Deckhand Allowance

- 4.1 Employees who are appointed as Permanent Maintenance Worker / Deckhands will be entitled to a flat fortnightly Deckhand Allowance as set out in Part B - Albany, clause 4.2.
- 4.2 The Deckhand Allowance will be as follows for the according to the relevant year:
- a) 2025 - \$563.90;
 - b) 2026 - \$573.18.

4.3 In the event this Agreement expires, and a new replacement Agreement has not yet been put to a formal vote, then Deckhand Allowance as set out in Part B - Albany, Clause 4.2b) will increase on 1 January 2027 in line with GWP or in the absence of GWP, Perth CPI for the September quarter preceding.

4.4 The Deckhand Allowance is payable during periods of paid leave and is payable in circumstances of redundancy.

4.5 The Deckhand Allowance is not payable during periods of unpaid leave.

5. Superannuation

5.1 Employees covered by Part B - Albany, will have their Superannuation contributions calculated on all earnings.

5.2 The Employer will make superannuation contributions into The Maritime Super Division of Hostplus (*or successor fund*) in accordance with The Hostplus (Maritime Super Division) Trust Deed, or into a nominated superannuation fund of the Employee's choice.

6. Accident Make-Up Pay

6.1 Accident Make-up pay (accident pay) shall be payable in respect of an injury / illness arising in the course of employment after the commencement of this Agreement.

6.2 Accident pay shall be payable if an Employee is incapacitated for work by an injury within the meaning of the relevant State Workers' Compensation Act (or where relevant, Seacare / Comcare Acts) and is in receipt of a weekly payment of compensation pursuant to the particular Act.

6.3 The injured Employee shall be entitled to accident pay for a maximum period of fifty-two (52) weeks, however calculated. Where aggravation of a previous injury, which entitled an Employee to accident pay, occurs, then the fifty-two (52) week maximum applies to the totality of the condition.

6.4 The amount of the accident pay shall be the difference between the gross amount of any weekly payment of compensation paid from time to time and the amount of the injured Employee's ordinary rate of pay contained in this Agreement.

7. Maintenance Workers

7.1 The ordinary hours of work for a maintenance worker are thirty-seven point five (37.5) hours per week / seventy-five (75) hours per fortnight, rostered between 7am and 3pm Monday to Friday.

7.2 The ordinary hours of work set out in Part B - Albany, clause 7.1 above are inclusive of paid rest breaks as per Part A – General Terms & Conditions, clause 33.

7.3 The rostered hours of work for a day shift shall be 0730 hrs to 1500 hrs Monday to Friday, with 0.5 hours of the ordinary hours per day to be accrued into the Employee's ADO bank. The ADO's are to be taken at a mutually agreed time. The maximum ADO's that any Employee may accumulate is eight (8) days. An Employee can elect to receive payment for ADO's provided that a balance of five (5) ADO's is maintained by the Employee and an accumulation of more than eight (8) ADO's will trigger payment for ADO's to reduce the Employee's ADO balance to five (5) days.

7.4 Where time is worked in excess of the rostered hours of work it shall be treated as overtime. Payment for overtime is set out in Part A – General Terms & Conditions, clause 37 of this Agreement.

7.5 A maintenance worker recalled to work overtime to perform Maintenance Duties (and not Deckhand Duties), which is not a shift extension, after leaving the Employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of four (4) hours work at the applicable Rate of Pay set out in Schedule B – Rates of Pay for each time he/she is so recalled. If work should extend beyond the four-hour callout, Employees shall be paid in half hour increments at two (2) times (double time) the applicable Rate of Pay set out in Schedule B – Rates of Pay until they finish.

7.6 Priority tasks for Maintenance Workers are:

- a) Maintenance activities; and
- b) Other Port services.

7.7 The Employer agrees that overtime requests will require the applicable Employees agreement.

8. Maintenance Worker / Deckhand

8.1 An Employee engaged in the Maintenance Worker / Deckhand classification shall perform the duties of a Maintenance Worker and the Deckhand duties.

8.2 For shipping movements Employees shall be notified of future requirements according to the TBC system as set out in Part B - Albany, clause 10.

8.3 Maintenance Worker / Deckhands shall be supplied by a pool of suitably qualified Employees in accordance with the provisions of this clause.

8.4 Maintenance Worker / Deckhands will follow a roster that ensures that a Deckhand will be available for all shipping requirements.

8.5 There shall be no financial disadvantage to Maintenance Worker / Deckhands should they be required to carry out "out of hours" (1530 hrs to 0730 hrs) shipping.

8.6 Should a Maintenance Worker / Deckhand have to take time off prior to or subsequent to "out of hours" shipping for the purposes of fatigue management, there will be no deductions from their normal pay (i.e. the wages they would have accrued in their day job shall still be paid even though they may not have attended at work during the hours of 0730 hrs to 1530 hrs). Deckhands will provide a 24/7 service on the Pilot Boat with a 10-hour rest period subsequent to the last work performed between 2200 hrs and 0400 hrs.

8.7 When performing any shipping movements between the period 0400 hrs to 0600 hrs (start) Employees will not be required to perform tasks until the start of the normal working day at 0730 hrs. A standard day shift shall subsequently apply, except that a 1400 finish time will apply (providing no call out between 2200 hrs the previous day and 0400 hrs that day has occurred).

8.8 All Maintenance Workers shall be entitled to be trained and participate in the Deckhand roster subject to the provisions of Part B - Albany, clauses 8.10 and 8.11.

8.9 All appointments (as a Deckhand) require the relevant authorisation from the Employer.

8.10 A rostering arrangement shall be prepared and agreed by the participating Maintenance Worker / Deckhands.

8.11 The Deckhand roster will comprise eight (8) Maintenance Worker / Deckhands based upon shipping volumes leading into and as at the date of implementation of this Agreement. Alteration to this number will be via mutual agreement between the Parties according to Part A – General Terms & Conditions, clause 69 - Labour Review.

- 8.12 Where a vacancy within the Deckhand roster becomes available, it will be offered to Maintenance Workers according to their length of service (prioritising Maintenance Workers who have the longest service history) until the required eight (8) Deckhand positions has been maintained.
- 8.13 Priority for Maintenance Worker / Deckhands when called in for a shipping movement is as follows:
- a) Maintenance activities planned before shipping movement timing declared – Deckhand duties to be allocated to an Employee on roster not affected by scheduled maintenance activities;
 - b) Deckhand duties;
 - c) Other ancillary Port services to the extent that those services do not exceed fifteen (15) minutes after the pilot boat is secured and result in the total time of the call out being greater than four (4) hours.
- 9. Master Class 5 (MC5)**
- 9.1 MC5s are to be paid an aggregate wage based on rostered days on/off.
- 9.2 The MC5 roster is based on two full-time (“Senior”) MC5s, each working 220 rostered days on and 110 days rostered off. The roster shall be 14 days on, 7 days off.
- 9.3 The ordinary hours roster for Senior MC5s will be an average of 35 hours over 7 days or an average of 70 hours over a, 14 day swing.
- 9.4 Annual Leave for both full-time and part-time MC5s shall be 35 days (5 weeks) per annum.
- 9.5 MC5s will be available for multiple starts within any (24-hour) rostered day on, provided they are not required to be on continuous duty for more than 14 hours. Any operational job commenced within the 14 hours span must be followed by a 10-hour uninterrupted break.
- 9.6 If rostered days fall on a weekend or a public holiday, MC5s will be required to complete operational requirements and effect emergency R&M only.
- 9.7 When rostered to work MC5s will be expected to carry out (in order of priority);
- a) Marine operations tasks;
 - b) R&M on the Pilot Launch;
 - c) R&M on Navigational Aids;
 - d) R&M in the marina compound;
 - e) R&M on oil pollution equipment;
 - f) R&M on land-based port assets;
 - g) such other tasks (within their individual skills and qualifications) as deemed necessary by the Harbour Master, Deputy Harbour Master or other authorised representative of the Employer (in the case of maintenance of land- based port assets).
- 9.8 Each shipping job shall be counted (for the purpose of calculating hours worked) as the greater of:
- a) the actual time taken (if greater than 3 hours); or
 - b) three (3) hours (minimum).
- 9.9 Personal Leave/Carers, Annual Leave and fatigue (shift) breaks, as set out in Part A – General Terms & Conditions, will be covered by a suitably qualified Maintenance Worker /

Deckhand (the 'Relief MC5') provided that, where performing such work, the Relief MC5 will attract the same Rate of Pay and conditions as a MC5.

