



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Watco WA Transportation Services Pty Ltd
(AG2023/1827)

WATCO WA TRANSPORTATION SERVICES PTY LTD ENTERPRISE AGREEMENT 2023

Rail industry

DEPUTY PRESIDENT BEAUMONT

PERTH, 29 JUNE 2023

Application for approval of the Watco WA Transportation Services Pty Ltd Enterprise Agreement 2023

[1] Watco WA Transportation Services Pty Ltd (the **Applicant**) has made an application for the approval of an enterprise agreement known as the *Watco WA Transportation Services Pty Ltd Enterprise Agreement 2023* (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] There were a number of casuals who were included in the voting cohort. This raised the concern that the Agreement may not have been made by a majority of employees who cast a valid vote (see ss 182(1) and 188(1)(b) of the Act). At the time of the vote there were 81 employees covered by the proposed Agreement with 70 casting a ‘valid vote’ and 37 employees voting to approve the Agreement.

[3] Out of the 81 employees notified of the vote,¹ 6 employees were casual employees.² However, one of the casual employees did not work during the access period for the Agreement as he was unfit for duties, another was working for their other employer, and the remaining four casual employees worked a shift during the access period.³

[4] It is uncontroversial that enterprise agreements were intended by the legislature to be capable of covering casual employees. However, a difficulty that has arisen is ascertaining when a casual employee ought to be regarded as an employee ‘employed at the time’ within the meaning of s 181(1). In relation to permanent employees, it is of course a relatively straightforward exercise.

¹ Form F17A – Employer’s declaration in support of an application for approval of an enterprise agreement (other than a greenfields agreement) – notification time before 6 June 2023, question 26.

² Ibid question 6.

³ Witness Statement of Melissa Mansfield, [4]–[6].

[5] It appears that two employees who did not attend for work during the access period were not ‘employed’ during the access period, hence making it possible that the Applicant had cast too wide a net when making the request for ‘employees employed at the time’ to vote to approve the Agreement.

[6] However, this is not fatal to the application, in circumstances where the inclusion of the two casual employees who did not work during the access period ultimately had no bearing on the outcome of the vote. The Applicant explained that there remained a valid majority of those who were definitely entitled to vote and did actually vote to approve the Agreement. In this respect, the Applicant observed that 70 employees voted on the Agreement, of which 37 voted in support of the Agreement and 33 did not. Therefore, the inclusion of two arguably ineligible voters could not have affected the overall result.

[7] In the decision of *St John of God Health Care Inc (St John)*,⁴ I traversed the authorities that have considered the phrase ‘employed at that time’. I do not intend to repeat what was said in *St John* because based on the evidence submitted, I am satisfied that the Agreement was made in accordance with s 182(1).

[8] Although it appears that two of the voting casuals were not engaged to work during the access period and were not therefore employees ‘employed at the time who will be covered by the agreement’ (in this respect see ss 180(2) and 191(1) and *Construction, Forestry, Maritime, Mining and Energy Union v Noorton Pty Ltd*),⁵ this did not affect the outcome of the vote.⁶

[9] Whilst there was an issue in respect to the signatory page of the Agreement, I allowed an amendment to the same under s 586, hence resolving the issue. Issues concerning clause 39.2.4 of the Agreement, regarding a team member not refusing to work a public holiday and clause 11.5 in respect of severance pay not being payable where suitable alternative employment is sourced (absent an application made under s 120 of the Act), have been addressed by reliance on clause 3 of the Agreement.

[10] 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 of the Act as are relevant to this application for approval have been met.

[11] The Australian Rail, Tram and Bus Industry Union (the **organisation**), being a bargaining representative for the Agreement, has given notice under s 183 of the Act that it wants the Agreement to cover it. In accordance with s 201(2), and based on the declaration provided by the organisation, I note that the organisation is covered by the Agreement.

⁴ [2023] FWCA 87.

⁵ [2018] FWCFB 7224.

⁶ *Re Shop, Distributive and Allied Employees Association* (2019) 291 IR 233, 248 [43].

[12] The Agreement was approved on 29 June 2023 and, in accordance with s 54, will operate from 6 July 2023. The nominal expiry date of the Agreement is 29 June 2026.



DEPUTY PRESIDENT

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**WATCO WA TRANSPORTATION SERVICES
PTY LTD ENTERPRISE AGREEMENT 2023**

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PART ONE - THIS AGREEMENT AND ITS OPERATION

1. TITLE

This Agreement shall be known as the Watco WA Transportation Services Pty Ltd Enterprise Agreement 2023.

2. APPLICATION

This Agreement applies to Watco, and its employees employed at locations in Western Australia below latitude 26 degrees South and who are engaged in any of the classifications set out in Appendix 1, *Classification, Indicative Duties and Requirements* and

The Australian Rail Tram and Bus Industry Union (subject to that organisation notifying the Fair Work Commission that it seeks to be covered by this Agreement and the Fair Work Commission approving this Agreement).

3. INTERACTION WITH OTHER AWARDS AND AGREEMENTS

This Agreement operates to the exclusion of any award or agreement which might otherwise apply to Watco, and its employees covered by this Agreement.

This Agreement will be read and interpreted in conjunction with the NES. Where there is an inconsistency between this Agreement and a term of the NES, and the NES term provides a greater benefit to the employee, the NES term will apply to the extent of the inconsistency.

4. TERM OF AGREEMENT

This Agreement shall operate from the day specified by the Fair Work Commission in accordance with s54 of the Act. The nominal expiry date of this Agreement shall be three (3) years after the date that it is approved by the Fair Work Commission.

5. DEFINITIONS AND INTERPRETATIONS

In these terms and conditions, unless the context otherwise requires, the following expressions shall have the following meanings:

- a) **“Act”** means the *Fair Work Act 2009* (Cth).
- b) **“Agreement”** means the Watco WA Transportation Services Pty Ltd Enterprise Agreement 2023.
- c) **“Book off”** means when Team Members are booked off at a location other than their Home Depot for the purpose of having suitable rest following or prior to the working of a service.
- d) **“Distributed Power Technology”** means technology that allows for the physical distribution throughout the length of a train of separate motive power (locomotive) groups controlled from the lead locomotive. Such groups may be single units or multiple consists.

- e) **“Driver Only Operation” (DOO)** occurs where a driver is the only person to have sole responsibility for the control, operation and procedures of a locomotive or locomotives, or train. Driver only operation does not occur where a two-driver operation shift has, as part of the shift, one driver working on the ground.
- f) **“Existing Team Members”** means an employee who commenced their continuous employment with Watco prior to the date this Agreement was made (ie. the date the ballot closed).
- g) **“Home Depot”** means the employee’s appointed operational base or, where the employee is working away from home on temporary or term transfer, the employee’s temporary operational base.
- h) **“Maximum Term Employment”** means employment pursuant to subclauses 8.14 to 8.19 of this agreement.
- i) **“NES”** means the National Employment Standards in Part 2-2 of the *Fair Work Act 2009* (Cth).
- j) **“Ordinary hours”** means an average of 80 hours (consisting of seventy-six (76) hours and four (4) reasonable additional hours) averaged over a Roster Cycle.
- k) **“Ordinary rate of pay”** means the rate of pay for the employee’s classification as provided for in Clause 20, *Rates of Pay & Classifications*.
- l) **“Non-operational activities”** means any activity not directly connected with a revenue service.
- m) **“Roster Cycle”** means a designated two-week period over which work is arranged.
- n) **“Shiftworker”** means an employee who is a seven (7) day shiftworker who is regularly rostered to work on Sundays and public holidays.
- o) **“Stand-alone”** means not included in the calculation of ordinary hours or in the payment for Ordinary hours.
- p) **“Team Member”** means an employee of Watco covered by this Agreement.
- q) **“Watco”** means Watco WA Transportation Services Pty Ltd (ACN 153 426 601).

PART TWO - CONTRACT OF EMPLOYMENT

6. CONDITIONS OF EMPLOYMENT

- 6.1 The parties to whom this Agreement applies recognise that Team Members are obliged to follow the lawful and reasonable directions of Watco.
- 6.2 Within the limits of their skills, competence and training, Team Members shall undertake their duties as directed and use any tools and equipment as required for the efficient performance of those duties. Team Members recognise the need to be flexible in the performance of their duties and may be required to perform a wider range of duties including work which is incidental or peripheral to their primary function. Watco commits not to promote deskilling through requiring this degree of flexibility.
- 6.3 Team Members are required to do all things reasonably necessary to attain and maintain the required levels of skill, competence, health and fitness to perform their work in a safe, efficient and productive manner.
- 6.4 Appropriately qualified drivers will operate locomotives in any required configuration including, but not limited to, single or multiple locomotives, as well as operating locomotives using Distributed Power Technology.

7. TRAINING COSTS

- 7.1 This clause applies to:
- 7.1.1 Team Members who commence training in relation to the positions of Team Member Levels 1, 2 or 3; and
 - 7.1.2 Team Members who commence employment with Watco and who are qualified to drive locomotives but require additional training in order to drive locomotives for Watco.
- 7.2 This clause does not apply to Existing Team Members of Watco who have been continuously employed in any role for a period greater than 2 years before undertaking the training referred to in subclause 7.1 above.
- 7.3 Where training will be provided to a Team Member, the Team Member may be required to sign a deed that provides for the Team Member to repay the cost of the training if the employment is terminated for a cause within the Team Member's control.
- 7.4 The deed will:
- 7.4.1 specify the cost of the training; and
 - 7.4.2 provide that Watco may deduct, from any amount payable to the Team Member, any amount owing to Watco under the deed.
- 7.5 The cost of training referred to in 7.4 will cover expenses paid to external providers for accredited courses only. Wages paid while undertaking training and inhouse facilitated courses are not considered as deductible amounts.
- 7.6 By signing the deed, the Team Member will authorise any deduction by Watco (from any amount payable to the Team Member) of any amount owing under the deed.
- 7.7 The amount payable by the Team Member to Watco under the deed:
- 7.7.1 must not be unreasonable in the circumstances; and

7.7.2 must not exceed the percentage of the training cost determined in accordance with the following table:

Period from training to termination	% of training cost repayable
Termination within 6 months after the completion of the training	75%
Termination more than 6 months but not more than 18 months after the completion of the training	50%
Termination more than 18 months but not more than 24 months after the completion of the training	25%

8. FORMS OF EMPLOYMENT

General Principles and Provisions

8.1 Team Members shall be employed under a contract of employment with Watco and engaged in permanent employment, or in maximum term employment, on a full time or part time basis, or in casual employment. A Team Member's category of employment may be changed by written agreement between the Team Member and Watco.

Probationary Employment

8.2 New employees who are not casual employees will initially be engaged on a probationary basis of up to six (6) months. An initial probationary period of less than six (6) months may be extended by written agreement between Watco and the Team Member provided that the total probationary period does not exceed six (6) months. The period of probationary employment will be commensurate with the requirements of the position and the experience of the Team Member and will be specified in the written offer of employment.

8.3 On commencing employment and throughout the probationary period, probationary Team Members will be advised, as appropriate, of the performance standards required and will undergo regular performance reviews. If, during the probationary period, a Team Member is not performing to the standard required, Watco shall discuss Watco's concerns about the Team Member's performance with the Team Member and Watco shall give the Team Member support and opportunity to improve the Team Member's performance.

8.4 During the probationary period, the Team Member's employment may be terminated by either the Team Member or Watco providing one (1) week's written notice, or in the case of termination by Watco, one (1) week's payment in lieu of notice. Watco may agree to waive the notice period required of the Team Member.

Full Time Employment

8.5 A full-time Team Member is a Team Member engaged to work an average of eighty (80) ordinary hours (consisting of seventy-six (76) hours and four (4) reasonable additional hours) averaged over the Roster Cycle.

Part Time Employment

- 8.6 A part time Team Member is a Team Member engaged to work agreed hours, which are fewer than full time hours.
- 8.7 The total number of hours per fortnight will be agreed in writing and may be averaged over the fortnight by agreement with the Team Member and Watco. These terms may be varied by agreement in writing.
- 8.8 A part time Team Member may be required to work additional hours beyond the agreed hours. In such cases, the Team Member shall be paid for the additional hours in accordance with Clause 21, *Additional Hours*.
- 8.9 A part time Team Member shall not be entitled to Rostered Days Off except where the Team Member is rostered for the equivalent of full-time hours in a Roster Cycle.
- 8.10 A part time Team Member shall be paid the hourly rate of pay in subclause 20.2, for the classification they are engaged in. A part time Team Member will receive on a pro-rata basis equivalent pay and conditions to a full time Team Member at the same level.

