

## **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA04/171

**TITLE:** Hydro Aluminium Smelter Upgrade and Retro-Fit Enterprise Agreement 2004

**I.R.C. NO:** IRC4/2726

**DATE APPROVED/COMMENCEMENT:** 18 May 2004

**TERM:** 26 months

**NEW AGREEMENT OR  
VARIATION:** New

**GAZETTAL REFERENCE:** 25 June 2004

**DATE TERMINATED:**

**NUMBER OF PAGES:** 42

### **COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The Agreement applies to employees of all contractors, subcontractors and supplementary labour providers engaged on the area known as the Hydro Aluminium Smelter Upgrade and Retro-Fit Construction Site and in other areas of the existing plant where work is directly associated with the construction and expansion in respect of the SURF project at the smelter

**PARTIES:** Australian Manufacturing Workers Union, Construction, Forestry, Mining and Energy Union (New South Wales Branch), Electrical Trades Union of Australia, New South Wales Branch, Newcastle Trades Hall Council, The Australian Workers' Union, New South Wales, The New South Wales Plumbers and Gasfitters Employees' Union, Transport Workers' Union of New South Wales -&- Labor Council of New South Wales, The Australian Industry Group New South Wales Branch

HYDRO ALUMINIUM KURRI KURRI SMELTER  
UPGRADE AND RETRO-FIT PROJECT  
ENTERPRISE AGREEMENT 2004

AUSTRALIAN INDUSTRY GROUP  
NEW SOUTH WALES BRANCH

and

LABOR COUNCIL OF NEW SOUTH WALES  
NEWCASTLE TRADES HALL COUNCIL

Our Goal is ZERO Injuries, Zero Defects

HYDRO ALUMINIUM KURRI KURRI SMELTER  
UPGRADE AND RETRO-FIT PROJECT  
ENTERPRISE AGREEMENT 2004

EMPLOYEE:

NAME:

(BLOCK LETTERS)

CLASSIFICATION:

USUAL PLACE OF RESIDENCE:

I hereby acknowledge that I have received a copy of the Enterprise Agreement.

SIGNATURE:

DATE OF ISSUE:

EMPLOYER:

NAME:

(BLOCK LETTERS)

I acknowledge further that I have read and understand the contents thereof.

SIGNATURE:

DATE:

This page is to be detached and kept by Hydro Aluminium to verify that the person named has attended and passed the Hydro Aluminium Gate Security Site Safety Induction and Enterprise Agreement Induction Program.

The Labour Council of New South Wales  
Australian Industry Group and affiliated Unions New South Wales Branch

Newcastle Trades Hall Council  
and affiliated Unions

## WELCOME TO HYDRO KURRI KURRI SMELTER UPGRADE AND RETRO-FIT PROGRAM CONSTRUCTION SITE

This Project Enterprise Agreement is the result of extensive negotiations between Trade Unions affiliated with the Newcastle Trades Hall Council and The Labor Council of New South Wales and the Australian Industry Group, NSW Branch on behalf of all contractors.

The negotiations were conducted in an open and positive manner. The conditions and rates of pay contained herein have been developed with the aim of providing, for their period of operation, a clear framework under which all concerned - contractors, workers and their unions - can co-operate to ensure for a safe, productive and healthy working environment.

There are advantages to be enjoyed and gained by all parties strictly adhering to the terms of this important Project Enterprise Agreement.

Please read this Enterprise Agreement and the Site Rules together with the Hydro General Site Safety Rules, which have been issued to you separately.

All parties have conducted the negotiations in a responsible manner with commitment and goodwill. For the Project Enterprise Agreement to succeed, the same sense of responsibility, commitment and goodwill is required of all persons engaged on the site.

Compliance with the Project Enterprise Agreement will assist in ensuring the safety of yourself and your workmates and that your engagement on the site is satisfying and productive.

Our Goal is ZERO Injuries, Zero Defects

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### **1. Title**

This Enterprise Agreement shall be known as the Hydro Aluminium Smelter Upgrade and Retro-Fit Project Enterprise Agreement 2004.

### **2. Preamble**

The parties have mutually agreed that wages and conditions of workers engaged on construction work as specified above shall be set out herein and that this agreement shall be embodied in this Enterprise Agreement.

The parties are committed to the engagement of employees on a weekly basis and accordingly the use of casual employees and/or supplementary labour employees is to be kept to a minimum.

It is recognised by all parties from time to time unions may be directed to involve their members in National, Statewide or industry sector campaigns. Any such involvement to the extent that it breaches the Enterprise Agreement will not void this Enterprise Agreement, provided the Settlement of Disputes procedures, including referral of any disputes to the Industrial Relations Commission, is adhered to by all parties. The parties are committed to resolving all disputes, including demarcation disputes in accordance with the procedures set out under this Enterprise Agreement.

### **3. Parties to Enterprise Agreement**

The parties bound by this Enterprise Agreement are:

- (a) All contractors engaged on work that falls within the application and scope of this Enterprise Agreement.
- (b) All employees of contractors engaged on work that falls within the application and scope of this Enterprise Agreement whether members of the organisations listed in (c) or not.

- (c) The organisations that represent the employees defined in (b), namely:
  - (i) The Labor Council of New South Wales.
  - (ii) Newcastle Trades Hall Council.
  - (iii) The Australian Workers Union.
  - (iv) The Australian Manufacturing Workers Union, New South Wales Branch.
  - (v) The Construction, Forestry, Mining and Energy Union (Construction and General Division) New South Wales Branch.
  - (vi) The Electrical Trades Union of Australia, New South Wales Branch.
  - (vii) The New South Wales Plumbers and Gasfitters Employees' Union.
  - (viii) The Transport Workers' Union of Australia, New South Wales Branch.