- 9.10 When an MC5 requires coverage for shipping due to fatigue management requirements, the Relief MC5 shall receive a minimum four (4) hours payment at the equivalent Rate of Pay as a MC5 (as set out in Schedule B – Rates of Pay) if the job is completed between the span of 0700hrs to 1600hrs. Where such coverage is provided outside of this span, the overtime penalty in Part A – General Terms & Conditions, clause 37 shall apply.
- 9.11 Where coverage/relief for MC5 is unable to be provided internally (including from the Port of Bunbury or the Port of Esperance), emergency relief may be sourced from external service providers.

10. TBC Call Out

- 10.1 For shipping movements Employees shall be notified of future requirements according to the TBC system.
- 10.2 The TBC Call-Out system is a method by which service providers to shipping are notified of the timing of shipping movements by the shipping agent via SMS.
- 10.3 The nominated times for TBC Call-Out notifications relating to shipping movements to be issued are 0830hrs, 1230hrs and 1730hrs.
- 10.4 If loading times change due to weather conditions or for any other circumstances beyond the ship's representative's control, the given TBC Call-Out time can be changed to another time according to the shipping agent's requirements.
- 10.5 The shipping movement times cannot be brought forward from the TBC Call-Out time announced to the Employees at the allocated times listed above unless the MC5 and Deckhand agree on a voluntary basis.
- 10.6 The rules associated with TBC Call-Outs are set in the context of a 24-hour Day.
- 10.7 Payment for any and all Call-Outs will be at two (2) times (double time) the applicable Rate of Pay set out in Schedule B – Rates of Pay.

11. Pilot Boat Crew

- 11.1 All rostered days are to be worked within the guidelines of an appropriate fatigue management system.
- 11.2 Notices of impending shipping requirements will be provided utilising a TBC system. Notwithstanding how that system works;
- a) Notices for a weekday requiring shipping movements where no TBC order has been issued the previous day, the Employer shall be able to order the pilot boat crew to work that day with eight (8) hours' notice; and
 - b) public holidays that fall on a Monday can have shipping orders issued on the immediate Sunday prior, provided the order is issued before 1730 hours.
- 11.3 Despite anything else in this Agreement, a pilot boat crew may be called out without prior notice to deal with life threatening or environmental emergencies at sea, in which event:
- a) Duty MC5 shall have a minimum of four (4) hours (plus additional thirty-minute increments where work exceeds 4 hours) credited towards the total hours worked; and
 - b) Maintenance Worker / Deckhand (including where performing the role of relief MC5) shall be paid for a minimum of four (4) hours work (plus additional hourly

increments where work exceeds 4 hours) at the overtime rate in accordance Part A – General Terms & Conditions, clause 37; and/or

- c) in the case of Casual Employee, the minimum payment shall be for four (4) hours at the applicable Rate of Pay relevant to a Casual Employee (plus additional hourly increments where work exceeds 4 hours).

11.4 Where, due to unforeseen and exceptional operational circumstances, a requirement occurs; the work period may be extended provided the extension does not render the period longer than twelve (12) hours. Such extension must be notified at the commencement of the second break and may be cancelled only by notification up to one hour before the extension is to occur.

11.5 Where a stand-alone period of work of less than three (3) hours is expected to be worked, no breaks shall be taken provided that if there is yet-to-be-completed work at the conclusion of the 3rd hour, a paid rest period of fifteen (15) minutes shall be taken as soon as practicable.

12. Union Delegates Office

12.1 The Parties acknowledge the significance of the role that the Union (and its predecessor the Waterside Workers' Federation) has played throughout the history of the Albany Port.

12.2 The Employer acknowledges that relocation of the Union delegate's office would represent a 'significant change' to 'program' and as such would require prior consultation in accordance with Part A – General Terms & Conditions, clause 58.

13. Implementation of Change

13.1 The following provision are in addition to Part A – General Terms & Conditions, clause 58, specifically in relation to Implementation of Change:

- a) After the Employer has given careful and genuine consideration to the views of Employees and provided mutual agreement has been reached between the Employer and relevant Employees in relation to the implementation of the proposed change(s); the proposed change(s) may be implemented with seven (7) days' notice.

14. Fatigue Management Procedure

14.1 To ensure that Employees duties are not impaired by fatigue, the parties will be guided by State legislation and STCW 95 Chapter V111 / 1 (as set out in Marine Orders Part 28, Division 4).

14.2 Because of the unpredictability of vessel movements, the strict application of STCW 95, chapter V111 / 1 as above may not always be possible however, an Employee must be provided with minimum aggregate rest of seventy (70) hours in seven (7) days.

14.3 Scheduled hours of work should ordinarily not exceed twelve (12) hours.

14.4 If an Employee is required to be on continuous duty for fourteen (14) hours or more, the Employee must be given a rest break of ten (10) hours at the cessation of that period of duty before the commencement of the next period of duty.

14.5 A period of continuous duty must not exceed sixteen (16) hours.

14.6 The Parties will keep fatigue management and the operation of the roster under review at the Port of Albany, through the local Occupational Health and Safety Committee, so as to ensure the proper and efficient management of fatigue.

15. Anzac Day

- 15.1 The Employer will take all reasonable steps to ensure that Employees are not required to work on Anzac Day.
- 15.2 The Employer will attempt, in the first instance, to engage contractors to perform required work on Anzac Day.
- 15.3 Should an Employee work on Anzac Day at the request of the Employer, the Employee will be entitled to payment for the day worked plus three (3) days of lieu time.

16. Matters Reserved

- 16.1 Journey cover for permanent Employees in respect of the journey to and from the place of employment, excluding those injuries covered by and relating to the relevant Motor Vehicle Act.

Part C - Bunbury

1. Preamble

- 1.1 The provisions of Part C - Bunbury, together with the provisions contained in this Part, apply exclusively to Employees engaged by the Employer whose designated Home Port is the Port of Bunbury.

2. Definitions

- 2.1 For the purposes of this Part, the following definitions will apply:

- a) **‘Maintenance work’ or ‘Maintenance’** includes but is not limited to:
- i. All plant maintenance;
 - ii. Mechanical and electrical works inclusive of plant modification, sustained capital works, shutdown, breakdown, outage, up Level and refurbishment works directly related to operating or brownfields projects;
 - iii. Routine maintenance work which includes regular maintenance activities, breakdowns and pre-outage / post-outage work including commissioning and decommissioning;
 - iv. Maintenance work on or in the vicinity of the Port in connection with or relating to the maintenance or operational activities at the site; and
 - v. Any other work necessary to successfully complete the work referred to above.
- b) **‘Night shift’** means:
- i. any shift where the majority of ordinary hours are worked between 1800 hrs and 0600 hrs.

3. Hours of Work

- 3.1 The Employer and relevant Employee(s) may mutually agree to adjust start and finish times at any time in circumstances where the change is ad hoc.
- 3.2 The Employer may request an Employee to work a different roster including start and finish times. The Employer must provide the Employee with 48 hours’ notice and can only be varied in these circumstances by mutual agreement.
- 3.3 All hours performed continuing past midnight count as part of the previous day’s work.

4. Port Specific Classifications

- 4.1 Employees may be engaged in one of the following classifications:
- a) Maintenance Day Worker; or
 - b) Maintenance Day Shift Worker.
- 4.2 Employees will be assigned a classification level based on the duties they are normally and regularly required to perform in their role.
- 4.3 Where an Employee performs tasks that are assigned a higher level than their primary role, Part A – General Terms & Conditions, clause 20 - Higher Duties will apply.

- 4.4 The principal place of employment will be at the port of Bunbury facilities, however from time-to-time Employees may be required to attend another location for a specific purpose such as training.
- 4.5 Transfer to locations outside of the Port of Bunbury, whether on a short-term or long-term basis, for purposes other than training, is by mutual agreement only. Transfer for training purposes will be in accordance with the Part A – General Terms & Conditions provisions of this Agreement.

5. Day Workers

- 5.1 The Ordinary hours for a Day Employee will average thirty-eight (38) hours per week and are to be worked Monday to Friday between 0600hrs and 1800hrs as required by the Employer.
- 5.2 Day Employees will be required to work additional hours in accordance with the terms of this Agreement to meet the operational needs of the Employer.
- 5.3 Day Employees who volunteer to work an early start (prior to 0600 hrs) will be paid an additional 0.25 times the applicable Rate of Pay for all hours worked prior to 0600 hours. Ordinary time will be paid thereafter, and the commencement time will be taken as the early start time and the Day Employee's shift will finish early, consistent with normal shift length.
- 5.4 Day Employees may be scheduled to work outside ordinary hours (by mutual agreement) and will be paid an additional 0.25 times the applicable Rate of Pay for the hours worked, (e.g. Shutdown).
- 5.5 Work required to be performed on a Saturday or Sunday will attract a minimum four (4) hour engagement.