Job Share

- 8.11 Part time employment may include job share arrangements where a full-time position is filled, on a shared basis by two or more Team Members. These arrangements will be subject to operational requirements and will be as agreed by Watco and the participating Team Members and set out in the written offers of employment.
- 8.12 In the event that the employment of one of the participants in a job share arrangement is terminated (either by Watco or by the Team Member), or where the job share arrangement is not consistent with Watco's operational requirements, Watco may terminate the job share arrangement by giving the relevant Team Member(s) 28 days' notice in writing. Termination of the job share arrangement may include termination of the employment of the Team Member participants.
- 8.13 Where a job share arrangement is terminated under subclause 8.12 above Watco shall, where available, offer the Team Member(s) suitable alternative employment.

Maximum Term Employment

- 8.14 A Team Member may be engaged on a full time or part time basis for a specified maximum term for purposes including project work, peak or short-term additional workload, unplanned absences, etc. The start and end dates for the specified maximum term shall be agreed between Watco and the Team Member in writing.
- 8.15 There is no obligation upon Watco to offer ongoing employment beyond the agreed term. Watco may offer further maximum term employment to a Team Member and such employment may be continuous with the earlier maximum term employment without changing the temporary nature of the employment arrangement. Any further maximum term shall clearly specify the start and end date and be agreed in writing between Watco and the Team Member.
- 8.16 Except as otherwise provided in this Agreement, a maximum term Team Member shall be entitled to the same terms and conditions in this Agreement as a permanent Team Member occupying the same position.
- 8.17 Other than in the case of serious misconduct justifying summary dismissal, Watco may

terminate the employment of a maximum term Team Member at any time during the term of employment by giving the period of notice specified by the NES, or by paying the Team Member the amount that Watco would have been liable to pay had the employment continued to the end of the notice period.

- 8.18 A maximum term Team Member may terminate the employment during the term of the employment by giving at least the amount of notice that Watco would be required to give under this clause, or a shorter period of notice agreed by Watco.
- 8.19 For the avoidance of doubt, a Team Member whose employment ends due to the maximum term employment arrangement reaching the agreed end date has not been dismissed at the initiative of the employer.

Permanent Employment

- 8.20 A permanent Team Member is one engaged on a continuing basis and whose employment may be terminated by Watco or by the Team Member in accordance with Clause 10, *Termination of Employment*.

Casual Employment

- 8.21 Casual Team Members shall be employed and paid by the hour and each separate period of employment shall be arranged by mutual agreement between Watco and the Team Member.
- 8.22 There shall be no obligation upon Watco to provide or guarantee ongoing employment to a casual Team Member beyond each separate and agreed period of employment.
- 8.23 Watco or the Team Member may terminate the casual employment by providing a minimum of one hour's notice or payment of one hour's pay in lieu of such notice.
- 8.24 For all Ordinary hours, Casual Team Members shall be paid at the hourly rate of pay in subclause 20.2, for the classification they are engaged in, plus a loading of 25%.
- 8.25 If the Casual Team Member works additional hours, they do not receive the casual loading, instead they will be paid for the additional hours in accordance with Clause 21, *Additional Hours*.
- 8.26 A Casual Team Member is not entitled under this Agreement to any paid leave entitlements, payment for public holidays not worked, notice on termination or redundancy pay. The casual loading compensates the Team Member for paid leave entitlements, payment for public holidays not worked, notice on termination or redundancy pay, and may be used to offset them.
- 8.27 A casual employee's right to request casual conversion and entitlement to be offered casual conversion are provided by the NES.

9. INDIVIDUAL FLEXIBILITY ARRANGEMENT

- 9.1 Notwithstanding any other provision of this Agreement, Watco and an individual Team Member may agree to vary the application of certain terms of this Agreement ('the flexibility arrangement') to meet the genuine needs of the Team Member and Watco, provided that the flexibility arrangement:
- 9.1.1 is genuinely agreed to by Watco and the individual Team Member without coercion or duress; and,

- 9.1.2 only varies a term or terms prescribed in subclause 9.3 below; and
- 9.1.3 does not disadvantage the individual Team Member in relation to the individual Team Member's terms and conditions of employment and results in the Team Member being better off overall than the Team Member would be if no flexibility arrangement were made.
- 9.2 Watco must ensure that any individual flexibility arrangement:
 - 9.2.1 is about matters that would be permitted matters if the arrangement were an enterprise agreement; and,
 - 9.2.2 does not include a term that would be an unlawful term if the arrangement were an enterprise agreement.
- 9.3 The terms of this Agreement that may be varied by a flexibility arrangement include:
 - 9.3.1 arrangements about when work is performed;
 - 9.3.2 rates for additional hours;
 - 9.3.3 penalties;
 - 9.3.4 rates;
 - 9.3.5 allowances;
 - 9.3.6 increasing maximum shift length configurations.
- 9.4 For the flexibility arrangement to come into operation, it must:
 - 9.4.1 be provided within fourteen (14) days to the Team Member in writing, name the parties to the agreement and be signed by Watco and the individual Team Member and, where the Team Member is under eighteen (18) years of age, the Team Member's parent or guardian;
 - 9.4.2 state each term of this Agreement that Watco and the individual Team Member have agreed to vary;
 - 9.4.3 detail how the application of each term has been varied by the flexibility arrangement between Watco and the individual Team Member;
 - 9.4.4 detail how the flexibility arrangement results in the Team Member being better off;
 - 9.4.5 overall in relation to the individual Team Member's terms and conditions of employment;
 - 9.4.6 state how the flexibility arrangement can be terminated; and state the date the flexibility arrangement commences.
- 9.5 Watco will give the individual Team Member a copy of the flexibility arrangement and keep the flexibility arrangement as a time and wages record.
- 9.6 The flexibility arrangement may be terminated:
 - 9.6.1 by Watco or the individual Team Member giving 28 days' notice of termination, in writing, to the other party; or
 - 9.6.2 at any time, by written agreement between Watco and the individual Team Member.

10. TERMINATION OF EMPLOYMENT

Termination by Watco

- 10.1 Except for Casual Employment, employment may be terminated by Watco giving notice in accordance with the following scale, or by payment in lieu of such notice:

Period of continuous service	Minimum notice period
1 year or less	1 week
More than 1 year – 3 years	2 weeks
More than 3 years – 5 years	3 weeks
More than 5 years	4 weeks

- 10.2 In addition to the notice in subclause 10.1 above, Team Members over forty-five (45) years of age and with not less than two (2) years continuous service at the time of the giving of the notice are entitled to an additional week's notice or payment in lieu.
- 10.3 The notice of termination required to be given by a Team Member is the same as that required by Watco except that the Team Member is not required to give additional notice based on age.
- 10.4 Nothing in this Agreement affects Watco's rights to dismiss a Team Member at any time without notice for conduct that justifies summary dismissal. If a Team Member is dismissed on this basis, the Team Member will be entitled to be paid for work only up to the time of dismissal.
- 10.5 The notice period for Casual Team Members is one (1) hour, or payment in lieu of one (1) hour.

Return of Property

- 10.6 Upon termination of employment, the Team Member must return all property belonging to Watco, which is held by or under the control of the Team Member. The Team Member agrees that for any outstanding property not returned, costs or money owed by the Team Member to Watco is a debt owing to Watco. By agreement, the Team Member may repay the amount equal to the reasonable value of what is owed. If agreement is not reached on repayment, Watco may initiate proceedings to recover the outstanding amount by lawful means.

11. REDUNDANCY

- 11.1 Redundancy occurs where Watco decides that Watco no longer wishes the job a Team Member has been doing to be done by anyone because of changes in the operational requirements of Watco's enterprise.
- 11.2 Team Members who have their employment terminated due to redundancy shall be entitled to notice in accordance with Clause 10, *Termination of Employment*, and the following amount of redundancy pay, in respect to periods of continuous service:

Period of continuous service	Redundancy pay
Less than 1 year	Nil
1 year but less than 2 years	4 weeks' pay
2 years but less than 3 years	6 weeks' pay
3 years but less than 4 years	7 weeks' pay
4 years but less than 5 years	8 weeks' pay
5 years but less than 6 years	10 weeks' pay
6 years but less than 7 years	11 weeks' pay
7 years but less than 8 years	13 weeks' pay
8 years but less than 9 years	14 weeks' pay
9 years but less than 10 years	16 weeks' pay
10 years and over	15 weeks' pay

- 11.3 Redundancy pay is calculated on the Team Member's ordinary rate of pay.
- 11.4 Where positions covered by this Agreement are made redundant, the following options are available to Watco to manage such redundancies:
- 11.4.1 A Team Member may be redeployed to a suitable alternative position, provided such a position exists within Watco or its related entities. A Team Member who is redeployed must undertake any necessary training or competency development.
 - 11.4.2 Watco may examine opportunities for voluntary redundancies by calling for expressions of interest. Watco shall be under no obligation to offer voluntary redundancy to any Team Member who expresses interest in such a redundancy.
 - 11.4.3 Watco may apply involuntary redundancies where it is satisfied that other alternatives have been exhausted or are inappropriate to the particular circumstances. If multiple involuntary redundancies in the same classification and location are proposed, Team Members shall be selected based on Watco's operational requirements.
- 11.5 Unless Watco agrees otherwise, if Watco is successful in providing a Team Member with suitable alternative employment, Watco will not be obliged to pay the Team Member the redundancy payments prescribed by this clause.
- 11.6 In the event of a transfer of business where:
- 11.6.1 the Team Member is offered a position with the new employer (regardless of whether the Team Member accepts such employment); and,
 - 11.6.2 that offer of employment is considered on an overall basis to be no less favourable than the Team Member's terms and conditions of employment immediately before the transfer (or termination if the Team Member does not accept the offer); and,
 - 11.6.3 the new employer recognises the Team Member's service with Watco,

the Team Member shall not be entitled to the severance payments prescribed by this clause.

- 11.7 Team Members whose positions become redundant shall be provided with access to applicable counselling services and reasonable paid leave for attendance at these support services.
- 11.8 This clause shall not apply to Team Members employed on a Maximum Term or Casual Employment basis.

12. TEAM MEMBER TRANSFERS

Permanent Transfers – Watco Initiated

- 12.1 Where Watco requires a Team Member to transfer permanently from one depot to another Watco will consult with the Team Member and, where requested by the Team Member, the Team Member's nominated representative.
- 12.2 In considering the transfer Watco will give appropriate consideration to the Team Member's needs and circumstances, which includes the Team Member's family responsibilities, domestic commitments, as well as Watco's organisational requirements.
- 12.3 Where a Team Member is transferred under subclause 12.1 above the Team Member shall have priority for selection in the event that the Team Member's position again becomes available at the Team Member's former Home Depot. Where more than one Team Member would have priority for a position under this subclause, selection between such Team Members shall be based on merit.
- 12.4 Where a Team Member's transfer is not as a result of a position becoming redundant and the parties cannot agree on the manner in which the permanent transfer is to occur, then the issue shall be dealt with in accordance with Clause 44, *Resolving Differences*.

Expressions of Interest

- 12.5 Where opportunities for transfers to fill permanent or temporary vacancies arise (excluding those circumstances covered in subclauses 12.6, *Transfer to Selected Locations – Waiting List*, 12.10 - 12.11, *Permanent Transfer – Team Member Initiated* and 12.12 - 12.13, *Cross Transfer*), Watco will seek volunteers by calling for expressions of interest from Team Members.

Transfer to Selected Locations – Waiting List

- 12.6 Team Members with more than two (2) years' continuous service at their appointed Home Depot can nominate to transfer to any other Watco depot in the metropolitan or regional areas of Western Australia. Team Members can register their interest to be placed on the Selected Locations Waiting List and transfer to their selected location when an opportunity arises.

Term Transfer

- 12.7 Team Members may be transferred under a Term Transfer arrangement. This occurs where a Team Member agrees to transfer to another location to meet Watco's requirements for a fixed term of greater than six (6) weeks and up to two (2) years.
- 12.8 A Team Member agreeing to transfer under these terms shall:

- 12.8.1 be guaranteed a return to their original Home Depot (or other agreed location), within their classification at the end of the agreed term; and,
- 12.8.2 be provided with any other agreed additional support required.

