

### SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

This table is a summary of submissions on technical and drafting issues lodged for this award on or before 5.00 pm on 14 November 2017.

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	ABI & NSWBC	Sub-18/01/17	1.2	Removal of ‘as varied’	Para 2.2	REFERRED – currently before Group 3 Full Bench – see <a href="#">Report</a> of Ross J of 31 March 2017
2	ABI & NSWBC	<a href="#">Sub-18/01/17</a>	2	<b>Definitions</b> <i>In response to question raised by Commission</i> Definitions should be deleted.	Para 9.1	RESOLVED – definition deleted, ED updated – see <a href="#">Report</a> of Ross J of 31 March 2017
3	AWU	<a href="#">Sub-20/01/17</a>	5	<b>Effect of variations made by the Fair Work Commission</b> Clause should be moved under cl. 1-‘Title and Commencement’ and numbered as 1.2	Paras 3-5	OUTSTANDING - provision is contained as a discrete clause in all Group 4 EDs in accordance with plain language principles <a href="#">[2016] FWC 2924</a> at [4] – see <a href="#">Report</a> of Ross J of 31 March 2017
	ABI & NSWBC	Sub-18/01/17		Agrees with AWU’s submission.	Para 2.1	
4	AFEI	<a href="#">Sub-18/01/17</a>	7.2	<b>Facilitative provisions for flexible working practices</b> Clause 18.4(a) should be included in table.	Para 31	RESOLVED – clause reference inserted, ED updated – see <a href="#">Report</a> of Ross J of 31 March 2017
5	ABI & NSWBC	<a href="#">Sub-18/01/17</a>	13.2(a)	<b>Spread of ordinary hours of work</b> Removal of ‘any or all day days’ and ‘inclusive’ makes clause less clear. Should be reinserted. Provides draft wording.	Para 9.2	RESOLVED – current wording inserted in revised ED, parties invited to comment – see

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						<a href="#">Submission</a> at para 2.1 of ABI & NSWBC of 20 April 2017
6	UV	<a href="#">Sub-16/12/16</a>	14.1	<b>Rest after early morning work</b> <i>In response to question raised by Commission</i> May be paid or unpaid, depending on the employee's roster.	Para 4	RESOLVED – no dispute – see <a href="#">Report</a> of Ross J of 31 March 2017
	AFEI	<a href="#">Sub-18/01/17</a>		Unpaid except for pay for ordinary hours occurring during this period.	Para 33	
	AWU	<a href="#">Sub-20/01/17</a>		Paid break.	Para 7	
7	UV	<a href="#">Sub-16/12/16</a>	14.2	<b>Rest periods</b> <i>In response to question raised by Commission</i> This is a paid break.	Para 5	RESOLVED – no dispute – see <a href="#">Report</a> of Ross J of 31 March 2017
	AFEI	<a href="#">Sub-18/01/17</a>		Rest periods are paid.	Para 33	
	ABI & NSWBC	<a href="#">Sub-18/01/17</a>		Rest periods are paid.	Para 9.3	
	AWU	<a href="#">Sub-20/01/17</a>		Paid break.	Para 7	
	AFEI	<a href="#">ReplySub-22/02/17</a>		Agrees with submissions by ABI & NSWBC and AWU.	Para 46	
8	UV	<a href="#">Sub-16/12/16</a>	14.3	<b>Meal break—other than shiftworkers</b> <i>In response to question raised by Commission</i> This is an unpaid break.	Para 6	RESOLVED – no dispute – see <a href="#">Report</a> of Ross J of 31 March 2017
	AFEI	<a href="#">Sub-18/01/17</a>		14.3(a) provides for unpaid meal break.	Para 34	
	ABI & NSWBC	<a href="#">Sub-18/01/17</a>		Meal breaks are unpaid.	Para 9.3	