6. Day Shift Worker

- 6.1 The hours of work (Guaranteed Hours) for a Day Shift Worker will be an average of forty-two (42) a week over the defined work cycle and may be worked on any or all days Monday through Sunday. 0600hrs to 1800hrs.
- 6.2 Unless otherwise indicated in this Agreement, Day Shift Employees will be paid the applicable Day Shift Rate of Pay set out in Schedule B – Rates of Pay for their Guaranteed Hours. The Rates of Pay set out in Schedule B – Rates of Pay, that are applicable to Day Shift Employees are inclusive of a fifteen (15) percent shift loading.
- 6.3 Unless otherwise indicated in this agreement, the hours of work set out above, for a Day Shift Employee are made up of ordinary hours plus reasonable additional hours.

7. Accumulated Days Off (ADOs) – Applicable to Day Workers Only

- 7.1 Day Employees may work an eight (8) hour day and accrue 0.4 hours towards an accrued day off (ADO).
- 7.2 ADOs will be permitted under the following conditions:
- a) ADOs must be applied for in writing by the Employee on an Employer's approved Leave system a minimum of two (2) weeks in advance of the date they wish to take.
 - b) All ADOs must be approved by the Employee's Manager and will be managed by the human resources (or delegate).
 - c) If minimum staff numbers are not available on the applied date to maintain core business functions of the Employer, the approval of the ADO will be at the

Managers discretion.

- d) Due to operational requirements, an Employee's ADO may be cancelled by the Supervisor or Manager with twenty-four (24) hours' notice of the ADO date. At this time, the Employee may negotiate another alternative ADO date or choose to reapply for another date two (2) weeks in advance, as per the above booking procedure.

7.3 ADO hours will not accrue above three (3) days (22.8 hours).

7.4 An Employee can be directed by their Supervisor or Manager to take an ADO.

7.5 No more than two (2) consecutive ADOs will be taken at any one time.

7.6 Day Employees may elect to have accrued ADOs cashed out.

8. On Call

8.1 On-Call Allowance is payable to Employees who receive written instruction (or other authorised direction) to remain contactable by telephone or other means outside the Employees' hours of duty and be available in a fit state at all such times to provide information, advice and direction.

8.2 An On-Call Allowance will be paid at the rate of \$10.00 per hour for each hour the Employee is required to be available outside their ordinary hours of work.

8.3 An On-Call Allowance is not paid whilst an Employee is on duty and does not include Employees making their telephone contact details available; and is payable only in the event that they have been requested to be available to be contacted or recalled to duty.

8.4 For the purposes of shift change over an On-Call day begins at 1800hrs the day before an Employee's rostered day shift.

8.5 The Employer will determine the requirement and number of Employees required being On-Call. It is expected that one (1) Mechanical Tradesperson; one (1) Electrical Tradesperson and one (1) Maintenance Supervisor when vessels are being stevedored.

9. Call Outs

9.1 A Call-Out is when an Employee is called out to work additional hours after leaving the Employer's premises and shall be paid for a minimum of four (4) hours;

- a) All Employees will be paid a flat loading of fifty (50) percent of their applicable Rate of Pay set out in Schedule B – Rates of Pay for Call-Outs. This penalty is in substitution for the overtime penalty in Part A – General Terms & Conditions, clause 37.

9.2 A ten (10) hour rest period shall follow each call back, except where:

- a) The Call-Out commences on or after 0400hrs
- b) Where Call-Out begins on or after 0400 hours, the Employees will undertake their scheduled shift except their hours of work will be reduced by one (1) hour for each hour the Employee starts prior to 0600hrs, as per the table below;

Call out time	Application of call out rate (x1.5)	Shift length reduction
0400 – 0500 hours	0400 – 0800 hours	2 hours
0500 – 0600 hours	0500 – 0900 hours	1 hour

- 9.3 Where an Employee has returned home following a Call-Out and prior to the elapsing of the four hours from when initially called out, is again called out then only one Call-Out payment shall apply. Where a Call-Out exceeds four hours it will continue to be paid at the Call-Out rate except if where the Call-Out is continuous with allocated shift.
- 9.4 Where an Employee is not in receipt of the On-Call Allowance and is contacted to attend work but subsequently resolves the issue without attending work they will be paid a Call-Out as if they had attended work.
- 9.5 An Employee may, in the first instance, notify the Employer of their preference not to be contactable outside of their ordinary hours of work (this selection may be for any or all days) except where insufficient resources, or mix of skills, fail to meet the operational needs of the Employer. This list will be used to determine the priority of call out to work. If an Employee is not in receipt of the On-Call Allowance, there is no requirement for them to be available for a Call-Out.
- 9.6 The Employer may elect to contract outside labour to facilitate the out of hours work requirements after they have tried to contact all Employees that meet the skill requirement that are on the Call-Out list.

10. Shift Handovers - Supervisors

- 10.1 Part C - Bunbury, clause 10 herein applies only to Employees engaged as Supervisors.
- 10.2 A shift handover will be a maximum of thirty (30) minutes unless otherwise mutually agreed.
- 10.3 An Employee who is required, for the purposes of an authorised shift handover, to be contactable (by phone) outside of their rostered hours and where they are not on-call, will be paid their applicable Rate of Pay set out in Schedule B – Rates of Pay.

11. Dayshift Worker Roster

Day	A Crew	B Crew
Monday	On	Off
Tuesday	On	Off
Wednesday	Off	On
Thursday	Off	On
Friday	On	Off
Saturday	On	Off
Sunday	On	Off
Monday	Off	On
Tuesday	Off	On
Wednesday	On	Off
Thursday	On	Off
Friday	Off	On
Saturday	Off	On
Sunday	Off	On

12. Annual Leave Calculations

- 12.1 For the purposes of Annual Leave as per Part A – General Terms & Conditions, clause 39 the following will apply in respect to the accrual of Annual Leave:
- a) Employees engaged as Day Shift Employees – two hundred and ten (210) hours (5x 42 hours) paid Annual Leave to accrue progressively; or
 - b) Employees engaged as Day Worker Employees – one hundred and fifty-two (152) hours (4x 38 hours) paid Annual Leave to accrue progressively; or
 - c) The applicable pro-rata amount according to the ordinary hours of work where an Employee does not work full-time hours.

13. Personal / Carers Leave Evidence Requirements

- 13.1 To be entitled to leave in accordance with Part A – General Terms & Conditions, clause 40, for absences in excess of two (2) days an Employee must give the Employer:
- a) if it is reasonably practicable to do so – a medical certificate from a registered health practitioner; or
 - b) other reasonable evidence; and
 - c) The number of paid time off days which may be granted without production of a medical certificate shall not exceed, in the aggregate, five (5) working days in any one calendar year.

14. Labour Review

- 14.1 Part A – General Terms & Conditions, clause 69 will not apply to Employees covered by Part C - Bunbury herein.

Part D - Esperance

1. Preamble

- 1.1 The provisions of Part D - Esperance, together with the provisions contained in this Part, apply exclusively to Employees engaged by the Employer whose designated Home Port is the Port of Esperance.

2. Definitions

- 2.1 For the purposes of applying Part D - Esperance, the following definitions will apply:

- a) **'PTO'** means:
 - ii. Planned Time Off, a non-accruable leave type available to PGE's
- b) **'Shift Worker'** means:
 - iii. a CSW, PGE, or casual Employee engaged for 24-hour allocation to stevedoring operations.

Employment Arrangements

3. General Employment Arrangements

- 3.1 The principal place of employment will be at the port of Esperance facilities, however from time-to-time Employees may be required to attend another location for a specific purpose such as training.
- 3.2 Transfer to locations outside of the port of Esperance, whether on a short-term or long-term basis, for purposes other than training, is by mutual agreement only. Transfer for training purposes will be in accordance with provisions in Part A – General Terms & Conditions of this Agreement.

Remuneration & Entitlements

4. Rates of Pay

PGEs

- 4.1 PGEs will be paid a guaranteed minimum of forty-eight (48) hours per fortnight as the applicable CSW Rate of Pay set out in Schedule B – Rates of Pay.
- 4.2 Any hours worked more than ninety-six (96) hours in a 4-week cycle will be paid on the second pay period of that cycle.

Day Workers

- 4.3 Day Workers will be paid the applicable Day Worker Rate of Pay as set out in Schedule B – Rates of Pay for their Guaranteed Hours of work.
- 4.4 Day Workers will be paid the applicable CSW Rate of Pay for the entire shift worked if required to commence work outside span of hours as set out in Part D - Esperance, clause 556. This excludes moorings where Employees will be paid a four (4) hour minimum at the applicable Day Shift Worker Rate of Pay set out in Schedule B – Rates of Pay.

CSWs

- 4.5 CSWs will be paid at applicable Rate of Pay in accordance with Schedule B – Rates of Pay for their Guaranteed Hours except where otherwise specified in the Agreement.