Relocation Assistance

- 12.9 In relation to subclauses 12.1 - 12.8 above, where a Team Member is transferred and the transfer necessitates a change of the Team Member's residence, the Team Member will be provided with relocation assistance. This assistance includes reasonable costs incurred in relation to meals, accommodation, travel and removalist expenses.

Permanent Transfer – Team Member Initiated

- 12.10 Team Members may apply to transfer from one location to another irrespective of whether a vacancy exists or not. In considering the request for transfer, Watco will give appropriate consideration to Watco's requirements as well as any relevant issues raised by the Team Member to support the request.
- 12.11 Where Watco approves the transfer, it will be at the Team Member's own expense and in his/her own time. Any working time lost to transfer may be debited either against the Team Member's accrued annual or long service leave or be treated as leave without pay.

Cross Transfer between Watco Locations

- 12.12 Team Members may apply to cross transfer between Watco locations. In considering the request for transfer, Watco will give appropriate consideration to Watco's requirements as well as any relevant issues raised by the Team Members to support their request.
- 12.13 Where Watco approves the cross transfer, it will be at the Team Member's own expense and in his/her own time. Any working time lost to a cross transfer can be debited either against the Team Member's accrued annual or long service leave or be treated as leave without pay.

Temporary Transfer

- 12.14 Where required by Watco, a Team Member may be required to transfer temporarily to another depot for a period of up to three (3) weeks per annum. This period of transfer may be increased by an additional period of up to three (3) weeks by agreement between the Team Member and Watco. Temporary transfer will be used to support commercial activities affected by variable demand and traffic volumes and / or temporary staff shortages.
- 12.15 The process for temporary transfers involves:
 - 12.15.1 In the first instance Watco calling for volunteers through expressions of interest. All volunteers equitably sharing in the requirement to work on temporary transfer.
 - 12.15.2 Where there are no volunteers, or insufficient volunteers, then all full-time Team Members equitably sharing in the requirement to work away from their Home Depot.
 - 12.15.3 Should a Team Member refuse a temporary transfer request then Watco may require the Team Member to provide evidence that would satisfy a

reasonable person, of the reasonableness of the Team Member's refusal of the transfer. Where no satisfactory evidence is provided, or where the Team Member's refusal is not shown to be reasonable, Watco may require the Team Member to undertake the temporary transfer.

- 12.15.4 A minimum of seven (7) days' notice of temporary transfer shall be provided unless a shorter period of notice is agreed to by the Team Member.
- 12.15.5 Watco will provide the Team Member with appropriate accommodation, as provided for in Appendix 2, *Accommodation and Locomotive Minimum Standards*, and the appropriate expenses shall be paid from the time the Team Member signs on at the Team Member's home depot at the beginning of the transfer period, to the time the Team Member signs off at the Team Member's Home Depot at the end of the transfer period as per Clause 24, *Living Away From Home Allowance (LAFHA)*.
- 12.15.6 The time taken to travel to the temporary transfer location shall be deemed working time for the roster period in which it occurs.
- 12.15.7 Watco shall provide transport to and from the temporary transfer location where the Team Member indicates an inability to use his/her own transport.
- 12.15.8 The Team Member shall be compensated for use of his/her own vehicle to travel to and from the temporary transfer location in accordance with subclauses 23.5 to 23.6, *Use of Private Motor Vehicles*.
- 12.15.9 Expenses shall be paid for the entirety of the transfer arrangement, inclusive of days off and approved leave, except where the Team Member has approved leave for a period exceeding four (4) days.

13. SIGN ON OUTSIDE OF HOME DEPOT

- 13.1 When Team Members are required to sign on at a location outside a Team Member's Home Depot and where the Team Member chooses to use their own vehicle (non-compulsory and is the Team Member's choice) to travel to and from that 'sign on' location, then the Team Member will be entitled to claim a cents-per-kilometre rate (subclause 23.5 to 23.6) for the difference in distance from the Team Member's residence to their Home Depot.
- 13.2 For clarity, a Team Member distance driven from their residence to Home Depot is 10 km however the Team Member is signing on at a location 15 km away from their residence, the Team Member is entitled to claim 5 km for the additional distance travelled in getting to said 'sign on' location and 5 km for the additional distance travelled in returning to their place of residence.

14. DISCIPLINARY MATTERS

- 14.1 Any investigation of a matter or incident by Watco for the purpose of determining whether or not disciplinary action should be taken must adhere to the principles of natural justice. These principles include:
- 14.1.1 the Team Member being made fully aware of the allegations and/or matters that are the subject of an investigation;
 - 14.1.2 the Team Member being provided with relevant information to enable the provision of an informed response;
 - 14.1.3 the Team Member being entitled to have a support person of their choice if so requested, present as a witness and to provide support and guidance where necessary at any meetings / interviews;
 - 14.1.4 the Team Member being given adequate time to prepare a response to any allegations and/or matters which are the subject of the investigation;
 - 14.1.5 the Team Member being given a reasonable opportunity to put his/her case to those conducting the investigation and those who will make any findings and/or determine the disciplinary measures (if any) to be taken;
- 14.2 Pending the outcome of the disciplinary process Team Members may be:
- 14.2.1 withdrawn from the operating roster on guaranteed hours, where all allegations made in relation to a Team Member's performance or conduct are subsequently found to be 'unsubstantiated', the Team Member shall be paid for the rostered hours including, where applicable the allowance at Clause 24, *Living Away From Home Allowance (LAFHA)*; or,
 - 14.2.2 placed on alternative duties; or,
 - 14.2.3 re-assessed and returned to normal duties as suitable.
- 14.3 Disciplinary measures that Watco may take against a Team Member include:
- 14.3.1 a caution or reprimand;
 - 14.3.2 a temporary reduction in position, classification and pay for a period of up to six (6) months;
 - 14.3.3 suspension from duty without pay for a period of up to two (2) weeks;
 - 14.3.4 dismissal with or without notice as applicable.
- 14.4 To the extent practicable disciplinary inquiries and investigations should be concluded within the shortest possible timeframe so as to minimise impact on the individual, business and the operations. As a principle this process should aim to be concluded within 30 days and to the extent practicable be kept confidential.

15. RAIL SAFETY ACCREDITATION, LICENSES & QUALIFICATIONS

- 15.1 Team Members engaged in Rail Safety Work are required to be accredited, obtain, and hold relevant qualifications and satisfy medical standards.
- 15.2 Both Watco and its Team Members are required to abide by all legislative requirements that impact on their employment conditions.

Loss of Permit, License or Qualification – Team Member Options

- 15.3 Subject to subclause 15.4 below, in the event a Team Member loses the Team Member's permit, license or qualification and is unable to carry out his/her normal duties as a result, the Team Member will:
- 15.3.1 take unpaid leave; and/or
 - 15.3.2 clear accrued paid leave, subject to meeting evidentiary requirements for such leave; and/or
 - 15.3.3 undertake suitable alternative employment, if available, which may result in a reduction in position, classification and pay, until the Team Member can successfully regain the necessary permit, license, or qualification.
- 15.4 In circumstances where the loss of the permit, license, or qualification is:
- 15.4.1 permanent; or
 - 15.4.2 likely to extend beyond six months; or
 - 15.4.3 where there are no suitable positions to which the Team Member can be temporarily placed, Watco and the Team Member shall discuss alternative work arrangements, but this will not limit Watco's right to terminate the Team Member's employment in accordance with this Agreement.
- 15.5 Where a Team Member is determined to be unfit for duty (as outlined in subclause 16.1.4 or 16.1.5, *Health Assessments*, below) and the Team Member undertakes alternative employment which would result in a reduction in the Team Member's ordinary rate of pay, the Team Member's substantive ordinary rate of pay will be maintained for a period of up to twelve months while undertaking such alternative employment.

16. HEALTH ASSESSMENTS

- 16.1 In line with the National Health Assessment Standards for Rail Safety Workers, a Team Member is required to undertake a Health Assessment to determine whether the Team Member is either:
- 16.1.1 Fit for Duty Unconditional;
 - 16.1.2 Fit for Duty subject to job modification;
 - 16.1.3 Fit for Duty Conditional;
 - 16.1.4 Fit for Duty Subject to Review; or
 - 16.1.5 Permanently Unfit.
- 16.2 Watco will pay cost of the health assessment up to the point that a determination is made, including the assessment itself, rostered time to attend and incidental travel associated with the assessment.
- 16.3 Where a Team Member is provisionally classified as Fit for Duty Subject to Review or Temporarily Unfit as an intermediate step in the making of a determination, Watco will pay for the cost of further medical testing only in respect of new, or suspected new, medical conditions. Watco will not pay the cost of investigation of existing, known medical conditions.

- 16.4 Where testing in accordance with 16.3 above reveals no new condition which impacts on the Team Member's assessment, the Team Member will be reimbursed any leave taken solely as a consequence of the provisional classification.
- 16.5 The above provisions do not exclude any obligations arising under Workers' Compensation legislation where applicable.

17. STAND DOWN

- 17.1 Watco may stand down a Team Member without pay for any period during which the Team Member cannot be usefully employed due to any cause outside of Watco's control including industrial action.
- 17.2 Each Team Member to be stood down shall be provided with written notice at least twenty-four (24) hours in advance of the stand down and such notice shall include the commencement date of the stand down, the reason for the stand down and the expected duration. The notice shall also include advice of the Team Member's right to seek alternative employment during the stand down period or to terminate his/her employment without the provision of notice as usually required under the terms of Clause 10, *Termination of Employment*.
- 17.3 Team Members stood down may elect to have a stand down period treated as paid annual or long service leave where they have adequate accruals of such paid leave.
- 17.4 Any period for which a Team Member is not paid due to the operation of this clause will count as service for the accrual of leave to which the Team Member would otherwise be entitled under this Agreement, provided that the Team Member resumes work:
- 17.4.1 as required by Watco at the end of the stand down period; or
 - 17.4.2 if the Team Member has gained alternative employment and the Team Member is required to serve out a notice period with the other employer, at the end of that notice period.
- 17.5 A Team Member who has been stood down is entitled to payment for any public holiday occurring during the period of stand down.

PART THREE - WORKING ARRANGEMENTS

18. RAIL OPERATIONS WORKING HOURS

The working hours arrangements for Team Members shall be as follows:

- 18.1 The ordinary hours of work shall be worked in shifts arranged, at Watco’s discretion, over the Roster Cycle. Ordinary shifts and additional shifts may be worked over any of the twenty-four (24) hours of the day and any day of the week, Sunday to Saturday inclusive.
- 18.2 The length of the Roster Cycle shall usually be two weeks in duration but may be increased to a maximum of four (4) weeks in accordance with the following:
- 18.2.1 Increases in the Roster Cycle length shall be subject to Watco’s approval based on the suitability of the proposed cycle length to the operations of the depot;
 - 18.2.2 The implementation of a change to the Roster Cycle length, following Watco’s approval in principle, shall then be subject to majority support by the Team Members working on that roster; and
 - 18.2.3 Day eight (8) onwards of the posted Operational Roster will be subject to change based on customer requirements, however changes will be kept to a minimum as much as possible.