#### **4. Definitions and Interpretation**

In this Enterprise Agreement except where the context otherwise requires:

- (a) "Contractor" means any contractor, subcontractor or supplementary labour provider engaged on the site.
- (b) "Construction work" means work directly related to the construction and expansion in respect of the Smelter Upgrade and Retro-Fit Project (SURF) as defined by the Development Application DA 73-3-2002 approved by the Hon Andrew Refshauge, Minister for Planning on 21 August 2002, during the life of this Agreement.
- (c) "Hydro Aluminium" means Hydro Aluminium Kurri Kurri Pty Ltd
- (d) "Site" means that area known as the Hydro Aluminium Smelter Upgrade and Retro-Fit Project Construction Site and in other areas of the existing plant where work is directly associated with construction and expansion in respect of the SURF Project at the smelter.
- (e) SURF means Smelter Upgrade and Retro-Fit Project
- (f) SURF Project Management means the Project Manager or his representative.
- (g) "Unions" and/or "Affiliated Unions" means unions affiliated with The Labor Council of New South Wales and/or The Newcastle Trades Hall Council as listed in sub clause 3(c) of this Enterprise Agreement.
- (h) "Peak Union Councils" means The Labor Council of New South Wales and The Newcastle Trades Hall Council.
- (i) "Ai Group" means The Australian Industry Group, New South Wales Branch.
- (j) "Employer" means any contractor or subcontractor engaged on the Project and includes a supplier of supplementary labour engaged by a contractor or subcontractor on the site.
- (k) "Employee" means an employee of a contractor or subcontractor, including a casual or supplementary labour hire employee employed in accordance with the provisions of the Project Award, engaged on the Project and in receipt of the rates of pay and conditions of this Enterprise Agreement.

Note: Clause 10(e) states that where casual or supplementary labour hire employee is engaged on the Project, such engagement shall not exceed four (4) weeks duration. However, where agreement is reached between the parties to the Agreement, then such engagement of a casual or labour hire

employees may be extended for a further two (2) weeks. Agreement to such extension of time shall not be unreasonably withheld. The intent of this provision is to promote the engagement of full-time employees to work on the Project.

- (l) "Project Award" means the Hydro Aluminium Kurri Kurri Smelter Upgrade and Retro-Fit Project Consent Award 2004.
- (m) Words importing the singular number shall include the plural number and words importing the plural number shall include the singular number.
- (n) Words importing the masculine gender only shall include the feminine and neuter genders.
- (o) Words importing persons shall include bodies corporate and trusts and words importing bodies corporate shall include natural persons.
- (p) References to any statutory/award enactment shall include the same as amended and modified and any enactment repealing or replacing the same, from time to time.

### 5. Wages

The following wage rates shall apply from the beginning of the first full pay period commencing on or after the dates specified in Columns 1 - 4.

GROUP	CLASSIFICATION	1 15/03/04	2 15/09/04	3 15/03/05	4 15/09/05
AA	Electrical Instrument Fitter Mechanical Plant Operator Gps. F.G.H Mobile Cranes over 70 Tonnes (Add:\$1.73 for every 5 T in excess of 9OT) Tower Cranes Mechanical Tradesperson - Special Class	\$976.50	\$1000.90	\$1025.90	\$1051.50
A	Tradespersons, Engineering and others Mobile Cranes up to 70 tonnes Mechanical Plant Operator Groups C, D and E. Transport Worker Gds 6, 7, 8. Batch Plant Operator/Allocator	\$930.00	\$953.20	\$977.00	\$1001.40
B	Riggers Agitator Driver Mechanical Plant Operator Groups A and B Field Sampler Concrete Tester Transport Worker Gds 4 and 5 Dogmen Steel Fixers Concrete Finishers Scaffolders Clerk Labourers Group A & 2 (CFMEU) Labourers Group 3 & 4 (AWU) Ganger	\$883.50	\$905.60	\$928.20	\$951.40
C	Trades Assistant Labourer - Group 2 (AWU) Labourer - Group 3 (CFMEU)	\$837.00	\$857.90	\$879.30	\$901.30

Crane Chaser					
Transport Worker Gds 1, 2 and 3					
Storeperson					
Survey field hand					
Steel Erector					
Field Clerk					
Lagger					
Asphalt Paver/Gang					

(a) The rates prescribed in Groups AA, A, B and C are in substitution for those rates and allowances which, but for this Enterprise Agreement, would apply to employees of contractors engaged on the site and are for all purposes of this Agreement.

Such rates shall only be varied during the term of the Enterprise Agreement in accordance with the schedule as set out above. The parties may, by agreement, include additional classifications within the groupings set out in this clause. Any dispute as to the appropriate grouping for a particular classification shall be dealt with in accordance with the provisions of Clause 40 hereof - Settlement of Disputes.

(b) The rates of pay set out in (a) do not include Refractory Allowance and Towers Allowance, but are inclusive of amounts in lieu of over-award payments, Industry Allowance, Construction Allowance, Fares and Travelling (excluding excess fares where applicable), Site Allowances and Site Disability payments such as space, height, dirt, etc, award special rates such as confined space, wet work, etc follow the job loadings, compensation for travel pattern mobility requirements, etc, inclement weather, wind, dust, etc, but exclude those allowances contained separately under this Enterprise Agreement.

(c) Higher Duties

Where any employee on any day performs two or more classes of work to which a differential rate fixed by this Enterprise Agreement is applicable, such person if employed for more than four (4) hours on the class or classes of work carrying the higher rate shall be paid in respect of the whole time during which the employee works on that day at the same higher rate.

This rate shall be at the highest rate fixed by this Enterprise Agreement in respect of any such classes of work, and if employed for four hours or less on the class or classes of work carrying the highest rate, the employee shall be paid at such highest rate for four hours.

(d) Allowances

The following allowances shall be payable in addition to Group A rates where applicable for all purposes of the Enterprise Agreement:

(i) Specialist Skills - Electrical: - Electrical employees who are qualified and required to perform such work shall receive the following all purpose allowance:

Electrical Licence	\$27.80
Electrical Special Class	\$46.50
Electrical Instrument Fitter	\$46.50
Instrument, Complex Systems	\$46.50

(ii) Specialist Skills - Mechanical:

Mechanical employees (as defined) who are qualified to Project standards and are required to perform such work shall receive the following all purpose allowance:

Instruments	\$46.50
Instrument, Complex Systems	\$46.50
Other Allowances:	

(iii) Tool Allowance

A tool allowance of \$22.10 per week shall be paid for all purposes to all trades persons.