- 4.6 CSWs shall be available for allocation to any shift on their team roster agreed at the commencement of this Agreement, subject to approved leave arrangements. Changes to the agreed team roster must be made in line with consultation requirements.

5. Remote Area Living Allowance (RALA)

- 5.1 Employees will be entitled to RALA in accordance with the following provisions:
- a) ten (10) percent (%) of the Employees applicable Rate of Pay which will be calculated as an hourly allowance. The RALA allowance will be paid on the following hours:
 - i. in relation to Day Workers/Day Shift Workers/CSWs, guaranteed hours (where applicable); and
 - ii. in relation to PGEs, on ordinary hours, up to a maximum of 1248 per year.; and
 - iii. in relation to Casuals on all hours.
- 5.2 RALA will not be paid during periods of unpaid leave.
- 5.3 RALA attracts superannuation for all Employees (prospectively, from the date of implementation of this Agreement) in accordance with the above provisions.
- 5.4 RALA applies to redundancies in accordance with the provisions of this Agreement.
- 5.5 RALA applies to Employees while Esperance is defined by the ATO as a Remote Area <https://www.ato.gov.au/businesses-and-organisations/hiring-and-paying-your-workers/fringe-benefits-tax/in-detail/fringe-benefits-tax-remote-areas#WesternAustralia>.

6. Hours of Work

PGEs

- 6.1 PGEs will be guaranteed an average of ninety-six (96) ordinary hours over a 4-week period.
- 6.2 In the first pay period of any four-week averaged period, a PGE will be paid forty-eight (48) ordinary hours. PGEs will then be paid the balance of hours, including any additional worked hours at the applicable overtime penalty, in the second pay period.
- 6.3 The Employer will guarantee a PGE a minimum of twelve hundred and forty-eight (1248) ordinary hours over an annual cycle.

Day Workers

- 6.4 Day Workers, in the first instance, are guaranteed a thirty-five (35) hour week, working seven (7) hours a day. Day Workers will work their Guaranteed Hours between 0600 and 1600, Monday to Friday inclusive.
- 6.5 An Employee employed as a Day Worker in accordance with this Agreement, may have their hours of work increased from thirty-five (35) hours to forty (40) hours a week on 1 January of each year of the Agreement, if:
- a) the request is in writing at least twenty-eight (28) days prior to the commencement date; and
 - b) the Employer mutually agrees to the Employees request.
- 6.6 Day Workers who are working a forty (40) hour week, agree that the Guaranteed forty (40) hours per week, will be made up of an average of thirty-eight (38) ordinary hours per week and an average of two (2) additional hours per week and their span of ordinary hours will be adjusted to between 0600 and 1600 Monday to Friday. Additionally:

- a) Where an Employee has been approved and transition to a forty (40) hour week, may request and convert to a four (4) day working week if;
- b) the request is in writing at least twenty-eight (28) days prior to the commencement date; and
- c) the written request includes the Employees preference of roster options, which includes;
 - i. 10 hours per day from Monday to Thursday; or
 - ii. 10 hours per day from Tuesday to Friday; and
 - iii. the Employer mutually agrees to the Employees request.
- d) Where an Employee has an approved four (4) day working week as prescribed above, the span of hours will be adjusted to between 0600 and 1800.

CSWs

- 6.7 The Guaranteed Hours of work for permanent CSWs when rostered ON, shall be twelve (12) hours per rostered day on and an average of forty-two (42) Guaranteed Hours per week.

7. Equity of Shift Allocation

- 7.1 In order to ensure allocation is carried out appropriately with a fair and equitable opportunity to work for all Employees, the Employer agrees to the establishment of an Employee-elected, roster representative/proxy who will be provided access to allocation details on a regular basis so as to ensure that a transparent system prevails.
- 7.2 The roster representative will attend these meetings after mutual Agreement at the ERC that the volume of work requires this to be applied. This will be reviewed at each ERC meeting. At such time, the Employer will allocate the elected Roster Representative/proxy as required for the purpose of overseeing the roster allocation process from previous allocations.
- 7.3 The role of the Roster Representative will be to address any issues associated with discrepancies and assist in the equity of shift process. In the event that the Roster Representative concludes this function early they may be assigned to other duties if required.
- 7.4 The Employer agrees to post on notice boards daily work allocations.
- 7.5 Hours will be posted fortnightly.
- 7.6 Hours posted shall reflect, worked hours, allocated shifts, unavailability, and Employee planned leave or off.
- 7.7 The Employer agrees that where an Employee is not allocated to work, and it can be demonstrated that the non-allocation is the result of management/scheduler error, the affected Employee/s shall be remunerated for the shifts he/she would have been allocated.

8. Rostering and Shift Allocation

- 8.1 It will be the general practice of the Employer for all fulltime Employees including Day/Day Shift/CSWs, to work standard shift times.
- 8.2 An Employee is required to be ready to work on the job or participate in pre-start meetings at the commencement of the shift and is required to continue to work until the end of shift.
- 8.3 All effort will be made by the Employer to have an equitable distribution between day and night shifts.

- 8.4 Employees shall not be required to work more than 14 consecutive days, not more than seven consecutive night shifts of seven hours' duration, or more than four consecutive night shifts where shift-length is greater than eight hours.
- 8.5 Other than where agreement has been reached between the Employer and an individual Employee, that Employee will not be required to work more than five (5) twelve (12) hour shifts on consecutive days.
- 8.6 Shift times will be determined by management in accordance with the following table to provide flexibility to the highly variable pattern of ships calls and customer requirements:

Shift	Advanced Start (Hours)	Retarded Start (Hours)	Earliest Start	Latest Finish	Extensions (Hours)
Day	1,2**	1,2	0400 hours	2000 hours	1,2
Night	1,2	1,2	1600 hours	0800 hours	1,2

***The 04.00 start time may only be utilised for vessel tie-up prior to commencing operation on that vessel. The earliest start time for vessel work on Day Shift is 05.00.*

- 8.7 The normal shift commencement time will be reverted to as soon as practicable.
- 8.8 The Employer does not support the performance of work by Supervisors where such work is covered by the classifications in this Agreement except where Port Operations/Maintenance would otherwise have to be shut down and where the required skills and/or manpower have not been available through the Order of Pick in Part D - Esperance, clause 10 (order of pick for shift allocation).

Minimum four-hour shift engagement.

- 8.9 Unless allocated a 12-hour shift:
- a) the notification of a four (4) hour minimum shift will be at the normal allocation time, except in the case of an Employee required to replace another Employee who had been previously allocated to the four (4) hour minimum shift.
 - b) If allocated a four (4) hour shift in accordance with the above, the Employee shall be paid a minimum period of four (4) hours.
 - c) Where an Employee is allocated to a four (4) hour minimum shift, and the work exceeds the four (4) hours, a minimum payment of seven (7) hours will apply.
 - d) Work beyond seven (7) hours will not apply where a four (4) hour minimum shift has been allocated.
 - e) During the four (4) hour shift, Employees will be available to work in other Port Operations/ Maintenance areas so long as the tasks are within their skill base (subject to the provisions of this Agreement).
- 8.10 Part D - Esperance, clause 8.9 does not apply to moorings, call-outs and standby duty unless expressed otherwise.
- 8.11 A four (4) hour engagement for Employees may be applied for the following activities:
- a) Inductions
 - b) Lashing
 - c) Washdown – berth, conveyors, loaders, hoppers, dust collectors
 - d) Training
 - e) Emergency Response Team Drill

- f) Meetings
- g) Rig tenders
- h) Container Receival & Delivery
- i) Gear preparation, including for arriving/departed vessels
- j) Trimming
- k) Quarantine inspections
- l) Walk up starts.

9. Day Worker Flexibility

- 9.1 The Employer will take all reasonable steps to ensure the following manning of the Day Worker Electrical Team:
- a) four (4) x full-time Day Worker Electricians (excluding supervisor, technician and first/second year apprentices).
- 9.2 In the event that manning falls below the preferred manning levels as set out in Part D - Esperance, clause 9.1, all 4-day Electrical Day Workers will take their RDO on Friday each week.
- 9.3 The Tue – Fri team will get Tuesday off when a public holiday falls on a Monday; and Mon – Thu team will get Thursday off when a public holiday falls on a Friday.
- 9.4 The above arrangements are also available to other Day Worker teams and trades.

10. Order of Pick for Shift Allocation

Operations

- 10.1 Allocation for Operations Duties will be as follows:
- a) Full-time Employees rostered to work;
 - b) PGEs below 48 hours in a pay cycle;
 - c) Casual Employees below 30 hours in a pay cycle;
 - d) Volunteer Full Time Employees not rostered;
 - e) PGEs over 48 hours or Casual Employees over 30 hours in a pay cycle;
 - f) Maintenance volunteers.
- 10.2 This clause is subject to skills requirement and labour availability.