Rostered Shift Lengths

- 18.3 Subject to paragraph 18.1 the minimum shift length for rostered shifts shall be:
- 18.3.1 eight (8) hours for all shifts except for DOO shifts;
 - 18.3.2 seven (7) hours for DOO shifts;
 - 18.3.3 for attendance at meetings, health assessments, training courses and non-operational activities, the minimum rostered shift length shall be six (6) hours;
 - 18.3.4 Team Members may be rostered, for shifts other than DOO shifts, up to twelve (12) hours.
 - 18.3.5 Train crew maximum rostered shift lengths will be as follows:

Train Crew Configuration	Shift length from sign on to sign off
Two Locomotive Drivers with full road knowledge	12 hours
Level 5 Driver and Level 4 or 5 Driver	12 hours
Level 4 or 5 Driver and Level 3 (Trainee with engine & air)	12 hours
Level 4 Driver and Level 2 (Trainee without engine & air)	10 hours
Driver Only Operations	See Appendix 4

- 18.3.6 Shift lengths for train crew learning roads may be in the following configurations:

Configuration	Rostered Shift Length
As a third person on a driver / driver train or under the "Buddy System" where both drivers know at least half the route to be worked and learnt:	12 hours
A driver (no route knowledge) as a second person working with a driver with knowledge of the road:	10 hours

Extension of Rostered Hours

- 18.4 Subject to subclause 18.5 below Team Members may be required to work additional hours beyond the rostered hours due to operational requirements.
- 18.5 A Team Member may refuse to work additional hours beyond rostered hours for a shift on a specific occasion due to circumstances where the requirement to work those additional hours would be unreasonable having regard to:
 - 18.5.1 any risk to the Team Member's health and safety;
 - 18.5.2 the Team Member's personal circumstances including any family or carer responsibilities;
 - 18.5.3 the needs of the workplace or Watco;
 - 18.5.4 the notice (if any) given by Watco of the requirement to work those additional hours and by the Team Member of his / her intention to refuse; and
 - 18.5.5 any other relevant matter.
- 18.6 In circumstances other than an emergency Team Members may decline to work a shift beyond twelve (12) hours.
- 18.7 In the case of an emergency:
 - 18.7.1 Team Members may be required to work shifts (other than DOO shifts) up to a maximum of fourteen (14) hours; and,
 - 18.7.2 the working of shifts beyond twelve (12) hours up to the maximum fourteen (14) hours shall be subject to a Team Member's indication of the Team Member's fitness to continue and a Team Member may decline to undertake safe working duties after having been on duty for twelve (12) hours.
- 18.8 "Emergency" for the purposes of subclauses 18.6 - 18.7 above means an emergency due to an actual or imminent occurrence (such as fire, flood, storm, earthquake, explosion, accident, epidemic or warlike action) which endangers, or threatens to endanger, the safety of persons or destroys or damages, or threatens to destroy or damage property.

Maximum Hours and Shifts

- 18.9 Team Members may be rostered up to a maximum of ninety-six (96) hours (inclusive of ordinary and additional hours) averaged over the Roster Cycle; however, Team Members may work more than the maximum rostered hours if requested and the Team Member is prepared to do so.
- 18.10 The maximum number of hours in a fortnightly Roster Cycle that a Team Member may work is one hundred and twenty (120) hours.
- 18.11 The maximum number of ordinary shifts shall be an average of ten (10) shifts over the

Roster Cycle.

- 18.12 The maximum number of additional shifts (rostered or unrostered) shall be two (2) shifts over the Roster Cycle.
- 18.13 A maximum of four (4) consecutive twelve (12) hour shifts or five (5) consecutive ten (10) hour shifts can be rostered. Consecutive shifts are defined as shifts that have a rest period of less than twenty-four (24) hours. For clarity fifty (50) hours can be rostered consecutively utilising any combination of shift lengths.

Train Crew Rest Periods

- 18.14 Train Crew are entitled to minimum rostered rest periods between shifts as follows:

Location	Duration
At the Team Member’s home location	12 hours
At a book off location, following a shift length	9.5 hours

- 18.15 A rest period of at least twelve (12) hours shall be provided following any shift exceeding twelve (12) hours.
- 18.16 Subject to satisfying fatigue management requirements train crew may be requested to resume work for their next rostered shift up to two (2) hours earlier than the minimum rostered rest period where circumstances require, and the Team Member is prepared to do so. Subject to agreement, the minimum rest period at a book off location will be eight (8) hours.

Meal Breaks

- 18.17 On any shift that exceeds five (5) hours, Team Members shall be entitled to take meals as follows:

Situation	Entitlement
Train crew of two qualified drivers with full road knowledge	To be taken during the shift by driver rotation
Any other train crew configuration; and Team Members other than train crew	A paid break of 25 minutes (and on shifts in excess of 10 hours a further paid break of 10 minutes) to be taken in accordance with subclause 18.18 below

- 18.18 The timing of a defined paid meal break shall be agreed between the Team Member(s) and train controller or supervisor (as applicable). In the event of there being no agreement the 25-minute break shall be taken no later than the fifth hour of the shift, and the 10-minute break, where applicable, not later than five (5) hours after the first break.
- 18.19 In all cases the timing of breaks will be such as to cause least disruption to operations.

Shift Cancelled

- 18.20 Where a Team Member:
 - 18.20.1 is advised less than ten (10) hours before commencing work that the Team Member is not required for work; or

- 18.20.2 is unable to be contacted and reports for work and is advised after reporting for work that the Team Member is not required for work, the Team Member will be paid for the shift as per rostered.
- 18.21 Watco will record the attempts made to contact the Team Member prior to the commencement of the Team Member's rostered shift.
- 18.22 Where a Team Member is rostered for work and given at least ten (10) hours' notice before the Team Member's rostered commencing time that the Team Member is not required for work, the Team Member shall not be entitled to the payment.

Alteration to sign on times for train crew

- 18.23 Train working changes and Train Crew absences can occur on short notice.
- 18.24 These changes may result in shift cancellations, additional shifts and shift adjustments (e.g., start times) or changes to shift lengths.
- 18.25 Where these changes occur at least ten (10) hours notification of shift changes (or greater) will be given, and consideration will be given to:
- a Team Members personal and family circumstances;
 - operational requirements;
 - depot guidelines established at the at the home depot;
 - fatigue management principles, including 'time of day' considerations;
 - the length of the shifts that the team member has worked prior; and
 - the breaks a Team Member has had between the shifts worked.
- 18.26 Within the ten (10) hour formal notification period shifts can be changed at mutual agreement.
- 18.27 Subject to informing their supervisor, operational requirements, fatigue management principles, and providing the arrangement is cost neutral to the business, Team Members may mutually exchange shifts. Team Members need to communicate this change to the 'on call' manager or Manager responsible for rostering and resource planning.
- 18.28 Watco has the right to reasonably refuse shift changes and will inform the Team Members of those reasons.

Rostering and Fatigue Management

- 18.29 Rosters shall be arranged in accordance with Watco's fatigue management policies and in the case of train crew, Appendix 3 – *Train Crew Rostering Principles* shall also be observed.

19. GENERAL WORKING ARRANGEMENTS

Notice required if unable to attend

- 19.1 If a Team Member is unable to attend work as required, the Team Member will provide the Team Member's supervisor, or another authorised person, with a minimum of three (3) hours' notice to permit alternative arrangements to be made.
- 19.2 The Team Member shall also advise of the expected duration of the absence and will continue to advise where there are any changes to the expected day or time of return to work.

- 19.3 Watco will take into account situations where a Team Member could not provide minimum notice as per clause 19.1 due to circumstances beyond the Team Member's control.

Team Members' Contact Details

- 19.4 Team Members are required to provide details of their usual telephone number(s) at which they may be contacted for the purpose of notifying them of changes to their roster or working arrangement or for callouts. Procedures in relation to the notification of changes will be in accordance with any rostering principles in place or individual arrangements made between Watco and the Team Member involved.

Mutual Exchange of Shifts

- 19.5 Subject to clause 18.9 and 18.29, Team Members may mutually exchange shifts.

Guaranteed Hours

- 19.6 Unless otherwise provided for in this Agreement, Watco shall guarantee full time Team Members an average of eighty (80) hours work over the Roster Cycle.
- 19.7 The guaranteed hours for a part time Team Member shall be the agreed hours referred to in subclause 8.6.
- 19.8 If a Team Member's rostered ordinary hours are less than the guaranteed hours, the Team Member may be required to work further hours in that Roster Cycle necessary to achieve the guaranteed hours.
- 19.9 The requirement to work further hours shall not be applied on designated Rostered Days Off.
- 19.10 Any paid leave taken during a Roster Cycle will count towards the guaranteed hours for that roster cycle.
- 19.11 Where a Team Member is absent from work 'without pay' during a Roster Cycle the Team Member will be paid for the hours actually worked in that Roster Cycle and Watco will not be required to pay the guaranteed hours for that Roster Cycle.
- 19.12 Unless otherwise provided for in this Agreement only actual working time or paid leave taken shall be used for the purpose of satisfying the guaranteed hours or equivalent pay. For clarity, paid additional hours and any additional responsibilities payment shall not be used to make up the guarantee.
- 19.13 Team Members shall be paid for the full rostered shift where a Team Member remains available for work but is released from duty early at Watco's discretion. For clarity, where a Team Member has been released from duty early and subsequently found to be 'uncontactable', or where contacted declares themselves either unfit or refuses to return to duty prior to the end of that rostered shift then their hours will be reduced equivalent to the time from being released and the end of their rostered shift. Multiple occurrences may result in disciplinary action.

PART FOUR - REMUNERATION AND OTHER PAYMENTS

20. RATES OF PAY & CLASSIFICATIONS

- 20.1 Upon approval by the Fair Work Commission, the yearly rates of pay for full time Team Members are as below:

Classification	Rate from operation of Agreement
Team Member Level 1 (trainee)	\$ 75,674
Team Member Level 2 (trainee - shunt qualified)	\$ 94,593
Team Member Level 3 (trainee - E&A qualified)	\$ 108,889
Team Member level 4 (qualified driver)	\$ 123,184
Team Member Level 5 (senior driver)	\$ 129,342

Hourly rates of pay

- 20.2 The hourly rates of pay for Team Members are as follows:

Classification	Rate from operation of Agreement
Team Member Level 1 (trainee)	\$ 36.38
Team Member Level 2 (trainee - shunt qualified)	\$ 45.48
Team Member Level 3 (trainee - E&A qualified)	\$ 52.35
Team Member level 4 (qualified driver)	\$ 59.22
Team Member Level 5 (senior driver)	\$ 62.18

Annual Wage Increases

- 20.3 The rates above (subclause 20.1 and 20.2) shall be increased by 3% from the beginning of the first pay period following the annual anniversary of this agreement being approved by the Fair Work Commission (FWC). The 3% annual increase shall continue until the nominal expiry date of the Agreement.

21. ADDITIONAL HOURS

- 21.1 All hours worked in excess of the Ordinary hours for a Roster Cycle are additional hours.
- 21.2 Team Members shall be paid for additional hours at the rate of 1.5 times the Team Member's ordinary rate of pay.
- 21.3 All time worked on a designated Rostered Day Off will be paid at the additional hours rate in subclause 21.2.
- 21.4 All time worked on a designated Rostered Day Off, will be stand alone.
- 21.5 Additional hours payments shall be paid only once for any additional hours worked.

22. ADDITIONAL RESPONSIBILITIES

- 22.1 Where a Team Member undertakes, on a temporary basis, the substantial responsibilities of another position covered by this Agreement which has a rate of pay higher than the Team Member's rate of pay, the Team Member will be paid for the time the additional responsibilities are undertaken at the rate of pay for the higher position.

23. WORK BASED ALLOWANCES & PAYMENTS

Driver Only Operations Allowance

- 23.1 Subject to subclauses 23.2 - 23.4 below, where a Team Member undertakes DOO, the Team Member shall be paid the following allowance:

Length of DOO shift	Percentage of Locomotive Drivers' ordinary rate of pay
Up to and including 8 hours' duration – main line	19%
Up to and including 10 hours' duration – DOO shunt	19%
More than 8 hours' duration - mainline	20%

- 23.2 A Team Member, who is rostered to work, and actually works, a DOO shift, will be paid the DOO allowance for the full shift notwithstanding that the Team Member may be required to undertake tasks other than operating locomotive/s or is provided assistance from another qualified person as part of the requirements for that shift.
- 23.3 Where a Team Member not rostered for a DOO shift works fewer than 4 hours DOO, a minimum of four (4) hours DOO allowance will apply. Where a Team Member works more than four (4) hours under these circumstances payment for the full shift will apply.
- 23.4 The level of DOO allowance to be paid will be determined by the type of DOO operation (mainline or shunt) and the rostered hours of the shift in which DOO is undertaken.

Use of Private Motor Vehicles

- 23.5 Where Watco approves and Team Members agree to use their own vehicles to transport themselves to and from their temporary work location as outlined in subclauses 12.15.8, 13.1 and 13.2, the Team Members are entitled to claim a cents-per-kilometre rate for the distance travelled as provided in subclause 23.6 below.

- 23.5.1 Managers approving the use of a private motor vehicle by a Team Member must be satisfied that the Team Member's motor vehicle is roadworthy, licensed and appropriately insured.

- 23.6 The cents per kilometre rates is 80 cents per kilometre fixed for the term of this agreement.