(iv) Leading Hand Allowance

A person specially appointed to be a leading hand shall be paid an additional amount which shall form part of the employee's weekly all purpose wage.

In charge of not more than one (1) person	\$13.00
In charge of two (2) and not more than five (5) persons	\$28.70
In charge of six (6) and not more than ten (10) persons	\$36.60
In charge of more than ten (10) persons	\$48.80

(v) First Aid Allowance

An employee who holds an appropriate First Aid Certificate and who is appointed by their employer as a first aid attendant shall be paid an additional allowance of \$2.00 per day, such allowance to be paid for all purposes of this Enterprise Agreement.

(vi) Excess Fares and Travel

Employees who reside and travel by road for more than 50km from the site shall be paid a minimum travel time payment of 30 minutes for each return journey. If the time spent travelling beyond 50km totals more than 30 minutes each day, then the additional time beyond the 30 minutes minimum is paid for in 15minute increments.

Mileage of 40c/km is payable to the driver of the vehicle required to travel more than 50km. This 40c/km payment shall not apply where the company provides or offers to provide transport to and from site.

(vii) Refractory Bricklaying Allowance

Refractory Bricklayer	\$1.42 per hour (all purpose)
Refractory Bricklayer's Assistant	\$1.22 per hour (all purpose)

(viii) Towers Allowance

An employee working on a chimney stack spire, cooling tower, water tower or silo, where the construction exceeds 15 metres in height shall be paid for all work above 15 metres, 46 cents per hour, with 46 cents per hour additional for work above each further 15 metres.

(ix) Plumbing Allowances

Plumbing Licence	\$38.20
Plumbing Registration	\$19.40

(e) Apprentices

The provisions of sub-clause (a)(d)(iii) and (d)(vii) of this clause shall apply proportionately to all apprentices employed on the site and they shall be paid the appropriate percentage of the wage rate prescribed for Group A classifications as specified hereunder:

1 st year	42%
2nd year	55%
3rd year	75%
4th year	88%



Apprentices who attend a TAFE course on a prescribed rostered day off shall be afforded an alternative day to be mutually agreed between the contractor or subcontractor and the apprentice concerned.

The parties to this Enterprise Agreement encourage contractors to adopt a ratio of one apprentice to five tradesmen as a minimum. However, no contractor is bound to employ additional apprentices if that decision would displace other employees already employed.

All contractors will, when engaging labour, give preference to apprentices from a union approved community based Apprenticeship Scheme, i.e., Hunter Group Training and Hunter Valley Training Company.

In relation to apprentices, existing industry practices shall prevail, including payment for time spent in training.

(f) Definitions

- (i) "Electrical instrument fitter" means a tradesperson, not necessarily an electrical fitter, who is required to design, test and/or repair and maintain electrical and/or electro-pneumatic measuring and/or recording appliances and/or scientific instruments electrical instruments.
- (ii) "Mechanical Tradesperson - Special Class" means a mechanical tradesperson who is mainly engaged in any combination of installing, repairing and maintaining, testing, modifying, commissioning or fault finding on complex machinery and equipment which utilises hydraulic and/or pneumatic principles and who, in the course of such work, is required to read and understand hydraulic and/or pneumatic circuitry which controls fluid power systems.

To be classified as a Mechanical Tradesperson - Special Class a tradesperson will have:

- (a) had minimum of two (2) years on the job experience as a tradesperson working predominantly on fluid power systems as will enable the tradesperson to perform such work under minimum supervision and technical guidance and
- (b) satisfactorily completed a prescribed post trades course or the achievement to the satisfaction of the employer of a comparable standard of skill and knowledge by other means including in-plant training or on the job experience referred to in (a) above.

For the purpose of this definition:

- (aa) "mainly engaged" means regularly over a period or intermittently during a week;
- (bb) the following courses are deemed to be prescribed post trade courses:

Course	Syllabus Number
Victoria	
Industrial Hydraulics	AJ02A
Industrial Pneumatics	AJ03A
Fluid Power Technology	AJ04A
South Australia	
Hydraulic	-
Pneumatics	-
Fluid Power	-
Tasmania	
Industrial Pneumatics	85-461
Industrial Hydraulics	85-450
Queensland	
Service course in Fluid Power	CN859
New South Wales	
Industrial Hydraulics	5721
Industrial Pneumatics	5268

## **6. Application and Scope of Enterprise Agreement**

- (a) This Enterprise Agreement shall apply to employees of contractors who are engaged on site as part of the SURF Project. Construction Work referred to herein means construction work and/or modification work on plant that has been contracted as part of the SURF Project.
- (b) This Enterprise Agreement shall stand on its own and shall not, except as specifically provided for in this Enterprise Agreement, be affected by external wage or condition movements.
- (c) For the purposes of this Enterprise Agreement the site offices of Hydro Aluminium are excluded from the areas referred to in sub-clause (a) of this clause.
- (d) All employers shall observe the terms of this Enterprise Agreement. Where this Enterprise Agreement does not make specific provision, the appropriate parent award shall apply irrespective of whether or not there are weekly or hourly employees engaged as at the date of this Enterprise Agreement.
- (e) This Enterprise Agreement shall not apply to statutory employees, employees and contractors of Hydro Aluminium, security, supervisory, site catering or management and supervisory personnel and associated staff or to personnel engaged in deliveries to and from the site. The parties agree that this exclusion shall not apply to employees who upon delivering materials and equipment from off-site to the project perform construction work on the project eg, employees who deliver scaffolding to the project who then erect the scaffolding are covered by this Enterprise Agreement in respect of the work performed on the project.
- (f) This Enterprise Agreement shall have no application to plant commissioning, operations or maintenance or to any work after turnover of plant to Hydro Aluminium or to any other activities for which the contractors and subcontractors are not responsible.
- (g) The parties to this Enterprise Agreement commit themselves to the achievement of efficiency and productivity during the course of the construction project and agree that no party will take any action that adversely affects the efficiency or productivity of the project.
- (h) All suspected breaches of this Enterprise Agreement shall be reported to the SURF Project Manager for immediate investigation. If found to be correct, such breaches will be immediately rectified.