Maintenance

- 10.3 When allocating maintenance tasks that would usually be performed by Day Worker Maintenance Employee/s, the following sequences will apply:
- a) Day Worker Maintenance Employees rostered ON;
 - b) Day Worker Maintenance Employees rostered OFF (offered to; Employee discretion to accept/decline);
 - c) Operations Employees with requisite trade/skill requirements;
 - d) Contractor/Labour Hire personnel.
- 10.4 The above sequences of priority may be varied during the term of this Agreement by mutual agreement and in consultation with the ERC.

11. Shift Extensions

11.1 In regard to shift extensions the following provisions will apply:

- a) The Parties intend that vessels are worked, and that the Employer has certainty of labour and skills to maintain vessel operations.
- b) Shift extensions for all Employees will be worked in accordance with operational and skills requirements.

11.2 Shift extensions are not considered normal practice and are subject to the following conditions:

- a) The hours of a shift extension notified will be paid for all Employees at the applicable rate.
- b) Any allocated shift will not be extended for more than five (5) hours.
- c) Shift extensions may be extended in hourly increments up to five (5) hours, and once notified the duration of the extension may not be altered. It is intended that a confirmed shift extension will only be altered in extenuating circumstances by Agreement. For avoidance of doubt, the full shift length, including any extension, will not exceed twelve (12) hours.
- d) Shift extensions will be notified at the commencement of the last break, or earlier and may be cancelled by notification up to one hour before the shift extension is to occur.
- e) In the case of a four (4) hour shift, notification will be provided no later than one hour prior to the end of the shift and any shift extension will result in a seven (7) hour minimum engagement and eight (8) hour maximum.
- f) Where an Employee is required to work for a period greater than the allocation advice from the day prior and is unable to fulfil that extended shift due to personal commitments, he/she will not be forced to work more than the hours allocated the day prior provided that sufficient personnel and/or skills are available to complete the planned work or alternatively, the task can be completed within the allowed hours of work of that particular shift by the Employees available. Advice of non-availability is to be given at the pre-start meeting.
- g) During the course of the shift if an emergency arises then consistent with the intent it will be acknowledged by all parties of the release of that Employee.
- h) Shift extensions can be called in unforeseen circumstances. Unforeseen circumstances include vessel late arrival, equipment breakdown, weather delay, apparent stowage problems and genuine circumstances that are identified in consultation with the Employee (or representative) and shift superintendent.

12. Watching Duties

12.1 Employees rostered on watching duties shall be provided with appropriate relief. If the relief is unavailable, Employees shall be paid for the meal break and receive a Meal Allowance in accordance with Part A – General Terms & Conditions, clause 23.

13. Mooring and Unmooring – Pilot Vessel and Lines Launch

13.1 These duties will be primarily allocated to CSWs in accordance with the Esperance Operations Allocation Order of Pick in Part D - Esperance, clause 10.1.

- a) Mooring and unmooring personnel plus pilot boat & lines launch personnel can be

part of the operations team commencing work on the vessel being moored or unmoored.

- b) Moorings, that are not being completed by Employees already on shift, are to be allocated as four (4) hour shifts. The four (4) hour shifts can be allocated on any of the day, evening or night shifts in accordance with the shift allocation provisions and may be assigned at any time during an allocated (8) hour span.
- c) Where mooring work is completed within the four (4) hour period Employees will not be directed to perform other non-mooring related tasks.
- d) The Employees are to ensure they are available for the allocated eight (8) hour span. Employees will be provided with one (1) hours' notice of start time.
- e) If the expected mooring task does not occur within the allocated eight (8) hour span, the Employees will be paid four (4) hours as a cancellation.
- f) Mooring tasks that are scheduled close to the end of a day, evening or night shift will be allocated to the next shift period.
- g) For mooring tasks only, if the mooring does not finish within the four (4) hours, Employees will be paid for extra time in one (1) hour increments, not the shift minimum shift engagement set out in Part D - Esperance, clause 8.9.
- h) If work is not completed within the allocated span allocated Employees will be able to volunteer to extend their shift to complete the mooring.

14. "Walk Up Starts" (WUS)

14.1 Walk-Up Starts (WUS) can only apply:

- a) to a vessel not at Berth, or at Berth and completed loading and awaiting departure.
- b) where there is insufficient cargo available to load.

14.2 Once a WUS is nominated by the Employer there will be no work undertaken at the point at which the WUS applied to, for the entirety of that allocated shift.

14.3 Where a WUS is nominated, Management will make every attempt to contact allocated labour prior to the Shift commencement.

14.4 In the case of a WUS, an Employee (including a Casual Employee) may be reallocated to subsequent shifts on a voluntary basis.

15. Manning Levels

15.1 Manning levels for tasks shall be determined in accordance with safe operational requirements.

15.2 The safe operational requirements will be supported by the completion of a risk assessment where required.

15.3 Current indicative minimum operational requirements for operational tasks are:

Operation	Manning Numbers
Iron ore, vessel and no train	5
Iron ore, vessel and train	6

Iron ore, vessel and train	7 - if hostile trains and midship gangway is known
Iron ore, in-loading train only	2
Nickel	5
Sulphur, in-loading	6 with 3 on commencement and the rest as required
Sulphur, out-loading	2
Spodumene, in-loading	1
Containers, unloading	6
Containers, loading	5
Bulker bags	7

15.4 Following consultation, the above levels maybe changed subject to a successful trial being carried out.

16. Manning Ratios

16.1 The Employer will engage new Employees (not including Day Workers) in line with the ratio principle of 60% full time Permanent Employees (CSW), 26.5 % Permanent Guaranteed Employees (PGEs), and 13.5% Casual Employees. The actual employment ratios may have 0.5% margin for error for practical purposes.

17. Planned Time Off (PTO Days for PGEs)

17.1 Planned Time Off (PTO), is a non-accruable leave type available to PGE's. A PGE may apply for up to twenty-one (21) days (non-accruable) PTO's in any year. These days cannot be taken in periods of greater than four (4) consecutive days.

17.2 Provided application for PTO day has been submitted at least fourteen (14) days in advance, the Employer shall not refuse the application, provided such application does not result in more than two (2) PGEs being unavailable for allocation on planned time off simultaneously on any given day.

17.3 When an application for planned time off is received in accordance with the process above, the Employer will respond within seven (7) days. If approved:

- a) the PGE will not be required to work, regardless of changed circumstances (other than by mutual Agreement); and
- b) the number of planned leave days applied for will be deducted from the total twenty-one (21) days irrespective of whether there is work occurring on the requested planned day/s off.

17.4 Applications for PTO days may be approved at the Employer's sole discretion in circumstances where:

- a) less than the required fourteen (14) day notice period has been provided; and/or
- b) there are already two (2) PGEs approved for planned time off on the requested day.

- 17.5 Where the Employer has chosen to approve an application for PTO as contemplated within in this clause, then the provisions set out in Part D - Esperance, clause 6.3 shall still apply.

18. Call-Outs

- 18.1 An Employee called out to work in circumstances involving break-downs and unforeseen emergency situations shall be paid for a minimum of four (4) hours' work for each occurrence.
- 18.2 If a call out exceeds five (5) hours, the Employee will be entitled to a paid rest break of thirty (30) minutes. If the call out exceeds seven (7) hours, breaks will be paid in accordance with Part A – General Terms & Conditions, clause 33.
- 18.3 For the purposes of this clause time reasonably spent getting to and from work shall be counted as time worked.
- 18.4 Part D - Esperance, clause 18.1 to 18.3 shall not apply in cases where it is customary for an Employee to return to his/her Employer's premises to perform a job outside his/her ordinary working hours. Where this is the case, the Employer will advise the relevant Employee in writing that the provisions of this clause will not apply to the Employee until otherwise advised in writing.

19. Standby Duty

- 19.1 The Employer, in mutual agreement with the Employee, may place an Employee on Standby Duty outside of their ordinary working hours, where there is a requirement due to Port Operations/Maintenance or in other agreed situations.
- 19.2 In addition to any payment due under the Agreement for any overtime worked, each Employee so placed on standby duty shall be paid:
- a) four (4) hours pay for each twelve (12) hour shift involving standby duty; or
 - b) four (4) hours pay plus a day in lieu if the standby duty is on a Public Holiday.
- 19.3 Unless varied by Part A – General Terms & Conditions, clause 55, pay referred to in clause 19.2 above, means the applicable Rate of Pay they would have received had they worked the four (4) hours standby.
- 19.4 An Employee placed on standby duty must remain easily contactable and available for work if required during the period of standby duty.