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	AWU	<a href="#">Sub-20/01/17</a>		Unpaid break but if employee required to work during normal meal break then receive 150% all time worked during meal break.	Para 7	
	AFEI	<a href="#">ReplySub-22/02/17</a>		Agrees with submissions by ABI & NSWBC and AWU.	Para 46	
9	ABI & NSWBC	<a href="#">Sub-18/01/17</a>	15.6	<b>School-based apprentices</b> <i>In response to question raised by Commission</i> Schedule not required.	Para 9.4	RESOLVED – the schedule is not required and will be removed, ED updated – see <a href="#">Report</a> of Ross J of 31 March 2017
10	UV	<a href="#">Sub-16/12/16</a>	16.3(c)	<b>Uniform allowance</b> <i>In response to question raised by Commission</i> Clause applies to all employees. Refers to cl.10.2(c) ED.	Para 7	REFERRED <del>OUTSTANDING</del> – further submissions invited – see <a href="#">Report</a> of Ross J of 31 March 2017 – now classified as substantive and moved to summary of substantive issues
	AFEI	<a href="#">Sub-18/01/17</a>		Applies only to full-time employees.	Para 35	
	ABI & NSWBC	<a href="#">Sub-18/01/17</a>		Applies only to full-time employees.	Para 9.5	
	AWU	<a href="#">Sub-20/01/17</a>		Applies to all employees. Term ‘full-time’ should be deleted from clause.	Para 8	
	UV	<a href="#">ReplySub-22/02/17</a>		Disagrees with AFEI. Clause applies to all employees.	Paras 4-6	
	AFEI	<a href="#">ReplySub-22/02/17</a>		Agrees with submission from ABI & NSWBC.	Para 47	
	AWU	<a href="#">ReplySub-22/02/17</a>		Disagrees with AFEI. Allowance applies to all employees required to wear a uniform.	Paras 4-5	
11	AFEI	<a href="#">Sub-18/01/17</a>	18.4(c)	<b>Method of working shifts</b>	Para 32	RESOLVED – clause to

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				Clause should be deleted. Reference to clause 27 unnecessary.		be updated, ED updated – see <a href="#">Report</a> of Ross J of 31 March 2017
	UV	<a href="#">ReplySub-22/02/17</a>		Opposes submissions.	Para 7	
	AWU	<a href="#">ReplySub-22/02/17</a>		Disagrees with AFEI.	Para 6	
12	UV	<a href="#">Sub-16/12/16</a>	18.6	<b>Overtime for shiftworkers</b> <i>In response to question raised by Commission</i> Use of ‘applicable rate’ suggests is variable rate. Use of different terminology suggests entitlements are different and overtime rates of shiftworkers are cumulative with shift rate.	Paras 8-9	OUTSTANDING – further submissions invited – see <a href="#">Report</a> of Ross J of 31 March 2017
	AFEI	<a href="#">Sub-18/01/17</a>		Applies on the minimum hourly rate (not inclusive of shift loadings). It is paid for shiftworkers working ordinary hours within a defined shift.	Para 36	
	ABI & NSWBC	<a href="#">Sub-18/01/17</a>		150% loading is calculated on basis of the minimum hourly rate. Words ‘applicable rate’ should read ‘applicable minimum hourly rate’.	Para 9.7	
	AWU	<a href="#">Sub-20/01/17</a>		‘applicable rate’ refers to the shift rate, including the shift penalty at cl.18.5.	Para 9	
	UV	<a href="#">ReplySub-22/02/17</a>		AFEI and ABI’s submissions would be a substantial variation to the award. Terminology suggests entitlements for day workers and shift workers are different.	Paras 8-11	

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	AFEI	<a href="#">ReplySub-22/02/17</a>		Agrees with ABI & NSWBC's submissions.	Para 48	
	AWU	<a href="#">ReplySub-22/02/17</a>		AFEI, ABI & NSWBC's proposals would amount to a substantive change.	Para 7	
	ABI & NSWBC	<a href="#">ReplySub-22/02/17</a>		Opposes submissions of AWU and UV.	Para 7.1	
	UV	<a href="#">Sub-19/04/17</a>		Reiterates position, provides further submissions	Paras 4-16	
	ABI & NSWBC	<a href="#">Sub-20/04/17</a>		Reiterates position, provides further submissions	Para 3	
	AFEI	<a href="#">Sub-21/04/17</a>		Reiterates position, provides further submissions	Paras 2-7	
	AWU	<a href="#">Sub-09/05/17</a>		Reiterates position, provides further submissions	Paras 10-31	
13	ABI & NSWBC	<a href="#">Sub-18/01/17</a>	18.6	<b>Overtime for shiftworkers</b> Word 'for' should be deleted before 'at 150%'.	Para 9.6	RESOLVED – clause to be updated, ED updated – see <a href="#">Report</a> of Ross J of 31 March 2017
14	AWU	<a href="#">Sub-20/01/17</a>	19.1(b)	<b>Payment for overtime—other than shiftworkers</b> Term 'appropriate' should be retained.	Para 11	RESOLVED – clause to be updated, ED updated – see <a href="#">Report</a> of Ross J of 31 March 2017
	ABI & NSWBC	<a href="#">ReplySub-22/02/17</a>		Opposes submissions of AWU.	Para 7.2	
15	ABI & NSWBC	<a href="#">Sub-18/01/17</a>	19.1(b)	<b>Payment for overtime—other than shiftworkers</b> <i>In response to question raised by Commission</i> Does not interact with minimum	Para 9.8(a)	OUTSTANDING – further submissions invited – see <a href="#">Report</a> of Ross J of 31 March 2017