## **7. No Extra Claims**

It is a term of this Enterprise Agreement that the Parties undertake that for the period of this Enterprise Agreement they will not pursue any extra claims, award or over-award, for the duration of the Enterprise Agreement as specified in Clause 9. This includes claims relating to changes arising from award variations or decisions of the Australian Industrial Relations Commission or the Industrial Relations Commission of New South Wales, other than changes that are consistent with the terms of this Enterprise Agreement.

Where employees employed under this Enterprise Agreement on the project are receiving terms and conditions greater than this Enterprise Agreement as a result of an Enterprise Agreement or other arrangement, this shall not be used as a basis of a claim by unions or employees of other contractors engaged on the Project.

Where an enterprise or certified agreement of a contractor expires during the term of this Enterprise Agreement, employees will continue to work normally under their existing enterprise or certified agreement, and this Enterprise Agreement, and shall be paid or afforded all additional benefits of any new or replacement enterprise or certified agreement retrospectively to the date of the new agreement.

## **8. No Reduction Clause**

No reduction in either rates of pay or conditions of employment as at date of Enterprise Agreement will occur as a result of the making of this Enterprise Agreement provided that where this Enterprise Agreement offsets Parent Award or Enterprise or Certified Agreement conditions, the provisions of this Enterprise Agreement shall prevail.

## 9. Duration of Enterprise Agreement

This Enterprise Agreement shall operate on and from 15 March 2004 and shall remain in force until 15 September 2006.

## 10. Contract of Employment

- (a) The contract of employment for all employees other than casual employees shall be by the week.
- (b) For other than casual employees, either party shall give a week's notice of termination of the employment engagement exclusive of accrued rostered days off or one (1) week's pay shall be paid or forfeited in lieu thereof.
- (c) Applicants for positions on the project shall be required to complete an Immigration Compliance Authority, contained in Appendix 4 to authorise their potential employer to obtain from the Department of Immigration and Multicultural Affairs details of their immigration status. No person shall be allowed to undertake any work on the project unless it is verified they have the right to work. Copies of this Authority shall be made available to the Labor Council upon request.
- (d) A casual employee is employed on an hourly basis and paid as such with a minimum payment of four (4) hours. Casual employees shall be paid a 25% casual loading in compensation for other benefits under this Enterprise Agreement to which a Casual Employee has no entitlement, The casual employee is entitled to pro-rata Redundancy payments as set out under Clause 45, Termination Pay.

Where casual or supplementary labour hire employees are engaged on the Project, such engagement shall not exceed four (4) weeks duration, however where agreement is reached between the parties to the Agreement then such engagement of a casual or labour hire employee may be extended for a further two (2) weeks. Agreement to such extension of engagement shall not be unreasonably withheld.

Note: The intent of this provision is to promote the engagement of full-time employees to work on the Project. Where the employment of casual or supplementary labour hire employees extends beyond four (4) weeks duration without agreement between the parties to an extension as set out above in subclause 10(e) or, beyond the maximum duration of six (6) weeks, such employees for the purposes of this Agreement shall be deemed to be full time employees of the host contractor or subcontractor. In such circumstances, the host contractor or subcontractor shall not be required to issue any additional protective equipment as required by the provisions of subclause 30 (h).

- (e) Nothing in this Clause shall affect the right of a contractor to dismiss an employee, without notice, for misconduct or refusing lawful duty.
- (f) Nothing in this Clause shall affect the right of a contractor to dismiss an employee for breaches of site rules, safety rules or regulations, subject to appropriate investigation having been made, counselling extended, and the dispute settlement procedure being effectively processed.
- (g) Nothing in this Clause shall affect the right of an employee to pursue a claim for unfair or unlawful termination through the relevant State or Federal tribunal.
- (h) A contractor may deduct payment for any day upon which an employee cannot be usefully employed because of any strike by or participation in any strike by any member of a Union employed by the contractor or because of any strike by or participation in any strike by any other Union, organisation or association or by any branch thereof, or by any members thereof who are employed by the contractor or, because of any stoppages of work (other than for site conditions within the allowance prescribed in Clause 27, Inclement Weather hereof) by any cause including breakdown of machinery or failure/lack of power, for which cause the contractor is not responsible.
- (i) A tradesperson shall be allowed one hour prior to termination to gather, clean, sharpen, pack and transport his/her tools.

## 11. On Site Register

Hydro Aluminium shall require that all contracts with contractors to be in writing and include the following terms as and conditions:

- (a) The conditions contained within the Enterprise Agreement shall form part of such contracts and bind all such contractors.
- (b) Contractors will be required to meet all statutory, award and legal obligations for their employees in addition to those binding under the Enterprise Agreement.

The Peak Councils will be kept advised of contractors coming on site. The contractors will ensure that employees hold the necessary qualifications to enable work to be performed in a safe and efficient manner.

The practice of all-in payments, cash-in-hand payments or pyramid contracting will not be tolerated on site.

All contractors shall supply a declaration that they will abide by the provisions of the Enterprise Agreement.

Hydro Aluminium shall keep a Register containing relevant information of every contractor and their employees engaged on site. Prior to commencing work on site each contractor and their employees must provide and certify as correct the following information:

From Employees:

- (a) Name and Address of Employee;
- (b) Name and Address of Employer (Contractor/Sub-contractor);
- (c) Classification and Certificate details;
- (d) Induction date;
- (e) Union and Ticket Number (where applicable);
- (f) Superannuation Scheme Name and Employee Number;
- (g) Long Service Leave Number;
- (h) WorkCover Ticket-Permit Numbers;
- (i) ACIRT, MERT or other Redundancy Scheme Number;
- (j) UPLUS or equivalent Scheme Number; and
- (k) Other information that may be reasonably required from time to time by either Hydro Aluminium or the Peak Union Councils.

Failure to comply or repeated breach with this clause may result in employees being removed from the site.