Other Expenses

- 23.7 Other expenses reasonably incurred, including costs incurred in excess of an allowance paid, will be reimbursed in accordance with Watco's policy subject to the employee providing valid tax invoices for those costs incurred.

Location Allowance

23.8 Location allowances for remote or for locations with a challenging labour market are applicable and paid in accordance with Watco’s policy, as varied from time to time.

Cost of Living Payment

23.9 Upon approval by the Fair Work Commission, permanent Team Members will be paid a once off \$1,800.00 payment. This payment is inclusive of tax and superannuation.

Rest Detention Payment

23.10 A Team member rostered on a book off shall receive Rest Detention payments commencing twenty-two (22) hours after a Team Member has signed off at a book off location. To clarify, Rest Detention is payable for time detained in excess of twenty-two (22) hours whilst under rest detention until sign-on for at the next service.

23.11 Team Members will be paid Rest Detention based on their Ordinary hourly rate of pay, based on their classification. This payment is in addition to their Ordinary hours.

23.12 Rest Detention payments are not payable when a Team Member is on a temporary transfer as provided in subclauses 12.14 to 12.15. To avoid any doubt, Rest Detention payments are applicable on rostered book off shifts which provide for the next turn of duty to be one that provides for the Team Member to return to their Home Depot.

24. LIVING AWAY FROM HOME ALLOWANCE (LAFHA)

24.1 A Team Member required to temporarily reside away from home, either on a book off, or on temporary transfer as provided in subclauses 12.14 to 12.15, shall be paid a living away from home allowance in accordance with subclauses 24.2 to 24.5 below.

24.1.1 For the avoidance of doubt, a Team Member will only be entitled to be paid this allowance once in respect of the same period of time away from home.

24.2 A Team Member required to temporarily reside away from their Home Depot shall be paid a ‘living away from home’ allowance (LAFHA) per day (24-hour period) made up in accordance with the following:

Living Away from Home				
Breakfast	Lunch	Dinner	Incidentals	Total
\$29.29	\$32.85	\$56.43	\$21.35	\$139.92

24.3 A Team Member required to temporarily reside away from their Home Depot for a period exceeding twenty-four (24) hours, the Team Member will be entitled to \$139.92 per full day (24 hours) plus the relevant meal allowance per each eight (8) hour period thereafter until they return to their Home Depot.

e.g., A Team Member absent for a total of 32 hours will receive the following: a total of \$169.21 made up of:

- First full 24 hours \$139.92
- Breakfast \$29.29
- TOTAL \$169.21

24.4 The time periods for the purpose of clarifying which meal component is payable as per subclause 24.2 are as follows:

- Breakfast 0200 – 0959hrs
- Lunch 1000 – 1759hrs
- Dinner 1800 – 0159hrs

24.5 The amounts specified in subclause 24.2 – 24.3 will be increased by the same percentage increases applied to the wages in this agreement.

25. PAYMENT OF REMUNERATION

25.1 Team Members shall be paid fortnightly on a day determined by Watco and advised to the Team Members.

25.2 All remuneration shall be paid into accounts, with a bank, building society or credit union, as nominated by the Team Member.

26. RECOVERY OF OVERPAYMENT

26.1 Where a Team Member has received an overpayment of wages, allowances or expenses payable under this Agreement, and Watco intends to recover the overpayment, Watco shall notify the Team Member, in writing, of the overpayment, the reason for the overpayment and of Watco's intention to recover the overpayment.

26.2 Watco and the Team Member shall agree, in writing, to terms for the timely recovery of the overpayment.

26.3 Where it is agreed the recovery of any overpayment will be by means of deduction through the Team Member's fortnightly wages the following needs to be taken into account, the amount of the overpayment, the circumstances of the overpayment (e.g. was the overpayment a result of an error on Watco's part or an incorrect claim by the Team Member), and any hardship which might accrue to the Team Member.

26.4 An agreement made under subclause 26.2 shall be for the deduction of an amount no less than one (1) hour's pay per fortnight.

26.5 Where no agreement is reached in accordance with subclause 26.2 the matter may be dealt with under Clause 44, *Resolving Differences*.

26.6 No deductions relating to the overpayment shall be made from the Team Member's pay while the matter is being dealt with in accordance with Clause 44, *Resolving Differences*.

27. SALARY PACKAGING

27.1 A Team Member may, by arrangement with Watco, enter into a salary packaging arrangement in accordance with Australian Taxation Office requirements and other relevant legislation.

27.2 A Team Member entering into a salary packaging arrangement is accountable for compliance with personal taxation obligations and will bear any costs associated with entering into the arrangement including the costs of obtaining financial advice.

27.3 Watco will not be liable for any costs should the law or the Australian Taxation Office's position on salary packaging change in the future.

28. SUPERANNUATION

- 28.1 Watco will make superannuation contributions on the Team Member's behalf in accordance with the *Superannuation Guarantee (Administration) Act 1992* (Cth), as varied from time to time, into a regulated complying superannuation fund of the Team Member's choice.

PART FIVE - LEAVE

29. ANNUAL LEAVE

- 29.1 Annual leave is provided in accordance with the NES.
- 29.2 Shiftworkers as defined are entitled to five (5) weeks of paid annual leave.
- 29.3 Annual leave may be taken as agreed between Watco and the Team Member or as otherwise provided in this Agreement.
- 29.4 Team Members are encouraged to clear annual leave in the year in which it becomes due. Leave accrued greater than ten (10) weeks will be deemed excessive. Team Members with excessive leave (more than ten (10) weeks) may be required to enter into an agreed leave plan to reduce excess leave entitlements to an acceptable limit.
- 29.5 For the purpose of debiting annual leave for full time Team Members, a day's annual leave shall be eight (8) hours and a week's annual leave shall be forty (40) hours. Part time Team Members shall be debited the ordinary time that would otherwise have been worked during the period of annual leave.

Rostering Annual Leave

- 29.6 For the purpose of rostering whole weeks of annual leave, a week shall be seven (7) days commencing at 0001 hours on the first day and ending at 2400 hours on the seventh day. Consequently, a Team Member will not be rostered for a shift which finishes on the first day of annual leave.
- 29.7 Each year by October 31, Watco shall post a leave roster at each work location showing the planned dates for clearance of annual leave by Team Members. Leave rosters shall be compiled with due consideration to Team Member requests and the equitable sharing of leave during particular seasons and periods of demand. The application process will include the Team Member nominating specific times the leave is requested, which will then be considered by Watco.
- 29.8 Once the leave roster has been posted, a Team Member may exchange periods of leave with a fellow Team Member providing the period of leave is for the same time period. Should a leave allocation period become available once the leave roster has been posted, due to a Team Member leaving Watco or moving to a different work location, then another Team Member may request to change his or her allocation to the vacated position. Granting such requests by Watco under this subclause will be subject to operational requirements.

30. LONG SERVICE LEAVE

- 30.1 Team Members shall be entitled to receive long service leave entitlements in accordance with the *Long Service Leave Act 1958* (WA) and as amended from time to time.
- 30.2 Long service leave shall be taken in periods of not less than one (1) week, as agreed between Watco and the Team Member.

31. PERSONAL LEAVE

- 31.1 Personal leave is for the purpose of providing income for Team Members unable to attend work due to personal illness or injury, or due to providing care or support to a

member of the Team Member's immediate family or household who requires care or support because of a personal illness or injury or an unexpected emergency affecting the member.

- 31.2 Team Members are entitled to paid personal leave of ten (10) days for each completed year of service (pro rata for part time Team Members) which may be taken by a Team Member as follows:
- 31.2.1 Paid personal leave may be taken because the Team Member is unable to attend work due to personal illness or injury; or
 - 31.2.2 Paid carer's leave may be taken where the Team Member is required to provide care or support to a member of the Team Member's immediate family because of a personal illness or an unexpected emergency affecting the member.
- 31.3 Personal leave accumulates progressively during a year of service, based on Team Member's ordinary hours of work.
- 31.4 A Team Member's accrued personal leave will be debited in accordance with the rostered hours lost as a result of the leave up to a maximum of eight (8) hours for each shift for which the Team Member is absent. Debited leave shall count towards the Team Member's Roster Cycle hours.

Immediate Family/Household Member

- 31.5 For the purpose of this clause the following are members of a Team Member's immediate family or household:
- 31.5.1 a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Team Member; or
 - 31.5.2 a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Team Member; or
 - 31.5.3 any other person who, at or immediately before the relevant time for assessing the Team Member's eligibility to take leave, lived with the Team Member as a member of the Team Member's household.
- 31.6 In subclause 31.5.1 above:
- 31.6.1 "de facto partner" means a person who, although not legally married to the Team Member, lives with the Team Member in a relationship as a couple on a genuine domestic basis (whether the Team Member and the person are of the same sex or different sexes), and includes a former de facto partner of the Team Member;
 - 31.6.2 "spouse" includes a former spouse.

Notice Requirements

- 31.7 The granting of paid leave under this clause is subject to the Team Member complying with the notice provisions of Clause 19, *General Working Arrangements*.

Personal Leave and Workers' Compensation

- 31.8 Team Members may access accumulated personal leave whilst a claim for Workers Compensation is being considered. Where the claim is accepted, any personal leave shall

be re-credited.

Personal Leave and Termination

- 31.9 No payment will be made in respect of unused personal leave on termination of employment.

Provision of Evidence

- 31.10 Team Members shall, as required by Watco, provide evidence that would satisfy a reasonable person, such as a medical certificate or statutory declaration, for absences in accordance with this clause.

Medically Unfit - Cessation of Employment

- 31.11 Where a Team Member is absent on account of personal illness or injury, for a period of six (6) months or more, and Watco has a good and sufficient reason to believe that the Team Member will be unable to return to work, or is unable to undertake the duties of the Team Member's position due to being medically unfit, Watco may, at its cost, direct the Team Member to undertake a health assessment by a designated health physician/professional to determine the Team Member's fitness for work.
- 31.12 Where it is determined that the Team Member is medically unfit for duty and unable to return to his/her substantive position or suitable alternative employment in the foreseeable future, cessation of employment will commence. In such cases, Team Members can clear their accumulated personal leave entitlement before the cessation of employment takes effect. This provision does not apply to Team Members on workers' compensation.

32. UNPAID CARER'S LEAVE

- 32.1 In the event a Team Member's entitlement to paid personal leave is exhausted, or where a Team Member has no entitlement to paid personal leave, a Team Member will be entitled to up to two days unpaid personal leave on each occasion a member of the Team Member's immediate family or a member of the Team Member's household requires the Team Member's care or support because of:
- 32.1.1 a personal illness, or injury, of the member; or
 - 32.1.2 an unexpected emergency affecting the member.
- 32.2 Watco may require the Team Member to provide evidence that would satisfy a reasonable person in order to approve unpaid carer's leave in accordance with this clause.
- 32.3 Where a Team Member is granted unpaid personal leave under this clause, the Team Member's guaranteed hours for the relevant period will be reduced by the number of rostered hours lost as a result of the unpaid carer's leave.
- 32.4 The granting of leave under this clause is subject to the Team Member complying with the notice provisions of Clause 19, *General Working Arrangements*.

33. COMPASSIONATE LEAVE

- 33.1 Team Members (other than a casual Team Member) may be entitled to take two (2) days paid compassionate leave per occasion in accordance with the NES when;
- 33.1.1 A member of the Team Member's immediate family or a member of the Team Member's household contracts or develops a personal illness that poses a serious threat to his or her life; or
 - 33.1.2 sustains a personal injury that poses a serious threat to his or her life; or
 - 33.1.3 dies; or
 - 33.1.4 a child is stillborn, where the child would have been a member of the Team Member's immediate family, or a member of the Team Member's household, if the child had been born alive; or
 - 33.1.5 the Team Member, or the Team Member's current spouse or de facto partner, has a miscarriage.
- 33.2 Watco may require a Team Member taking leave under this clause to provide documentary evidence of the illness, injury or death of the member of the Team Member's immediate family or household.
- 33.3 Compassionate leave shall be paid at the Team Member's ordinary rate of pay.
- 33.4 A Team Member's absent on compassionate leave will be debited in accordance with the rostered hours lost as a result of the leave up to a maximum of eight (8) hours for each shift for which the Team Member is absent. Debited leave shall count towards the Team Member's Roster Cycle hours.
- 33.5 Subject to clause 33.2 a Team Member may be entitled to access annual leave and/or other accumulated leave by request.
- 33.6 Casual employees are entitled to two (2) days unpaid compassionate leave in accordance with the NES.