20. Annual Leave

- 20.1 Each Employee shall be entitled to the following period of Annual Leave in respect of each continuous year of service:
- a) In respect of Employees engaged as CSWs: five (5) weeks (i.e. 5 x 42 hours) paid leave for each completed year of service.
 - b) In respect of Employees engaged as Day Workers: four (4) weeks (i.e. 4 x 35/40 hours) paid leave for each completed year of service.
 - c) In respect of Employees engaged as PGEs: Annual Leave will be accrued at 2.302 hours per week of continuous service (i.e. 120 hours per year, being 5 x 24-hour weeks).
- 20.2 In respect of any period less than one year of continuous service an Employee shall be allowed the same proportion of four (4) weeks or five (5) weeks as the case may be as his/her period of service in that year bears to a full year. Such proportion shall be

calculated to the nearest day, any part of a day in the result not exceeding one half to be disregarded.

- 20.3 For the purposes of rostering, a week of Annual Leave is considered a continuous 7-day period.

21. Personal/Carers Leave

- 21.1 In addition to Part A – General Terms & Conditions, clause 40,:

- a) where an Employee has exhausted their other paid Personal/Carers Leave entitlements, they may take up to two (2) days unpaid carer's leave per occasion, taken in a single unbroken period of up to two (2) days or any separate period as agreed by the Employer and Employee; and
- b) if an Employee has accumulated in excess of twenty-eight (28) days of unused paid Personal/Carers Leave as of 1 July in any given year, the Employee may choose, by 31 July of that year, to receive payment for all or part of the excess leave. The payment will be calculated at the Employee's Rate of Pay applicable at the time.

Personal/Carers Leave Calculation

- 21.2 For the purposes of leave calculation, a day of leave is:

- a) Twelve (12) hours for a CSW (unless altered in accordance with Part A – General Terms & Conditions, clause 55 or as part of an Individual Flexibility Arrangement); or
- b) 7 hours for a Day Worker (8 or 10 if the alternative working arrangements are taken in line with Part D - Esperance, clause 6.5 or 6.6); or
- c) 4.8 hours for a PGE.

22. Compassionate Leave

- 22.1 In addition to Compassionate Leave as set out in Part A – General Terms & Conditions, clause 41, Esperance Employees will be entitled to an extra two (2) days per permissible occasion where the Employee has complied with evidentiary requirements.

23. Redundancy

- 23.1 For Employees engaged before 10 June 2018 redundancy provisions will be as follows;

- a) Redundancy payments shall be calculated on the basis of four weeks' pay for each completed year of continuous service, exclusive of any payment in lieu of notice (uncapped).

- 23.2 For Employees engaged after 10 June 2018 the Redundancy provisions will be as per Part A – General Terms & Conditions, clause 54.7.

- 23.3 A weeks' pay shall mean the applicable Rate of Pay as set out in Schedule B – Rates of Pay for the Employee's Guaranteed Hours, being:

- a) 42 hours for a Full-time CSW; or
- b) 35 hours for a Day Worker (40 where that Employee has opted for an alternative working arrangement as contemplated within Part D - Esperance, clause 6.5); or
- c) 24 hours for a PGE.

Schedule A - Classifications

1. Level 2

- 1.1 A Level 2 Employee is an Employee who has completed induction and initial training, has demonstrated competence and who performs such functions as required by the Employer from time to time in relation to:
- a) the operation of ITV's, small fork-lifts, bobcats and other small mechanical equipment;
 - b) shipboard and wharf duties, lashing and unlashings, packing and unpacking of containers, and other general duties;
 - c) basic servicing of equipment incidental to the performance of functions at this Level;
 - d) basic security duties incidental to the performance of functions at this Level;
 - e) clerical tasks incidental to the performance of functions at this Level;
 - f) other basic clerical tasks; and
 - g) where appropriate, functions associated with a higher Level as part of a training program.

2. Level 3

- 2.1 A Level 3 Employee is an Employee who has attained the level of Employee Level 2 and who has:
- a) completed additional training and has demonstrated competence in clerical and/or operational skills at this Level, and performs such functions as required by the Employer from time to time in relation to:
 - i. operation of heavy mechanical equipment such as heavy fork-lifts, straddle carriers, transtainers, front-end loaders, excavators or fuel trucks;
 - ii. the operation of ships gear;
 - iii. basic servicing of equipment incidental to the performance of functions at this Level;
 - iv. clerical tasks incidental to the performance of functions at this Level;
 - v. semi-skilled maintenance such as equipment and vehicle servicing and the use of hand tools in relation thereto, and incidental tasks;
 - vi. general and routine clerical duties requiring the exercise of limited initiative, performed under supervision involving functions such as the processing of information or documents associated with the receipt and delivery of cargo/containers; the loading and discharge of ships, the location of cargo in sheds or the wharf; the sorting and stacking of cargo/containers; time keeping;
 - vii. security/watching duties where this is required to be carried out as a primary function of an Employee;
 - viii. first aid duties where this is required to be carried out as a primary function of an Employee;

- ix. where appropriate in respect to paragraphs (ii), (iii), (iv), (v) or (vi), functions associated with a higher Level as part of a training program;
- x. been trained and selected for appointment to the classification of stevedoring Employee Level 3 in accordance with the operational requirements of the Employer.

3. Level 4

3.1 A Level 4 Employee is an Employee who has attained the level of Employee Level 3 and who has:

- a) completed additional training and has demonstrated competence in clerical, operational and or mechanical skills at this Level and performs such functions as are required by the Employer from time to time in relation to:
 - i. operation of specialised and complex ship's gear and or heavy shore based cranes or gantry cranes such as a portainer crane or heavy-lift mobile wharf cranes; and
 - ii. basic servicing of equipment incidental to the performance of functions at this Level; and
 - iii. clerical tasks incidental to the performance of functions at this Level; or
 - iv. clerical duties performed under general supervision requiring the exercise of initiative and a sound knowledge and experience of the tasks and procedures performed within the work area involving duties such as the processing of information and documents relating to a wide range of cargo handling functions and/or cargo availability, labour allocation and payroll; or
 - v. is a maintenance support person who performs operational and or clerical functions on an incidental basis as required; or
 - vi. monitoring and controlling the operation of refrigeration plant and its ancillary equipment under general supervision and the performance of routine mechanical maintenance in connection therewith, and any work incidental thereto; or
 - vii. where appropriate in respect the above mentioned, functions associated with a higher Level as part of a training program;
- b) been trained and selected for appointment to the classification of Employee Level 4 in accordance with the operational requirements of the Employer.

4. Level 5

4.1 A Level 5 Employee is an Employee who has attained the level of Employee Level 3 or 4 and who has:

- a) completed additional training and has demonstrated competence in the skills required at this Level and performs such functions as are required by the Employer from time to time; and
 - i. is the, or one of the key operational Employees engaged on a shift and is experienced in the operation of equipment, assists and co-ordinates the work of others; works from a work plan or sequence, liaises with supervisory Employees, and performs operational and incidental clerical tasks as required; or

- ii. in the case of an Employee who works primarily in clerical functions, assists, co-ordinates or directs the work of other clerical Employees, monitors the workflow in the area of responsibility, liaises with supervisory Employees;
 - iii. performs clerical functions as required;
 - iv. in relation to the above mentioned and where appropriate, performs functions associated with a higher Level as part of a training program;
- b) having been trained and selected for appointment to the classification of stevedoring Employee Level 5 in accordance with the operational requirements of the Employer.

5. Level 6

5.1 A Level 6 Employee is a trade qualified Employee or an Employee who has attained the level of either stevedoring Employee Level 4 or 5 and who has:

- a) completed additional training and has demonstrated competence in the skills required at this Level and performs such functions as are required by the Employer from time to time in relation to:
 - i. coordinating and supervising stevedoring operations and personnel as required by the Employer, and compiles records, reports and information in connection therewith; or
 - ii. in the case of an Employee who works primarily in clerical functions, supervising the overall operation of clerical work area(s), including any planning or organising in connection therewith; or
 - iii. is a maintenance tradesperson as defined;
 - iv. as required in respect to paragraphs (i), (ii) or (iii), performs operational and or clerical functions on an incidental basis;
 - v. as required in respect to paragraphs (i), (ii) or (iii), performs functions associated with a higher Level as part of a training program;
- b) having been trained and selected for appointment to the classification of stevedoring Employee Level 6 in accordance with the operational requirements of the Employer's enterprise.

6. Level 6 LH

6.1 A Level 6 LH Employee is an Employee who has attained the level of Employee Level 6 and who has additional leadership, scheduling, planning or coordination responsibilities.

7. Level 7

7.1 A Level 7 Employee is an Employee who has attained the level of Employee Level 6 and who has:

- a) completed additional training and has demonstrated competence in the skills required at this Level and performs such functions as are required by the Employer from time to time in relation to:
 - i. operational, clerical and maintenance functions on an incidental basis;and

- ii. where appropriate, performs functions associated with a higher Level as part of a training program.
- b) having been trained and selected for appointment to the classification of Employee Level 7 in accordance with the operational requirements of the Employer's enterprise.
- c) Any Leading Hand who commenced their role as Leading Hand prior to 1st January 2017 shall be classified as Level 7.