From Employers:

- (a) Registered Business Name and Address of Employer and ACN/ABN Number;
- (b) Workers Compensation Policy Number, Underwriter and Currency Certificate;

- (c) Public Liability Policy Number, Underwriter and Currency Certificate;
- (d) Superannuation Fund Name and Employer Number;
- (e) Long Service Leave Employer Number;
- (f) Redundancy Scheme Details;
- (g) UPLUS or equivalent Scheme Number; and
- (h) Rehabilitation Particulars Pursuant to New South Wales WorkCover Regulations and Guidelines.
- (i) Other information that may be reasonably required from time to time by either Hydro Aluminium or the Peak Union Councils.

Failure to comply or repeated breach with this clause may result in persons and/or contractors being removed from the site.

## **12. Induction**

Contractors shall ensure that all of their employees conform to the requirements of the Occupational Health and Safety Regulation 2001, Chapter 8, Construction Work, Part 8.2 - OH&S Training and provide written confirmation to Hydro Aluminium prior to requesting a copy of the General Site Safety Rules and a SURF site induction.

- (a) All employees shall, before entering the site area or commencing work on the site, attend and complete the Main Gate Induction, SURF Project Induction Programme and regulations, project specific site rules and this Enterprise Agreement.

Hydro Aluminium will conduct the programme at a central location on behalf of the contractors. Hydro Aluminium reserves the right to alter the duration of the programme and to conduct further induction and/or refresher programmes.

Each employee shall receive a General Site Safety Rules Booklet and a copy of this Enterprise Agreement and shall sign an acknowledgement of receiving it.

- (b) After successful completion of the Site Induction Programme, each employee shall be issued with a Site Identity Pass that will allow entry to and exit from the site.

The pass will bear a photograph of the employee together with other pertinent information contained in Clause 11 hereof.

Should an employee lose their Project Identity Pass they must immediately notify their employer who will in turn immediately notify Hydro Aluminium. A replacement pass will be available at a charge of \$110 to the contractor company.

## **13. Site Practices**

- (a) All persons on site will be required to conform to the Site Safety Practices as outlined in the General Site Safety Rules Booklet and all relevant site safety statutes applicable in New South Wales. The *Occupational Health & Safety Act* and its Regulations shall be strictly observed on site.

- (b) All employees shall be conversant with this Enterprise Agreement and if necessary ask their respective union officials to explain, and further:

- (i) No alcohol is permitted on the site at any time.
- (ii) No narcotic drugs of addiction, non-prescribed drugs or illegal substances are permitted on site at any time.

- (iii) The parties to this Enterprise Agreement will comply with Hydro Aluminium's Alcohol and other Drugs Policy and are encouraged to adopt the Construction Industry Drug and Alcohol Policy as a guide when dealing with such problems on site.
- (c) All workers shall, at all times, use the facilities provided by virtue of the terms of this Enterprise Agreement.
- (d) All employees shall be required to conform with the safety rules and regulations and site rules as specified.

#### **14. Hours**

- (a) Except as provided elsewhere in this Enterprise Agreement the ordinary working hours shall be thirty-eight (38) consecutive hours each Monday to Friday inclusive, between the hours of 6.00am and 6.00pm with the first .4 of an hour of each day worked, plus .4 of an hour for each day on paid leave, accruing as an entitlement to be taken except as specified in sub-clause (d)(v) hereof on the fourth Monday in each cycle as a paid day off, as though worked. On and from 15 March 2006, ordinary working hours shall be thirty-six (36) consecutive hours each Monday to Friday inclusive, between the hours of 6.00am and 6.00pm, with the first .8 of an hour of each day worked, plus .8 of an hour for each day on paid leave, accruing as an entitlement to be taken except as specified in sub-clause (d)(v) hereof.

Provided further, up to five (5) rostered days off may be accrued by agreement between the contractor and the employee, and must be taken during the course of the job.

- (b) There shall be a cessation of work and of working time for the purpose of a meal on each day of not less than thirty (30) minutes, to be taken between noon and 1.00pm, subject to operational demands.
- (c) Notwithstanding the provisions of subclauses (a) and (b) above, where it is established custom and practice for a contractor and his or her employees to work ordinary hours of work within an alternative spread of hours, for example, 5.00am to 5.00pm, and take an alternative meal break, that established custom and practice may apply on site on the approval of the SURF Project Manager.
- (d) The method of payment for hours worked, paid leave, etc., shall be as follows:

- (i) Normal Working Days

An employee shall be paid the daily rate for working the eight (8) ordinary hours on a normal working day. The daily rate shall be calculated by dividing the ordinary weekly wage by five (5).

Where an employee works part of the ordinary hours on a normal working day, they shall be paid at the hourly rate for the time worked, less .4 of an hour (0.8 after 15 March 2006).

- (ii) Sick Leave

An employee absent on paid sick leave shall be paid for each day absent at the daily rate. Where an employee is absent on paid sick leave for part of a day he shall be paid at the hourly rate for such time absent, i.e., the difference between time worked and eight (8) hours.

Where an employee is off for part of a day on paid sick leave, their sick leave credit in respect of that day shall be the difference between 7.6 hours and the time that they were paid sick leave.

Example: Employee has ten (10) days accumulated sick pay and takes four (4) hours off on sick pay. Their accumulated sick leave would therefore become nine (9) days 3.6 hours.

The sick leave credits prescribed in this Agreement shall be converted from hours to days on the basis of each eight (8) hours credit becoming one (1) day's sick leave or portion thereof.

(iii) Public Holidays and Other Paid Leave

An employee absent on public holidays or other paid leave, shall be paid the daily rate of each day of absence, provided always that the employer shall be obliged to pay no more thirty eight (38) hours per week ordinary time.

An employee entitled to four (4) weeks annual leave shall be paid in addition to their annual leave an annual leave loading and payment of their accrued entitlement for the rostered prescribed day off that would have otherwise been due if they had not been on annual leave.

(iv) Prescribed Rostered Day Off

For the prescribed rostered day off, an employee shall be paid the daily rate less .4 of an hour (0.8 after 15 March 2006) for each day the employee did not attend for work because of an absence of unpaid leave during the nineteen (19) day cycle.