34. TRAUMA LEAVE

- 34.1 Where a Team Member is in charge of a train that is involved in a serious accident or incident or during the course of his/her/their work witnesses a serious accident or incident that results in a serious injury or fatality to another Team Member or other person, Watco shall ensure that the Team Member is relieved from duty as soon as possible.
- 34.2 In these circumstances the Team Member will be provided with transport to the Team Member's home or Home Depot, as elected by the Team Member.
- 34.3 Where the incident involves a fatality, the Team Member will be provided with up to three (3) days paid leave to receive psychological counselling from a qualified practitioner.
- 34.4 Trauma leave is a separate entitlement to any other leave.

35. PARENTAL LEAVE

Unpaid parental leave

- 35.1 Team Members will be entitled to unpaid parental leave in accordance Division 5 of Part 2-2 of the Act. This includes leave for Team Members who are to be the primary carer of the child and leave for Team Members who are not the primary carer of the child.
- 35.2 Eligible Team Members will be entitled to unpaid parental leave in accordance with the NES and Watco's policies and procedures relating to parental leave, as amended from time to time.

Superannuation contributions on unpaid parental leave

- 35.3 A Team Member who is on unpaid parental leave as a primary carer will be eligible for Superannuation Contributions for a period up to twelve (12) weeks.
- 35.4 The payment will be made as a lump sum into the Team Member's nominated superannuation account upon the completion of three (3) months' continuous service following the Team Member's return to work, paid as a lump sum at the relevant contribution rate at the time the Team Member returns to work.
- 35.5 This payment will apply to Team Members who commence unpaid parental leave as a primary carer on or after 1 April 2022.
- 35.6 Watco will use the Team Member's rate of pay at the time the Team Member commenced parental leave to calculate this amount (pro-rata for part time Team Members).

36. LAW COURT ATTENDANCE

Jury Service

- 36.1 A Team Member (other than a casual Team Member) who attends court for jury service will be paid at the Team Member's ordinary rate of pay including payments associated with the rostered shift the Team Member would have worked (excluding additional hours) had the Team Member not taken the leave.
- 36.2 Watco may reduce the amount payable under 36.1 above by the amount of any payment received by the Team Member from the court for the same period.
- 36.3 A Team Member will not be paid by Watco where the Team Member attends Jury Service in the Team Member's own time, e.g., long service leave, non-working day. However, where this occurs the Team Member may receive fees as prescribed and paid by the court.

Other Court/Tribunal Attendance

- 36.4 A Team Member (other than a casual Team Member) who attends a court or tribunal on behalf of Watco should be rostered to attend in working time.
- 36.4.1 Payment is to be at the Team Member's ordinary rate of pay including payments associated with the rostered shift the Team Member would have worked (excluding additional hours payments).
- 36.4.2 The Team Member is also to be reimbursed any reasonable expenses

associated with attending court.

- 36.5 Attendance at a court or tribunal by a Team Member, for reasons other than jury service or on behalf of Watco, should be supported by a certificate of attendance (or other appropriate evidence) and will be treated as leave without pay.

37. DEFENCE FORCE RESERVES AND EMERGENCY SERVICES

- 37.1 A Team Member shall be provided with leave for training with the Defence Force Reserves in accordance with the *Defence Reserve Service (Protection) Act 2001* (Cth).
- 37.2 A Team Member who is a voluntary member of a civil emergency group e.g., State Emergency Service or the Bush Fire Service, may be granted paid leave to attend an emergency call out subject to:
- 37.2.1 Watco's operational requirements; and
 - 37.2.2 Watco receiving and approving a request from the organisation involved.

38. UNION LEAVE

- 38.1 Special paid leave will be granted to Team Members of Watco who are delegates of their Union to attend their Unions National Council, National Executive, Branch Council, Branch Executive and Divisional Committee meetings, as recognised by the Australian Electoral Commission (AEC) or other relevant authority.
- 38.2 To be eligible for the special leave, the Team Member:
- 38.2.1 is required to apply for leave at least four (4) weeks prior to the leave commencing;
 - 38.2.2 is required to provide written evidence (including basic details of the meeting) that they are an elected delegate for the Union; and
 - 38.2.3 is required by the Union to attend the meeting.

39. PUBLIC HOLIDAYS

- 39.1 Public holidays are provided for in accordance with the NES.

Work on a public holiday

- 39.2 Where a Team Member (other than a casual Team Member) is required to work on a Public Holiday, that Team Member shall:
- 39.2.1 be paid eight (8) Ordinary Hours at the base rate of pay for the Public Holiday (prorated for Part Time Team Members);
 - 39.2.2 have the actual rostered hours on a Public Holiday counted towards the Team Members guaranteed hours;
 - 39.2.3 accrue a day in lieu of eight (8) hours (for each public holiday worked), banked to a maximum of five (5) days accrued and thereafter have the eight (8) hours paid out once the maximum banked day in lieu balance has been reached (prorated for Part Time Team Members);
 - 39.2.4 A Team Member shall not refuse to work a Public Holiday where it falls within the normal rostered hours of a Roster Cycle period as per the guide

roster;

39.2.5 If a Team Member works an RDO that falls on a Public Holiday that Team Member will only be paid the RDO rate of pay as per Clause 21, *Additional Hours* and have no days accrued to their banked day in lieu balance nor be paid the as a public holiday.

39.3 A Team Member (other than a casual Team Member) who is not required to work on a Public Holiday will be paid eight (8) hours ordinary time for the rostered Ordinary Hours at the base rate of pay (prorated for Part Time Team Members).

39.4 A Casual Team Member who works a Public Holiday is entitled to be paid the agreed penalty rate of 1.5 times their base rate of pay as per subclause 20.2.

39.5 A casual Team Member who receives payment under this clause will not be entitled to the 25% casual loading for any work performed on a Public Holiday as per clause 8.24.

40. LEAVE TO DEAL WITH FAMILY AND DOMESTIC VIOLENCE

40.1 Family and domestic violence means violent, threatening or other abusive behaviour by certain individuals known to a Team Member that both:

40.1.1 seeks to coerce or control the Team Member;

40.1.2 causes them harm or fear.

40.2 All Team Members can access 10 days of paid family and domestic violence leave per year.

40.3 Family and domestic violence leave is provided for in accordance with the NES.

41. CASHING OUT OF LEAVE

41.1 A Team Member and Watco may agree in writing to forego a portion of the Team Member's accrued leave in exchange for the full amount that would have been payable to the Team Member had the Team Member taken the leave, subject to the following conditions:

41.1.1 The minimum amount of leave to be cashed out is one (1) week.

41.1.2 Each cash out of leave must be subject to a separate written agreement between Watco and the Team Member.

41.1.3 For annual leave, the request must not result in Team Member's remaining accrued leave entitlement being less than four (4) weeks.

41.1.4 In all cases the cashed-out leave will form part of the Team Member's taxable earnings and Watco will deduct applicable tax.

41.1.5 In considering any application by a Team Member to cash out leave Watco will take into account the potential workplace health and safety impact on the Team Member of the leave not being taken.

PART SIX - CONSULTATION AND DISPUTE RESOLUTION

42. WORKPLACE REPRESENTATIVES

- 42.1 Where Team Members at the workplace have elected a workplace representative/s to represent the Team Member/s in employment related matters as they relate to Part Six, *Consultation and Dispute Resolution*, Watco shall provide the representative/s reasonable time to discuss the relevant matter with the Team Member/s and management. Any Team Member representative will be allowed reasonable time to attend to any work-related matter, where they have been so appointed.
- 42.2 Watco will allow Team Member representatives reasonable access to telephone, email and photocopying facilities for the purpose of carrying out their role. The use of resources by a Team Member representative will be subject to the representative complying with the prevailing Watco policy provisions (which will not impose unreasonable restrictions on the operation of this clause).

43. CONSULTATION

- 43.1 This clause applies where Watco:
- 43.1.1 has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the Team Members; or
 - 43.1.2 proposes to introduce a change to the regular roster or ordinary hours of work of Team Members.

Major change

- 43.2 For a major change referred to in paragraph 43.1.1:
- 43.2.1 Watco must notify the relevant Team Members of the decision to introduce the major change; and
 - 43.2.2 Subclauses 43.3 to 43.9 apply.
- 43.3 The relevant Team Members may appoint a representative for the purposes of the procedures in this clause.
- 43.4 If:
- 43.4.1 a relevant Team Member appoints, or relevant Team Members appoint, a representative for the purposes of consultation; and
 - 43.4.2 the Team Member or Team Members advise Watco of the identity of the representative;
- Watco must recognise the representative.
- 43.5 As soon as practicable after making its decision, Watco must:
- 43.5.1 discuss with the relevant Team Members
 - 43.5.1.1 the introduction of the change; and
 - 43.5.1.2 the effect the change is likely to have on the Team Members; and

- 43.5.1.3 measures Watco is taking to avert or mitigate the adverse effect of the change on the Team Members; and
- 43.5.2 for the purposes of the discussion, provide, in writing, to the relevant Team Members:
 - 43.5.2.1 all relevant information about the change including the nature of the change proposed; and
 - 43.5.2.2 information about the expected effects of the change on the Team Members; and
 - 43.5.2.3 any other matters likely to affect the Team Members.
- 43.6 However, Watco is not required to disclose confidential or commercially sensitive information to the relevant Team Members or their representative.
- 43.7 Watco must give prompt and genuine consideration to matters raised about the major change by the relevant Team Members.
- 43.8 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of Watco, the requirements set out in paragraph 43.2.1 and subclauses 43.3 and 43.5 are taken not to apply.
- 43.9 In this clause, a major change is *likely to have a significant effect on Team Members* if it results in:
 - 43.9.1 the termination of the employment of Team Members; or
 - 43.9.2 major change to the composition, operation or size of the Watco's workforce or to the skills required of Team Members; or
 - 43.9.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - 43.9.4 the alteration of hours of work; or
 - 43.9.5 the need to retrain Team Members; or
 - 43.9.6 the need to relocate Team Members to another workplace; or
 - 43.9.7 the restructuring of jobs.

Change to regular roster or ordinary hours of work

- 43.10 For a change referred to in paragraph 43.1.2:
 - 43.10.1 Watco must notify the relevant Team Members of the proposed change; and subclauses 43.11 to 43.15 apply.
 - 43.11 The relevant Team Members may appoint a representative for the purposes of the procedures in this term.
 - 43.12 If:
 - 43.12.1 a relevant Team Member appoints, or relevant Team Members appoint, a representative for the purposes of consultation; and
 - 43.12.2 the Team Member or Team Members advise the employer of the identity of the representative;
- Watco must recognise the representative.

- 43.13 As soon as practicable after proposing to introduce the change, Watco must:
- 43.13.1 discuss with the relevant Team Members the introduction of the change; and
 - 43.13.2 for the purposes of the discussion, provide to the relevant Team Members:
 - 43.13.2.1 all relevant information about the change, including the nature of the change; and
 - 43.13.2.2 information about what Watco reasonably believes will be the effects of the change on the Team Members; and
 - 43.13.2.3 information about any other matters that Watco reasonably believes are likely to affect the Team Members; and
 - 43.13.3 invite the relevant Team Members to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 43.14 However, Watco is not required to disclose confidential or commercially sensitive information to the relevant Team Members or their representative.
- 43.15 Watco must give prompt and genuine consideration to matters raised about the change by the relevant Team Members.
- 43.16 In this clause, relevant Team Members means the Team Members who may be affected by a change referred to in subclause 43.1.

44. RESOLVING DIFFERENCES

Disputes

- 44.1 If a dispute relates to:
- 44.1.1 a matter arising under the agreement; or
 - 44.1.2 the National Employment Standards;
- subclauses 44.2 to 44.8 set out procedures to settle the dispute.
- 44.2 A Team Member who is a party to the dispute may appoint a representative for the purposes of the procedures in this clause.
- 44.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Team Member or Team Members and relevant supervisors and/or management.
- 44.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.
- 44.5 The Fair Work Commission may deal with the dispute in 2 stages:
- 44.5.1 the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - 44.5.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - 44.5.2.1 arbitrate the dispute; and

44.5.2.2 make a determination that is binding on the parties.

Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

- 44.6 While the parties are trying to resolve the dispute using the procedures in this clause:
- 44.6.1 a Team Member must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
 - 44.6.2 a Team Member must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
 - 44.6.2.1 the work is not safe; or
 - 44.6.2.2 applicable occupational health and safety legislation would not permit the work to be performed; or
 - 44.6.2.3 the work is not appropriate for the Team Member to perform; or
 - 44.6.2.4 there are other reasonable grounds for the Team Member to refuse to comply with the direction.
- 44.7 The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this clause.

General

- 44.8 The parties to a dispute will endeavour to resolve the issues within a reasonable timeframe.

Representation

- 44.9 At any stage in the process to resolve differences the parties to the dispute (i.e., a Team Member who has raised the dispute and Watco) may be represented by another person. Where a Team Member nominates another Team Member to be the representative (“nominated Team Member representative”) the provisions of subclauses 44.10 to 44.12 below will apply.

Rights of Nominated Team Member Representative


- 44.10 A nominated Team Member representative will, subject to operational requirements, be permitted during working hours to represent Team Members in accordance with Clause 44, *Resolving Differences*.
- 44.11 Where a representative requested by the Team Member cannot be released due to operational requirements the discussions referred to in this clause will not proceed until a representative is available. It is noted that in exceptional circumstances the Team Member representative may not be available. In such circumstances the Team Member should nominate an alternative representative so as not to unnecessarily hold up the progression of resolving the dispute or grievance.

- 44.12 A nominated Team Member representative acting in accordance with this provision is entitled to do so without loss of their normal pay.


Signatures of the Parties

ACN 153 426 601


Signed for and on behalf of Watco WA Transportation Services Pty Ltd:

Signature: 
Full Name: Leonie Nankiville
Position: HR Manager
Address: 30 Delhi Street, WEST PERTH WA 6005
Basis of authority to sign: Employer (Company) Representative
Dated: 19 June 2023


In the presence of:

Witness Signature: 
Full Name: Kenneth Hammat
Address: 30 Delhi Street, WEST PERTH WA 6005
Date: 19 June 2023

Signed for and on behalf of the Employees of Watco WA Transportation Services Pty Ltd:

Signature: 
Full Name: Toby Woolcock
Position: Driver Level 3
Address: 2 Brinsden Road, KALGOORLIE WA 6430
Basis of authority to sign: Employee Representative
Dated: 20/06/2023

In the presence of:

Witness Signature: 
Full Name: Russell Gallagher
Address: 2 Brinsden Road, KALGOORLIE WA 6430
Date: 20/06/2023

APPENDIX 1 – CLASSIFICATION, INDICATIVE DUTIES AND REQUIREMENTS

The transitional arrangements and associated indicative duties and requirements for the new classifications as detailed at Clause 20, *Rates of Pay & Classifications* are as follows:

TRANSITIONAL ARRANGEMENTS

- This agreement transitions the classification structure from the previous four (4) levels to a new five (5) level classification.
- The additional level is delineated by L2 Trainee – ‘shunt qualified’ and Level 3 Trainee – ‘engine & air qualified’.
- For clarity, Existing Team Members currently employed as Level 2 Trainees (without engine & air) will continue their training and once completed engine & air will move to Level 3 under this agreement.
- For clarity, Existing Team Members currently employed as Level 2 Trainees (with engine & air) will finish their training and once having acquired the required number of hours and once assessed as competent in Train Driving will move to Level 4 under this agreement.

PREAMBLE

The parties to this Agreement recognise the need for Team Members to be able to perform a wide range of tasks in the performance of their duties. Watco recognises the value of training to achieve multi-skilling and the importance of training to the career/s of Team Members. The classification structure detailed in this Schedule categorises Team Members according to their classification. Classifications relate to the following factors:

- Level of experience
- Range of skills (including levels of training or competency) required for performing duties
- Level of supervision (including degree of instructions required and/or given)
- Degree of responsibility
- At all times the Team Member must Promote the Customer First Foundation Principles

Classification title	Description
Team Member Level 1 (New Trainee)	<p>This Team Member holds no qualifications to perform any rail safety duties and will typically be recruited off the street. This Team Member may be required to perform various other duties considered to be safe and appropriate to this position for which they are competent to perform.</p> <p>Trainees do not perform any physical tasks relating to shunting for operational purpose, only for the purpose of learning and may be rostered as 3rd person for the purpose of consolidation of learning.</p> <p>Trainees at this level will be required to achieve the competencies as per the Watco Training Plan before progressing to Level 2.</p> <p>Once assessed as competent in the following, the Team member will progress to Level 2:</p> <ul style="list-style-type: none"> • Local Inductions and Site visits • Apply Safe Working Rules and Regulations • Apply Communications Protocols • Use and interpret radio, hand, and flag commands

Classification title	Description
	<ul style="list-style-type: none"> • Follow Safe Working Protocols • Act in the event of unsafe situations or emergencies • Fatigue Management • Apply Awareness of Railway Fundamentals • Follow Occupational Health and Safety Procedures • Operate Fire Equipment • Watco policy and procedures • Accident emergency procedures training • Diagnose, identify, and rectify minor faults on rolling stock • Roll by Inspections • Any task within your competence to perform as directed by Watco • Other duties as assigned <p>A new Team Member from another rail operator may commence as a level 1 until such point as their previous qualifications have been assessed and Watco specific training provided, i.e., fatigue management, Safety Rules, Radio Procedures and Policies.</p>
<p>Team Member Level 2 (Qualified 2nd Person)</p>	<p>This Team Member will have been assessed as competent in all Level 1 criteria before progression to Level 2.</p> <p>At this level, the Team member will be rostered as a Second Person and perform duties within their competency such as:</p> <ul style="list-style-type: none"> • Perform shunting operations • Train crew member for Line Haul operations work as a second person • Operate points • Specialised equipment to load or unload wagons, if qualified • Train Examination (once completed the Train Inspection Course) to examine and certify trains as fit for departure • Minor repairs to rolling stock • Undertake and complete 'Engine & Air' Training before progressing to level 3 • Any task within your competence to perform as directed by Watco • Other duties as assigned
<p>Team Member Level 3 (Second Person/ Trainee Driver)</p>	<p>This Team Member will have been assessed as competent in Level 2 Train Operations criteria before progression to Level 3.</p> <p>At this level, the Team member will perform duties within their competency such as:</p> <ul style="list-style-type: none"> • All Duties associated in Levels 1 through to 3, if qualified • Locomotive Second Person assisting the driver in shunting and marshalling of trains • Undergo on and off job tuition and training in locomotive and train management, including route knowledge • Locomotive and vehicle provisioning including daily locomotive checks

	<ul style="list-style-type: none"> • Log 'driving' hours in line with training plan • Any task within your competence to perform as directed by Watco • Other duties as assigned <p>Trainees at this level are required to achieve the competencies as per the Watco Training Plan to progress to Level 4.</p>
<p>Team Member Level 4 (Locomotive Driver)</p>	<p>This Team Member has been assessed as competent in Train Driving and acquired the required number of hours.</p> <p>This Team Member will also perform duties within their competency such as:</p> <ul style="list-style-type: none"> • All Duties associated in Levels 1 through to 4, if qualified • Maintain and hold a relevant State Safe Working/Track Access Permit (e.g., C.O.C) • Drive shunting locomotives, with or without locomotive remote control • Perform Mainline Duties • Undergo on and off job tuition and training in locomotive and train management, including route knowledge • Clerical tasks - Complete all relevant paperwork • Any task within your competence to perform as directed by Watco • Other duties as assigned
<p>Team Member Level 5 (Senior Driver)</p>	<p>Team Member will have been assessed as Competent in all Level 4 requirements. This position conducts training and assessing and must have completed the relevant units of assessment.</p> <p>This Team Member will also perform duties within their competency such as:</p> <ul style="list-style-type: none"> • Promote Operational Performance and the operating discipline of optimised train management • Assist with the performance improvement and management of selected Team Members • Assess and sign off on driver route competencies • Any task within your competence to perform as directed by Watco • Other duties as assigned

APPENDIX 2 – ACCOMMODATION AND LOCOMOTIVE MINIMUM STANDARDS

1. PRINCIPLE

The accommodation and locomotive standards contained in this Appendix represent the minimum standard of accommodation and driver comfort that will be provided to Team Members who operate Locomotives and/or are required to book off away from their Home Depot and to Team Members on temporary transfer.

2. DEFINITIONS

Apartment / Hotel / Motel – Refers to privately operated accommodation that is fully self-contained with one bedroom and a separate lounge living area. In relation to Hotel / Motel it refers to any privately operated accommodation, which in the case of Hotel / Motel is as the name implies. Apartments / Hotels / Motels must be a minimum 3 ½ star rating, where available.

Third Party Accommodation – Refers to accommodation supplied by Watco’s customers.

3. ACCOMMODATION STANDARDS

Team Members who work assignments away from their Home Depot and are required to stay overnight will be provided suitable lodging by Watco. The parties to this Agreement recognise that the nature of the geography of operation means Watco can only use best endeavours to provide the required standard of accommodation but will commit to providing if it is available and practical to do so without impacting on required train pathways and cycle times. The local consultative teams will discuss accommodation options available in the zones and make recommendations where appropriate.

Apartment / Hotel / Motel

Application - Applies to Team Members on temporary transfer other than third party provided accommodation.

Location and Amenity - Apartment / Hotel / Motel accommodation must be in a quiet location and the rooms in these establishments should be as acoustically sound as possible to prevent external noise or noise from adjacent rooms.

Third Party Accommodation

Watco may require Team Members to stay in 3rd party accommodation such as mining camps. On these occasions, Watco will ensure such accommodation is fit for purpose and of equivalent standard to that provided for in this Appendix.

Compliance - In addition, the accommodation must comply with the relevant State Fire Codes for accommodation specific buildings. This includes (but is not limited to) Fire Alarms and Smoke Detectors, Sprinkler Systems, if applicable, Fire Fighting Equipment, Fire Escapes, Emergency Exits and Signage, and Evacuation Procedures.

4. LOCOMOTIVE MINIMUM STANDARD

As a minimum, Watco will ensure that each locomotive has:

- an operational working toilet;
- an operational working kettle and microwave oven;
- a 240v or 12v power outlet suitable for charging mobile devices, torches, and similar items; and
- an operational Air Conditioner.

T Class locomotives:

The above minimum standard does not apply to T Class locomotives, as such, T Class locomotives are only to be operated on mainline operations with a duration of less than 60 minutes transit time or as a remote locomotive where coupled to a locomotive with an operational toilet.

5. INSPECTION

Any accommodation/locomotive proposed for use by Watco will be inspected by a nominated workplace representative and Watco's representative. The inspection must be conducted based on the requirements of this standard, and the relevant checklist / inspection sheet must be completed and made available to all parties.

APPENDIX 3 – TRAIN CREW ROSTERING PRINCIPLES

1. INTRODUCTION

- 1.1. These Rostering Principles, including local depot guidelines, have been developed to assist in providing a consistent yet flexible approach to the rostering of locomotive crews across the business. They shall be read in conjunction with but shall not conflict with any provisions contained within this Agreement, in particular Clause 18, *Rail Operations Working Hours*.
- 1.2. They are also to be read in conjunction with the procedure for the management of fatigue. In cases where there is a conflict between satisfying the requirements of either these Rostering Principles or the Fatigue Management Procedure the latter shall prevail in any case where such a conflict is likely to increase the potential for a workplace hazard. Rostering shall also comply with relevant workplace health and safety legislation.
- 1.3. The Train Crew Rostering Principles may be varied during the operation of this Agreement through the consultative processes and subsequent agreement with the affected Team Members.
- 1.4. There are two types of Rostering Systems within Watco, Forecast and Blank Line. The current system of rostering at each Watco depot shall remain in place with lodgement of this Agreement.

2. CONSULTATIVE ROSTERING PROCESSES

- 2.1. Watco and the Team Members shall discuss, develop and modify rosters through a consultative process. This shall be achieved by the election of workplace consultative committees at each location as described in Clause 42, *Workplace Representatives*. If, this committee considers that a separate “rostering specific” consultative committee should be established, for either regular or specific purposes, then this may occur, and an election will be conducted.