8. Level 7 – Maintenance Tradesperson Special Class

8.1 A Maintenance Tradesperson Special Class means a:

- a) Special Class Engineering Tradesperson (Electrical/Electronic)—Level II; or
- b) Special Class Engineering Tradesperson (Mechanical)—Level II; or
- c) Special Class Engineering Tradesperson (Fabrication)—Level II; or
- d) Equivalent; and
- e) who has completed the minimum advanced post-trade qualifications, as set out above, that are required to perform complex tasks that are above and beyond the tasks that can be performed by a Tradesperson.

Maintenance Tradesperson Special Class (Electrical)

8.2 In addition to the minimum requirements set out in Schedule A - Classifications, clause 8.1 (above) a Maintenance Tradesperson Special Class in the Electrical trade will complete complex and advanced tasks including:

- a) the modification, installation and providing advanced programming and fault diagnosis for;
 - i. electrical, electronic, and electromechanical systems; installation and programming of industrial automation and instrumentation such as PLCs and SCADA systems;
 - ii. and implementation of quality control and compliance testing procedures.

Maintenance Tradesperson Special Class (Mechanical)

8.3 In addition to the minimum requirements set out in Schedule A - Classifications, clause 8.1 (above) a Maintenance Tradesperson Special Class in the Mechanical trade will complete complex and advanced tasks including:

- a) the design, modification, installation and advanced fault diagnosis for hydraulic, pneumatic, mechanical and electro-mechanical systems on synchronous and asynchronous process plant systems.

Maintenance Tradesperson Special Class (Fabrication):

8.4 In addition to the minimum requirements set out in Schedule A - Classifications, clause 8.1 (above) a Maintenance Tradesperson Special Class in the Fabrication trade will complete complex and advanced tasks including:

- a) the design, modification, installation, repair and fabrication of pressure piping, boiler vessels, air receivers, structural components, and other registrable plant.

9. Classifications Table

9.1 Except where expressly provided otherwise in this Agreement, the following table identifies the Level that Employees will be paid at when undertaking tasks at a Level above their contracted Level of employment in accordance with Part A – General Terms & Conditions, clause 20.

TASK	LEVEL	JOB DESCRIPTION
BULK LOAD WASH	2	Basic servicing and washing of equipment incidental to a bulk operation.
DOGMAN	2	Shipboard and wharf duties, lashing and unlashings, and other general duties.
GEAR ASSISTANT	2	Basic servicing of equipment incidental to the performance of operations.
GENERAL DUTIES	2	Shipboard and wharf duties, lashing and unlashings, packing and unpacking of containers, civil maintenance, and other general duties.
HOPPER OPERATOR	2	The operation of small mechanical equipment such as hoppers.
MEETING	2	Attendance of meetings, which generally involves basic clerical tasks.
MOBILE MACHINERY	2	The operation of ITV's, small fork-lifts, bobcats, EWP and other small mechanical equipment.
OHS	2	Attendance of meetings, which generally involves basic clerical tasks.
SHOVEL	2	Shipboard and wharf duties such as shovelling and other general duties.
SITE COMMITTEE	2	Attendance of meetings, which generally involves basic clerical tasks.
TRIM	2	Shipboard and wharf duties such as cleaning and shovelling and other general duties.
WATCHMAN	2	Basic security duties.
BULLDOZER	3	Operation of heavy mechanical equipment such as heavy fork-lifts, frontend loaders, excavators or bulldozer.
CLERK	3	General and routine clerical duties requiring the exercise of limited initiative, performed under supervision involving functions such as the processing of information or documents associated with the receipt and delivery of cargo/ containers, the loading & discharge of ships, the location of cargo in the sheds or on the wharf, the sorting & stacking of cargo/containers.
FENDERING WORK	3	Berths 1 & 2 - conduct routine inspections and maintenance of fender systems and inspect timber fender units, replace timbers, and perform preventative maintenance. Berth 3 – conduct

TASK	LEVEL	JOB DESCRIPTION
		inspections on steel fender frames, remove and replace worn or damaged rubber fender units, and carry out scheduled maintenance checks to ensure optimal performance and safety during vessel mooring operations, in accordance with best practices for marine fender upkeep.
DECKHAND (does not apply to Port of Bunbury)	3	Assist MC5 with marine operations.
DECKMAN/HATCHMAN (does not apply to Port of Bunbury)	3	The operation of ships gear.
DOGGING	3	Slings loads, safely securing loads.
EXCAVATOR	3	Operation of heavy mechanical equipment such as heavy fork-lifts, frontend loaders, excavators or bulldozer.
FEL EXCAVATING	3	Operation of heavy mechanical equipment such as heavy fork-lifts, frontend loaders, excavators or bulldozer.
FEL DRIVER	3	Operation of heavy mechanical equipment such as heavy fork-lifts, frontend loaders, excavators or bulldozer.
FORKLIFT HEAVY	3	Operation of heavy mechanical equipment such as heavy fork-lifts, frontend loaders, excavators or bulldozer.
GANTRY	3	The operation of ships gantries.
REACH STACKER	3	Operation of heavy mechanical equipment such as heavy fork-lifts, transtainers, front-end loaders, excavators or reach stackers.
RIGGER	3	Shipboard and wharf duties, lashing and unlashings, and other general duties at a higher level due to training.
TRADES ASSISTANT	3	Assist tradesman in servicing and repairs to plant and equipment.
TRAIN ASSISTANT	3	Basic servicing of equipment incidental to the performance of operations.
WATER TRUCK	3	Operation of heavy mechanical equipment such as heavy fork-lifts, frontend loaders, excavators, fuel trucks or water trucks.
WEIGHBRIDGE OP	3	Clerical tasks incidental to the operation of a weighbridge.
COXSWAIN	4	Operating the lines boat (up to 12m). Must have current coxswain ticket.
CRANE MOBILE	4	Operation of specialised and complex ships gear and or heavy shore-based cranes or gantry cranes such as a portainer crane or heavy-lift mobile wharf cranes.

TASK	LEVEL	JOB DESCRIPTION
CRANE SHIP	4	The operation of ships gear.
FRANNA	4	The operation of Franna and similar type mobile crane machinery.
MAINTENANCE TECHNICIAN	4	Servicing of equipment incidental to the performance of functions at this Level.
PAINTING / SANDBLASTING	4	Tasks associated with painting, spray painting, sand blasting, other methods of blasting work etc.
VACUUM EXCAVATION, UHP WATER JETTING AND PROTECTIVE COATINGS		Preparation of surfaces using vacuum excavation, UHP water jetting and the application of protective coatings.
PORTAINER	4	Operation of specialised and complex ships gear and or heavy shore-based cranes or gantry cranes such as a portainer crane or heavy-lift mobile wharf cranes.
TELECOMMUNICATIONS OFFICER	4	Perform maintenance on site telecommunications infrastructure. Duties inclusive preventative, corrective, installation and providing technical advice.
CARGO TERMINAL OFFICER	5	Is the, or one of the key operational Employees engaged on a shift and is experienced in the operation of equipment, assists and co-ordinates the work of others; works from a work plan or sequence, liaises with supervisory Employees and performs operational and incidental clerical tasks as required.
GROUP ISOLATOR	5	Trained to SPA Group Isolator (Level 3) to conduct group isolations for workgroups in accordance with SPA procedures.
RCD/ TRAIN SUPERVISOR	5	Is the, or one of the key operational Employees engaged on a shift and is experienced in the operation of equipment (Iron Ore in loading circuit), assists and co-ordinates the work of others; works from a work plan or sequence, liaises with supervisory Employees and performs operational and incidental clerical tasks.
MASTER CLASS 5	6	Master of a marine vessel up to 24m.
TRADESPERSON	6	Is a qualified tradesperson.
CARGO SUPERVISOR	6	Is the, or one of the key operational Employees engaged on a shift and is experienced in the operation of equipment (e.g. Iron Ore out loading circuit), assists and co-ordinates the work of others; works from a work plan or sequence, liaises with supervisory Employees and performs operational and incidental clerical tasks as required.
LEADING HAND (LH)	6LH	An Employee who has additional supervisory and leadership responsibilities in addition to performing the duties of their role.
PLANNER / SCHEDULER	6LH	An Employee who works primarily in clerical functions, planning, organising and scheduling the co-ordination of resources to

TASK	LEVEL	JOB DESCRIPTION
		enable operational and maintenance work to be completed in a planned and timely manner.
MAINTENANCE SUPERVISOR	7	Supervisor in charge of Maintenance Employees covered by this Agreement.
PERSON IN CHARGE (PIC)	7	Person in charge when Shift Superintendent is not available.
MAINTENANCE TRADESPERSON SPECIAL CLASS	7	As defined in Part A – General Terms & Conditions and Schedule A - Classifications.