An employee who works for part of a nineteen (19) day cycle on the site (as defined in sub-clause (a) of this clause) and part of the cycle at another work location of the same employer, shall be entitled to receive payment at the rate applicable under this Enterprise Agreement for the proportion of time worked on the site when payment is made to such employee in respect of their rostered day off.

**NEW EMPLOYEES**

A new employee on site shall take the rostered day off and be paid a pro rata payment for the prescribed rostered day off, calculated on the basis of .4 of an hour's pay (0.8 after 15 March 2006) for each day worked within the cycle and for each other day on which the employee has been absent on paid leave. However, as provided by Clause 14, up to five (5) rostered days off may be accrued by agreement between the contractor and the employee, and must be taken during the course of the job.

(v) Working on the Prescribed Rostered Day Off (RDO)

The accrued RDO shall be taken as a paid day off provided that this day may be worked where that is required by the employer and such work is necessary to allow other employees to be employed productively or to carry out out-of-hours maintenance or because of unforeseen delays to the project or a section of it or for other reasons arising from unforeseen or emergency circumstances on the Project, in which case, in addition to accrued entitlements (i.e. leave accrued may not be discharged by payment in lieu), the employee shall be paid for work performed in ordinary hours the penalty rates and provisions for Saturday work only. Any proposed work on rostered days off where possible shall be notified to the unions whose members are intended to carry out the proposed work. Such notification shall be provided not later than on the last normal working day prior to the RDO. This Clause shall not apply where rostered days off are accrued as provided by sub clause (a) of Clause 14, Hours.

(vi) Overtime Rates

All time worked outside the ordinary working hours outlined in sub-clause 14(a),(b),(c) shall be paid at the rate of time and one half of the first two hours and double time thereafter.

(vii) Termination of Employment

In addition to all other entitlements (pro rata annual leave, annual leave loading, etc.) the employee shall be entitled to a pro rata payment of .4 of an hour's pay for each ordinary day worked (0.8 after 15 March 2006) and for each other day that the employee was absent on paid leave within the nineteen (19) day cycle.

## **15. Shiftwork**

The following conditions shall apply to employees engaged on shiftwork.

- (a) For the purposes of this clause:

"Afternoon Shift" means a shift finishing at or after 9.00 pm and at or before 11.00 pm.

"Night Shift" means a shift finishing at 11.00 pm and at or before 7.00 am.

"Morning Shift" means a shift finishing after 12.30 pm and at or before 2.00 pm.

"Early Afternoon Shift" means a shift finishing after 7.00 pm and at or before 9.00 pm.

- (b) Provided that the employee is employed continuously (inclusive of Public Holidays) for five shifts Monday to Friday, the following rates shall apply:

Afternoon and Night Shift - Ordinary Time plus 50%.

Morning and Early Afternoon Shifts - Ordinary Time plus 25%.

- (c) Broken Shift

(i) A broken shift is any shift that does not continue for five (5) consecutive working days Monday to Friday.

(ii) All hours worked on broken shifts shall be paid as though they were overtime hours, excepting where the reasons for a broken shift eventuating are as a result of employee actions or reasons.

- (d) An employee shall be given at least forty-eight (48) hours notice of a requirement to work shift work.
- (e) The hours of shift workers when fixed, shall not be altered except for breakdowns or other causes beyond the control of SURF Project Management / contractors, provided that notice of such alteration shall be given to the employee not later than ceasing time for the previous shift.
- (f) For all work performed on a Saturday, Sunday or Holiday, the provisions of Clause 17 of this Enterprise Agreement shall be applicable in lieu of the rates prescribed in this clause.
- (g) Work in excess of shift hours, Monday to Friday, other than holidays, shall be paid for at double time provided that these rates shall be based, in each case, on ordinary hours.
- (h) Shift work hours shall be worked between Monday to Friday inclusive provided that an ordinary night shift commencing before, and extending beyond midnight Friday, shall be regarded as a Friday shift.

## **16. Rest Period, Meal Allowances and Crib Time**

- (a) There shall be allowed, without deduction of pay, a rest period of ten (10) minutes mid-morning and mid-afternoon. This may be varied by agreement between Hydro Aluminium, employers and the unions. Where an employee is required to work overtime for at least one and a half hours after working ordinary hours, they shall be paid by the employer an amount of \$9.90 to meet the cost of a meal. This provision shall not apply to an employee who is provided with board and lodgings and provided with a suitable meal. Where an employee is required to work overtime after the usual ceasing time of the day or shift for two hours or more, they shall be paid by the employer an amount of \$17.90 to meet the cost of a meal in lieu of any other applicable meal allowances and crib times, and thereafter, after each four hours of continuous work.

Note: The \$17.90 meal allowance 'buys out' both the normally applicable meal allowance (\$9.30) and 20 minute crib time.



- (b) No apprentice under the age of eighteen (18) years shall be required to work shift work unless they so desire. No apprentice shall, except in an emergency, work or be required to work shift work at times which would prevent their attendance at TAFE College, as required by any Statute, award or regulation applicable to them.
- (c)
  - (i) An employee who works overtime between the termination of ordinary work and the commencement of ordinary work on the next day and has not had at least ten (10) consecutive hours off duty between these times, and if on the instructions of their employer, such an employee resumes or continues to work without having had such ten (10) consecutive hours off duty, they shall be paid at double rates until released from duty for such period and shall then be entitled to be absent until they have had ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
  - (ii) An employee who works continuously (except for meal and crib times allowed by this Agreement) for twenty (20) hours shall not be required to continue at or recommence work for at least twelve (12) hours.