3. DEPOT GUIDELINES

- 3.1. Depot guidelines are to be developed which provide specific rostering practices to meet the operational requirements and rostering preferences of Team Members at each Depot.
- 3.2. These guidelines shall be developed through the consultative process established at each Depot and should consider and address both guide and operational roster issues.
- 3.3. Depot guidelines will be communicated to relevant Team Members in the Depot including new and relieving Team Members.
- 3.4. The depot guidelines shall include practices to address rostering issues such as, but not limited to:
 - when business / operational changes require permanent alterations to the roster(s);
 - where fatigue management reviews require changes to the roster(s);
 - when management or Team Member-initiated changes are proposed to accommodate an altered distribution of the work and / or time off, with the intent that local management and relevant Team Members, through the local consultative

process, determine how the proposed changes can be best implemented to accommodate both operational requirements and the needs of the Team Members affected by the changes.

- 3.5. The depot guidelines shall also include practices to address the rostering of various forms of time away from work, including rostered days off, blank days and weekends off, in a manner which aims to meet the operational requirements of the business and the rostering preferences of Team Members at the depot.
- 3.6. To meet varying workloads, seasonal changes and variable customer requirements it may be necessary for some Depots to use multiple Guide Rosters.
- 3.7. Proposed Guide Roster changes shall be displayed for Team Members to have the opportunity to provide feedback on the Guide and, where appropriate, may suggest changes to the Guide Roster, through the consultative process established at their Depot.

4. OPERATIONAL ROSTER CONSIDERATIONS

Roster development

- 4.1. An Operational Roster will be developed closer to the commencement of the roster period. This roster will more closely reflect the actual operational requirements of the business taking into account circumstances at that time such as customer needs, staffing levels and leave.

Posting of Operational Rosters

- 4.2. Operational rosters for the Roster Cycle will be posted by 1600 hours on the Thursday immediately before the Sunday the roster is to commence. Different timeframes may be agreed to at each Depot if it meets the needs of the business and of the Team Members at the Depot.

Shift Changes

- 4.3. Train working changes and train crew absences can occur on a regular basis and at short notice. These changes may result in shift cancellations, additional shifts, shift adjustments (e.g. start times) or changes to shift lengths.
- 4.4. Where these changes occur as much notice as practical will be given, and consideration will be given to:
 - a Team Member's personal and family circumstances;
 - operational requirements;
 - depot guidelines established at the depot;
 - fatigue management principles, including "time of day" considerations;
 - the number of shifts a Team Member has worked;
 - the length of the shifts that the Team Member has worked; and
 - the breaks a Team Member has had between the shifts worked.
- 4.5. Balancing of shifts during the Roster Cycle may occur due to changed operational requirements. However, a Team Member who works an additional shift or shifts shall not

have subsequent rostered shifts balanced with other Team Members purely for the purpose of reducing the first Team Member's hours for the Roster Cycle.

- 4.6. Subject to operational requirements, fatigue management principles, consent by their supervisor and providing the arrangement is cost neutral to the business, Team Members may mutually exchange shifts.

Clearing of and Returning from Annual Leave

- 4.7. A key objective of these rostering principles is to provide Team Members with the highest possible level of certainty, particularly with regard to RDOs.
- 4.8. Arrangements for the clearing of and returning from annual leave can require adjustments to the allocation of work through the roster, including adjustments of the allocation of work and RDOs to other Team Members.
- 4.9. Depot Guidelines should address practices for the clearing of and the returning from annual leave. The guidelines should include protocols for Team Members starting leave, where they resume on the roster and could also include practices where Team Members are not rostered to start before 0600 hours on their first shift back from leave unless they are prepared to do so.
- 4.10. Subject to observing the requirements of the provisions at Clause 29, *Annual Leave*, the Depot Consultative process shall consider these issues and the collective preferences of the Team Members having regard for the potential disruption to the allocation of RDOs.

Interaction between public holidays and RDOs

- 4.11. The general principle is for RDOs to be allocated as per the Guide Roster. This results in more certainty and less disruption for both the business and Team Members in each roster. If an RDO falls on a public holiday in accordance with the guide, the RDO will not be moved and the Team Member will be paid in accordance with Clause 39, *Public Holidays*.
- 4.12. It is the intention of this principle that RDOs are not moved from other days to public holidays as part of compiling operational rosters. This is particularly the case when there is no or less Depot work on the public holiday.

Engagement of Casuals on the Roster

- 4.13. Casual Team Members will be placed on the roster and cover shifts that are either irregular/surplus shifts due to busy periods of work or due to an unusual shortfall of regular Team Members able to cover ordinary shifts, for reasons of a temporary nature, e.g., large training program requirements, epidemic of an illness in a particular area, etc.
- 4.14. The working of hours by casuals will not alter the position and allocation of hours for a full or part time Team Member on the operational roster from their designated position on the guide roster.
- 4.15. As Casual Team Members do not have dedicated rostered days off, they will be placed at the bottom of the operational roster and will not rotate through the Guide Roster.

5. DESCRIPTION OF ROSTER SYSTEMS AT Watco

Master Rosters (for Blank Line Roster Systems)

- 5.1. The master roster shall be permanently exhibited indicating RDOs for the complete roster. In this context, "the complete roster" means all the work lines on the roster.

Guide Rosters (for Forecast Roster Systems)

- 5.2. The guide roster will permanently exhibit all known working (including sign on and sign off times) and all RDOs in a Depot.

6. CHANGING ROSTER SYSTEMS AT A DEPOT

- 6.1. Joint consultation shall take place to determine the suitability, applicability and implementation of any proposed new rostering system for Watco's operations. Where such concepts are being considered Team Members will be consulted to determine the suitability and applicability of the concept to Watco's operations and the collective preference of the applicable Team Members.

7. MAKING CHANGES TO THE MASTER/GUIDE ROSTER

- 7.1. Major changes to the master/guide roster shall be arranged through joint consultation as described in Clause 43, *Consultation* of this agreement.

8. MASTER GUIDE ROSTER DEVELOPMENT

- 8.1. Consultative committees shall jointly develop master/guide rosters and review rostering issues, taking particular account of the following:
- the nature of Watco's operations;
 - the provisions of this Agreement;
 - the specific rostering conditions described below;
 - the family, social and community needs of Team Members;
 - fatigue, health and safety issues topical to shift workers;
 - full time Team Members rotate through all lines in a roster and work is distributed fairly throughout the roster with respect to the amount and type of work to be performed;
 - time off is maximised by grouping Rostered Days Off (RDO) and weekend RDOs are spread evenly.
- 8.2. Rosters shall be prepared to ensure that breaks are provided for after particular consecutive shift patterns. A maximum of 4 consecutive 12-hour shifts or 5 consecutive 10-hour shifts can be rostered. For clarity, 50 hours can be rostered consecutively utilizing any combination of shift lengths.
- 8.3. For the purpose of this provision, "consecutive shifts" are shifts where the break between shifts is less than 24 hours.

- 8.4. On completion of consultation a minimum of 14 days' notice shall be provided to Team Members before the implementation of changes to the guide/master roster.

9. POSTING OF GUIDE ROSTERS

- 9.1. Where practical, proposed changes to guide rosters will be posted for perusal, comment and review in sufficient time so that the final guide is available no less than 14 days in advance of implementation.
- 9.2. As far as reasonably practical, the depot manager shall consider and make necessary arrangements for any Team Member whose family responsibilities may be adversely impacted by a short notice guide roster change.

10. ROSTERED DAYS OFF (RDO)

- 10.1. An average of four (4) rostered days off (RDOs) for each fortnight of a Roster Cycle will be incorporated into a roster at the time of posting.
- 10.2. RDOs will be shown on guide rosters.
- 10.3. RDOs may be moved in the process of creating operational rosters. Such movement of RDOs will take place only by mutual agreement.
- 10.4. RDOs may be grouped together or allocated separately and Watco, through the Depot Consultative process, will be able to place RDOs in a manner which allows it to effectively manage its fatigue management responsibilities.
- 10.5. Once the roster for the Roster Cycle has been posted the RDOs can only be moved with the agreement of the Team Member concerned.
- 10.6. Where a Team Member agrees to move the originally designated RDO no overtime payments will be made for work conducted on a day originally designated as an RDO.
- 10.7. Working on a RDO may occur, subject to satisfying fatigue management requirements, where:
- 10.7.1. the Team Member has indicated a preparedness to work on that day; or
 - 10.7.2. Watco, having exhausted all other reasonable avenues, may request and the Team Member may agree to work into, on or out of an RDO.
- 10.8. Work on a RDO will be paid in accordance with Clause 21, *Additional Hours*.
- 10.9. RDO hours are from 00:01 to 23:59 on the day the RDO falls. The day immediately following an RDO will not be rostered to start before 06:00 in the first instance. However, it is recognised that due to customer requirements occasionally the only option is to roster a team member to begin before 06:00 immediately after an RDO. When such an instance occurs, the Team Member will be paid one extra hour at their normal rate for each hour the shift starts before 06:00. For clarity, if a team member is rostered to start at 04:00 immediately following an RDO, they will receive two (2) hours at the normal rate as a stand-alone payment.
- 10.10. In the case of consecutive RDOs, each additional RDO after the first RDO will be twenty-four (24) hours in duration following the completion of the first RDO.

- 10.11. Where Blank Line rostering occurs, Team Members may agree to the shifting of exhibited RDOs in a guide roster with less than twenty-eight (28) days' notice. A form letter agreeing to such a change should be signed by the manager and Team Member concerned on each occasion.

11. HOW CREWS ARE NOTIFIED OF THEIR SHIFTS

Forecast Rosters

- 11.1. Operational rosters for the Roster Cycle will be posted by 1600 hours on the Thursday immediately before the Sunday the roster is to commence. Different timeframes may be agreed to at each Depot if it meets the needs of the business and of the Team Members at the Depot.

12. REQUEST DAYS

- 12.1. As a means of addressing a Team Member's out of the ordinary personal obligations (such as medical appointments, special family commitments, and the like) a Team Member may make requests not to be rostered on a specific day, or days, during a specific Roster Cycle.
- 12.2. Reasonable endeavours will be made to meet the request having regard for the nature of the request and the disruption to the roster, including the allocation of RDOs and the impact on other Team Members.
- 12.3. Requests, including the reason, must be submitted no later than three (3) days preceding the posting of the roster for the Roster Cycle in question. A greater period of notice however may facilitate greater opportunity for the request to be granted.
- 12.4. It is not the intent for request days to be submitted for regularly occurring events such as sporting or other similar commitments or for extending breaks already provided for during the Roster Cycle.
- 12.5. Usually there will be no more than one (1) request day per Team Member per Roster Cycle however additional requests will be considered by a Team Member's manager on a case by case basis.
- 12.6. Particular attention will be given to regularly occurring requests, which would result in Team Members not working their share of weekends or other particular shifts.

APPENDIX 4 – DOO SHIFT LENGTHS

1. INTRODUCTION

This Appendix is included for the purpose of detailing maximum shift lengths based on specific operational circumstances.

It is not the purpose of this Appendix to deal with the many other regulatory and operational considerations that are relevant to the implementation of DOO. Those issues shall be managed through the various consultative, procedural and regulatory processes.

2. MAXIMUM SHIFT LENGTHS BASED ON OPERATIONAL CIRCUMSTANCES

The maximum shift lengths and a description of the operational circumstances are as follows:

Operational Circumstances	Maximum shift length sign on to sign off
<p>DOO Mainline - These are shifts where the majority of the shift comprises of driving on the mainline.</p>	9 hours
<p>DOO Shunt - Driver Only Shunt Operation – is the Shunting / Marshalling of a Train / Locomotive when only one Driver is assigned to the operation of such. A qualified person for the purpose of providing assistance for groundwork / signal observation / coupling / etc., may accompany the Driver but the shunt is still classified as DOO. At some locations, minor traversing of the mainline will be required.</p>	10 hours
<p>Mixed DOO on a case-by-case basis - These are shifts that comprise of mixed mainline and depot / terminal / yard / siding operations. They are to be determined on a case-by-case basis having regard for the components of work including the amount of driving on the mainline. These shifts shall not usually involve more than 4½ hours driving on the mainline, however, proposals with minor increases over the 4½ hours driving on the mainline may be considered.</p>	10 hours
<p>Like all other train operations shifts, it is a requirement that these DOO shifts may involve other duties such as: train preparation, ground support, car driving, trip servicing, administrative functions etc.</p>	

DOO shifts that are nine (9) hours or less are not the subject of the shift length considerations detailed in this Appendix.