Schedule B – Rates of Pay

Day Workers		
Level	1-Jan-25	1-Jan-26
2	\$49.91	\$50.91
3	\$54.43	\$55.52
4	\$59.21	\$60.39
5	\$61.08	\$62.30
6	\$63.44	\$64.71
6 LH	\$69.33	\$70.72
7	\$74.32	\$75.80

Day Shift Workers		
Level	1-Jan-25	1-Jan-26
2	\$57.39	\$58.54
3	\$62.60	\$63.85
4	\$68.09	\$69.45
5	\$70.24	\$71.65
6	\$72.96	\$74.42
6 LH	\$79.73	\$81.33
7	\$85.46	\$87.17

CSWs		
Level	1-Jan-25	1-Jan-26
2	\$61.60	\$62.83
3	\$68.74	\$70.11
4	\$70.61	\$72.02
5	\$73.79	\$75.26
6	\$77.84	\$79.40
6 LH	\$83.07	\$84.73
7	\$87.45	\$89.19

Signatures

Employer

Signed for and on behalf of Southern Ports Authority (ABN 30 044 341 250)



Signature on behalf of
the Employer

Keith Wilks

Name of person authorised
to sign

Date: 15/08/25

Chief Executive Officer

Position

4/679 Murray Street, West Perth WA 6005

Address

Post Code

For Employees

Signed on behalf of the Employees covered by this agreement



Signature of
Employee Representative

Warren Smith

Name of Employee Representative

Date: 20/ 08/ 2025

Deputy National Secretary of the Maritime Union of Australia, Division
of the Construction, Forestry and Maritime Employees Union

Authority to Sign (Position Title)

365-375 Sussex Street Sydney NSW

Address

2000

Post Code

SPA Maintenance and Operations EA 2025_FINAL

Final Audit Report

2025-08-15

Created:	2025-08-15
By:	Viki George (Viki.George@southernports.com.au)
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NOTE 2: Depending upon the circumstances, evidence that would satisfy a reasonable person of the employee's need to take family and domestic violence leave may include a document issued by the police service, a court or family violence support service, or a statutory declaration.

25. Public holidays

25.1 Public holiday entitlements are provided for in Division 10 of the [NES](#).

25.2 An employee will be paid at the rate of **250%** of the ordinary hourly rate with a minimum of 4 hours work when required to work on a public holiday.

Part 7—Workplace Delegates, Consultation and Dispute Resolution

[Part 7—Consultation and Dispute Resolution renamed by [PR774763](#) from 01Jul24]

25A. Workplace delegates' rights

[25A inserted by [PR774763](#) from 01Jul24]

25A.1 Clause 25A provides for the exercise of the rights of workplace delegates set out in section 350C of the [Act](#).

NOTE: Under section 350C(4) of the [Act](#), the employer is taken to have afforded a workplace delegate the rights mentioned in section 350C(3) if the employer has complied with clause 25A.

25A.2 In clause 25A:

- (a) **employer** means the employer of the workplace delegate;
- (b) **delegate's organisation** means the employee organisation in accordance with the rules of which the workplace delegate was appointed or elected; and
- (c) **eligible employees** means members and persons eligible to be members of the delegate's organisation who are employed by the employer in the enterprise.

25A.3 Before exercising entitlements under clause 25A, a workplace delegate must give the employer written notice of their appointment or election as a workplace delegate. If requested, the workplace delegate must provide the employer with evidence that would satisfy a reasonable person of their appointment or election.

25A.4 An employee who ceases to be a workplace delegate must give written notice to the employer within 14 days.

25A.5 Right of representation

A workplace delegate may represent the industrial interests of eligible employees who wish to be represented by the workplace delegate in matters including:

- (a) consultation about major workplace change;
- (b) consultation about changes to rosters or hours of work;
- (c) resolution of disputes;
- (d) disciplinary processes;
- (e) enterprise bargaining where the workplace delegate has been appointed as a bargaining representative under section 176 of the [Act](#) or is assisting the delegate's organisation with enterprise bargaining; and
- (f) any process or procedure within an award, enterprise agreement or policy of the employer under which eligible employees are entitled to be represented and which concerns their industrial interests.

25A.6 Entitlement to reasonable communication

- (a) A workplace delegate may communicate with eligible employees for the purpose of representing their industrial interests under clause 25A.5. This includes discussing membership of the delegate's organisation and representation with eligible employees.
- (b) A workplace delegate may communicate with eligible employees during working hours or work breaks, or before or after work.

25A.7 Entitlement to reasonable access to the workplace and workplace facilities

- (a) The employer must provide a workplace delegate with access to or use of the following workplace facilities:
 - (i) a room or area to hold discussions that is fit for purpose, private and accessible by the workplace delegate and eligible employees;
 - (ii) a physical or electronic noticeboard;
 - (iii) electronic means of communication ordinarily used in the workplace by the employer to communicate with eligible employees and by eligible employees to communicate with each other, including access to Wi-Fi;
 - (iv) a lockable filing cabinet or other secure document storage area; and
 - (v) office facilities and equipment including printers, scanners and photocopiers.
- (b) The employer is not required to provide access to or use of a workplace facility under clause 25A.7(a) if:
 - (i) the workplace does not have the facility;
 - (ii) due to operational requirements, it is impractical to provide access to or use of the facility at the time or in the manner it is sought; or
 - (iii) the employer does not have access to the facility at the enterprise and is unable to obtain access after taking reasonable steps.

25A.8 Entitlement to reasonable access to training

Unless the employer is a small business employer, the employer must provide a workplace delegate with access to up to 5 days of paid time during normal working hours for initial training and at least one day each subsequent year, to attend training related to representation of the industrial interests of eligible employees, subject to the following conditions:

- (a) In each year commencing 1 July, the employer is not required to provide access to paid time for training to more than one workplace delegate per 50 eligible employees.
- (b) The number of eligible employees will be determined on the day a delegate requests paid time to attend training, as the number of eligible employees who are:
 - (i) full-time or part-time employees; or
 - (ii) regular casual employees.
- (c) Payment for a day of paid time during normal working hours is payment of the amount the workplace delegate would have been paid for the hours the workplace delegate would have been rostered or required to work on that day if the delegate had not been absent from work to attend the training.
- (d) The workplace delegate must give the employer not less than 5 weeks' notice (unless the employer and delegate agree to a shorter period of notice) of the dates, subject matter, the daily start and finish times of the training, and the name of the training provider.
- (e) If requested by the employer, the workplace delegate must provide the employer with an outline of the training content.
- (f) The employer must advise the workplace delegate not less than 2 weeks from the day on which the training is scheduled to commence, whether the workplace delegate's access to paid time during normal working hours to attend the training has been approved. Such approval must not be unreasonably withheld.
- (g) The workplace delegate must, within 7 days after the day on which the training ends, provide the employer with evidence that would satisfy a reasonable person of their attendance at the training.

25A.9 Exercise of entitlements under clause 25A

- (a) A workplace delegate's entitlements under clause 25A are subject to the conditions that the workplace delegate must, when exercising those entitlements:
 - (i) comply with their duties and obligations as an employee;
 - (ii) comply with the reasonable policies and procedures of the employer, including reasonable codes of conduct and requirements in relation to occupational health and safety and acceptable use of ICT resources;
 - (iii) not hinder, obstruct or prevent the normal performance of work; and

- (iv) not hinder, obstruct or prevent eligible employees exercising their rights to freedom of association.
- (b) Clause 25A does not require the employer to provide a workplace delegate with access to electronic means of communication in a way that provides individual contact details for eligible employees.
- (c) Clause 25A does not require an eligible employee to be represented by a workplace delegate without the employee's agreement.

NOTE: Under section 350A of the [Act](#), the employer must not:

- (a) unreasonably fail or refuse to deal with a workplace delegate; or
- (b) knowingly or recklessly make a false or misleading representation to a workplace delegate; or
- (c) unreasonably hinder, obstruct or prevent the exercise of the rights of a workplace delegate under the [Act](#) or clause 25A.

26. Consultation about major workplace change

26.1 If an employer makes a definite decision to make major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must:

- (a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and
- (b) discuss with affected employees and their representatives (if any):
 - (i) the introduction of the changes; and
 - (ii) their likely effect on employees; and
 - (iii) measures to avoid or reduce the adverse effects of the changes on employees; and
- (c) commence discussions as soon as practicable after a definite decision has been made.

26.2 For the purposes of the discussion under clause 26.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

- (a) their nature; and
- (b) their expected effect on employees; and
- (c) any other matters likely to affect employees.

26.3 Clause 26.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer's interests.