### **17. Overtime and Special Work**

- (a) All contractors shall require their employees to work reasonable overtime.
- (b) All time worked beyond the ordinary time of work as prescribed in the Hours clause of this Enterprise Agreement, shall be paid for at the rate of one and a half times (1.5) ordinary rates for the first two (2) hours thereof and at double time thereafter.
- (c) An employee recalled to work overtime after leaving their employer's business premises (whether notified before or after leaving the premises) shall be paid for a minimum of four (4) hours work at the appropriate rates for each time so recalled; provided that, except in the case of unforeseen circumstances arising, the employee shall not be required to work the full four (4) hours if the job they were recalled to perform is completed within a shorter period. This sub-clause shall not apply in cases where it is customary for an employee to return to their employer's premises to perform a specific job outside their ordinary working hours or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.
- (d) If an employer requires an employee to work during the time prescribed by the Hours clause of this Enterprise Agreement for cessation of work for the purpose of a meal, the employer shall allow the employee whatever time is necessary to make up the prescribed time of cessation, and the employee shall be paid at the rate of double time for the period worked between the prescribed time of cessation and the beginning of the time allowed in substitution for the prescribed cessation time, provided however, that the employer shall not be bound to pay in addition for the time allowed in substitution for the said cessation time.

No apprentice under the age of eighteen (18) years shall be required to work overtime unless they so desire. No apprentice shall, except in an emergency, work or be required to work overtime at times which would prevent attendance at TAFE College, as required by any Statute, award or regulation applicable to them.

- (e) When an employee, if they have not been regularly rostered and not given twenty-four (24) hours notice of their requirement to work overtime, after having worked overtime, finishes work at a time when reasonable means of transport are not available, the employer shall provide them with a conveyance to their home or to the nearest connecting public transport.

### **18. Weekend Work**

- (a) Overtime work on Saturday shall be paid for at the rate of time and a half (1.5) for the first two (2) hours and double time thereafter, provided that all overtime worked after 12 noon on Saturday shall be paid for at the rate of double time.

- (b) All time worked on Sunday shall be paid for at the rate of double time.
- (c) An employee required to work overtime on a Saturday or to work on a Sunday shall be afforded at least four (4) hours work at the appropriate rate.
- (d) An employee working overtime on Saturday or working on a Sunday shall be allowed without deduction of pay, a rest period of ten (10) minutes mid-morning and mid-afternoon. This may be varied by agreement between SURF Project Management, contractors and the unions.
- (e) An employee working overtime on a Saturday, or working on a Sunday, shall be allowed a crib time of twenty (20) minutes after four (4) hours work without loss of pay but this provision shall not prevent any arrangements being made for the taking of a thirty (30) minute meal period, the time in addition to the paid twenty (20) minutes being without pay.

In the event of an employee being required to work in excess of a further four (4) hours, they shall be allowed to take a crib time of thirty (30) minutes without loss of pay.

### **19. Public Holidays**

- (a) An employee shall be entitled to the following holidays without deduction of pay, provided that if any other day be, by a State Act of Parliament or State Proclamation, substituted for any of the said holidays, the day so substituted shall be observed:

New Years Day	Easter Monday	Labour Day
Australia Day	Anzac Day	Christmas Day
Good Friday	Queen's Birthday	Boxing Day
Newcastle Show Day	Easter Saturday	

Picnic Day - First Monday in December and one (1) other additional day per year to be agreed between SURF Project Management and the unions.

- (b) Where an additional or substituted public holiday is proclaimed by Order in Council or otherwise gazetted by authority of the Australian or New South Wales Government under any Act throughout New South Wales or part thereof, such day shall, within the defined locality, be deemed to be a holiday for the purposes of this Enterprise Agreement: provided that an employee shall not be entitled to the benefit of more than one (1) holiday upon such occasion.
- (c) Provided that:
  - (i) An employer who terminates the employment of an employee except for reasons of misconduct or incompetence (proof of which shall lie upon the employer) shall pay the employee a day's ordinary wages for each holiday which falls within ten (10) consecutive days after the day of termination.
  - (ii) Where any two (2) or more of the holidays prescribed in Enterprise Agreement occur within a seven (7) day span, such holidays shall, for the purposes of this Enterprise Agreement, be classed as a group of holidays. If the first day of the group of holidays falls within ten (10) working days after termination, the whole group shall be deemed to fall within the ten (10) consecutive days, e.g., Christmas Day, Boxing Day and New Year's Day shall be regarded as a group.
  - (iii) No employee shall be entitled to receive payment from more than one (1) employer in respect of the same public holidays or group of holidays.
  - (iv) An employee who has worked as required by their employer the working day immediately before and the working day immediately after such a holiday or is absent with the permission of their employer or is absent with reasonable cause, shall be entitled to payment for the public holiday. An absence arising by termination of employment shall not be reasonable cause.

- (d) All employees shall, as far as practicable, be given and shall take Picnic Day on the first Monday in December and shall be paid therefore eight (8) hours work at the rate of pay prescribed in the Wages clause of this Enterprise Agreement.
  - (i) Any employee required to work on this day shall be paid at the rate of double time and a half (2.5 times) provided that an employee who attends for work as required on this day shall be paid for not less than four (4) hours work
  - (ii) Where a parent award so provides, an employer shall require from an employee evidence of their attendance at the picnic and production of proof of evidence issued for the picnic shall be sufficient evidence of such attendance. Where such evidence is requested by the employer payment need not be made unless the evidence is produced.
  - (iii) It is agreed between the parties that no employee shall be required to work on Picnic Day other than in the circumstances of an unforeseen emergency arising.
- (e) All work performed on any of the holidays prescribed in this clause or substituted in lieu thereof, shall be paid for at the rate of double time and a half (2.5 times).
- (f) An employee required to work on a holiday shall be afforded at least four (4) hours work or paid for four (4) hours at the appropriate rate.

## **20. Sick Leave**

An employee who is absent from their work on account of personal illness or injury, other than that covered by workers' compensation, shall be entitled to leave of absence, without deduction of pay, provided that:

- (a) Within twenty-four (24) hours of the commencement of such absence, the employee shall inform the employer of their inability to attend for duty, and as far as practicable, state the nature of the injury or illness and the estimated duration of the absence.
- (b) The employee shall prove to the satisfaction of their employer that they were unable on account of such fitness or injury to attend for duty on the day or days for which sick leave is claimed.
- (c) An employee during their first year of employment with an employer shall be entitled to sick leave entitlement at the rate of one (1) day on(1)calendar month from the first day of employment and one (1) day on the first of each calendar month for the following nine (9) months.