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				engagement clauses.		
	AWU	<a href="#">Sub-20/01/17</a>		Minimum engagement of 4 hours must apply as it is a second engagement.	Para 10	
	AFEI	<a href="#">ReplySub-22/02/17</a>		Does not support AWU's proposal.	Para 49	
	UV	<a href="#">Sub-19/04/17</a>		Reiterates position, provides further submissions	Paras 17-21	
	ABI & NSWBC	<a href="#">Sub-20/04/17</a>		Reiterates position, provides further submissions	Para 4	
	AFEI	<a href="#">Sub-21/04/17</a>		Reiterates position, provides further submissions	Paras 8-11	
	AFDA	<a href="#">Sub-08/05/17</a>		Supports position of ABI & NSWBC	Page 1	
	AWU	<a href="#">Sub-09/05/17</a>		Reiterates position, provides further submissions	Paras 32-36	
16	ABI & NSWBC	<a href="#">Sub-18/01/17</a>	19.4(a), 19.4(b)	<b>Removals</b> These are intended to cover the field for this type of work.	Para 9.8(b)	OUTSTANDING – further submissions invited – see <a href="#">Report</a> of Ross J of 31 March 2017
	AWU	<a href="#">ReplySub-22/02/17</a>		Disagrees with ABI & NSWBC's submission. Removals by part-time and casual employees are subject to different minimum engagement.	Paras 8-10	
	UV	<a href="#">Sub-19/04/17</a>		Reiterates position, provides further submissions	Paras 22-24	
	ABI & NSWBC	<a href="#">Sub-20/04/17</a>		Reiterates position, provides further submissions	Para 4	
	AFEI	<a href="#">Sub-21/04/17</a>		Reiterates position, provides further submissions	Paras 8-11	
	AFDA	<a href="#">Sub-08/05/17</a>		Supports position of ABI & NSWBC	Page 1	

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	AWU	<a href="#">Sub-09/05/17</a>		Reiterates position, provides further submissions	Paras 37-42	
16A	BSA	<a href="#">Sub-02/03/15</a>	19.4, 22	<b>Removals and shiftwork</b> Interaction between these clauses is ambiguous as to when overtime and shiftwork penalties apply	Page 9	OUTSTANDING – moved from summary of substantive claims
	BSA	<a href="#">Sub-29/09/17</a>		Party submits this is a technical and drafting issue.	Para 5.3	
17	UV	<a href="#">Sub-16/12/16</a>	20.1(a)(i) 20.1(b)	<b>Work on Saturday and Sunday</b> <i>In response to question raised by Commission</i> Any interpretation of provisions should consider that cl 20.1 is a penalty rate provision. Clauses apply to full-time employees who would not otherwise have a minimum engagement. More beneficial minimum engagements for part-time and casuals still apply on a Saturday.	Paras 10-14	REFERRED OUTSTANDING – further submissions invited – see <a href="#">Report</a> of Ross J of 31 March 2017 – now classified as substantive and moved to summary of substantive issues
	ABI & NSWBC	<a href="#">Sub-18/01/17</a>		Both clauses are intended to cover the field for this type of work.	Para 9.9	
	AWU	<a href="#">Sub-20/01/17</a>		Minimum engagement of 4 hours must apply - it is a second engagement. This will ensure consistency with cl.10.5, 11.4.	Paras 10; 13	
	UV	<a href="#">ReplySub-22/02/17</a>		Opposes ABI&NSWBC's position. Reiterates previous submissions.	Para 12	
	AFEI	<a href="#">ReplySub-22/02/17</a>		Agrees with submissions by ABI & NSWBC.	Para 50	
	AWU	<a href="#">ReplySub-</a>		Supports submissions of UV. Disagrees	Paras 11-13	

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		<a href="#">22/02/17</a>		with submissions of ABI & NSWBC. Suggests drafting for cl 20.1.		
	ABI & NSWBC	<a href="#">ReplySub- 22/02/17</a>		Oppose submissions of AWU and UV.	Para 7.3	
18	AWU	ReplySub- 22/02/17	20.1(c)(ii)	Suggest minimum payment of two hours for time worked on public holidays.	Para 12	REFERRED  OUTSTANDING— further submissions invited – see <a href="#">Report</a> of Ross J of 31 March 2017 – now classified as substantive and moved to summary of substantive issues

**List of abbreviations (in alphabetical order)**

ABI & NSWBC	Australian Business Industrial and NSW Business Chamber
AFDA	Australian Funeral Directors Association
AFEI	Australian Federation of Employers and Industries
AWU	The Australian Workers' Union
ED	Exposure Draft
UV	United Voice