Provided that an employee who has completed one (1) year of continuous employment shall be credited with a further ten (10) days sick leave entitlement, at the beginning of their second and each subsequent year, which subject to sub-clause (g) shall commence on the anniversary of engagement.

- (d) In the case of an employee who claims to be allowed paid sick leave in accordance with this clause for an absence of one (1) day only, such employee, if in the year they have already been allowed paid sick leave on two (2) occasions for one (1) day only, shall not be entitled to pay for the day claimed unless they produce to the employer a certificate of a duly qualified medical practitioner certifying that the employee was unable to attend for duty on account of personal injury or fitness.

An employer may agree to accept from the employee a Statutory Declaration stating that the employee was unable to attend for duty on account of personal illness or injury in lieu of a medical certificate.

Nothing in this sub-clause shall limit the employer's right under subclause (b) thereof.

- (e) Sick leave with an employer shall accumulate from year to year so that any balance of the period specified in sub-clause (c) hereof which in any year has not been allowed to an employee by that employer as paid sick leave may be claimed by the employee and subject to the conditions herein prescribed shall be allowed by that employer in a subsequent year, without diminution of the sick leave prescribed in respect of that year.

Sick leave that accumulates pursuant to this sub-clause shall be available to the employee for a period of ten (10) years from the end of the year in which it accrues but for no longer.

- (f) Any sick leave for which an employee may become eligible under this Agreement by reason of service with an employer shall not be cumulative upon sick leave for which the employee may become eligible by reason of subsequent service with another employer.
- (g) If an employee is terminated by their employer and is re-engaged by the same employer within a period of six (6) months, then the employee's unclaimed balance of sick leave shall continue to accrue from the date of re-engagement.

The period of interruption shall not be counted as service for the purposes of sick leave.

## **21. Parental Leave**

Employees shall be entitled to Parental Leave in accordance with the *NSW Industrial Relations Act 1996*.

## **22. Carer's Leave**

### **(1) Use of Sick Leave**

- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c), who needs the employee's care and support, shall be entitled to use, in accordance with this sub clause, any current or accrued sick leave entitlement, provided for in Clause 20, Sick Leave, for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.
- (b) The employee shall, if required, establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this sub clause where another person has taken leave to care for the same person.
- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
  - (i) the employee being responsible for the care of the person concerned; and
  - (ii) the person concerned being:
    - (a) a spouse of the employee; or
- (d) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- (e) a child or an adult child (including an adopted child, a step child, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
- (f) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (g) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:
  - 1. "relative" means a person related by blood, marriage or affinity;
  - 2. "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and

3. "household" means a family group living in the same domestic dwelling.

- (h) An employee shall, wherever practicable, give the employer notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

(2) Unpaid Leave for Family Purpose

An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subparagraph (ii) of paragraph (c) of subclause (1) who is ill.

(3) Annual Leave

- (a) An employee may elect with the consent of the employer, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five days in single day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this sub clause, shall be exclusive of any shutdown period provided for elsewhere under this Enterprise Agreement.
- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single day absences, until at least five consecutive annual leave days are taken.

(4) Time Off in Lieu of Payment for Overtime

- (a) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.
- (b) Overtime taken as time off during ordinary time hours shall be taken at the ordinary time rate, that is an hour for each hour worked.
- (c) If, having elected to take time as leave in accordance with paragraph (a) of this sub clause, the leave is not taken for whatever reason payment for time accrued at overtime rates shall be made at the expiry of the 12 month period or on termination.
- (d) Where no election is made in accordance with the said paragraph (a), the employee shall be paid overtime rates in accordance with the Agreement.

(5) Make-up Time

- (a) An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
- (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time), at the shift work rate which would have been applicable to the hours taken off.

(6) Rostered Days Off

- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
- (b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.

- (c) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
- (d) This sub clause is subject to the employer informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility, and providing a reasonable opportunity for the union(s) to participate in negotiations.

### **23. Bereavement Leave**

- (a) An employee shall on the death within Australia of a wife, husband, partner, father, mother, brother, sister, child (including adopted) or step-child, mother-in-law, father-in-law, be entitled on notice to leave up to and including the day of the funeral of such relation, (or where made necessary because of travel arrangements, the day after the funeral).
- (b) Such leave shall be without deduction of pay for a period not exceeding the number of hours worked by the employee in two (2) ordinary days of work.
- (c) Proof of such death shall if required be furnished by the employee to the satisfaction of their employer.

Provided that this clause shall have no operation while the period of entitlement to leave under it coincides with any other period of entitlement of leave. For the purposes of this clause the words "wife" and "husband" shall include a person who lives with the employee as a defacto wife or husband.

### **24. Anti Discrimination**

The company shall not discriminate on the basis of sex, marital status, pregnancy, age, race, religion, colour, national origin, impairment or political conviction.

Entry into the company, selection for specific jobs and career progression will be determined by personal merit and criteria related to the effective performance of the job.

- (a) It is the intention of the parties bound by this Enterprise Agreement to seek to achieve the object in s3 (f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Enterprise Agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the which, Enterprise Agreement by its terms or operation, has a direct or indirect discriminatory effect.
- (c) Under the *Anti-Discrimination Act* 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (d) Nothing in this clause is to be taken to affect:
  - (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
  - (ii) offering or providing junior rates of pays to persons under 21 years of age;
  - (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act* 1977;
  - (iv) a party to this agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

- (e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES:

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in the Act affects... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

### **25. Annual Leave Payment and Annual Leave Loading**

- (a) Each employee, before going on Annual Leave, shall be paid in advance the wages which would ordinarily accrue to them during the currency of annual leave.
- (b) In addition to the payment prescribed in sub-clause (a), an employee shall receive during a period of annual leave loading for each week of annual leave.

An employee who applied for their annual leave whilst engaged on this site shall be entitled to any benefits applicable to such annual leave contained in this Enterprise Agreement. If their employer transfers the employee to another location for a period not exceeding one (1) month this clause shall apply.

Any benefits shall be on a pro rata basis for the period worked on this site for each week of annual leave due.

- (c) The loading prescribed above is calculated on the basis of 17.5% of the group wage rates set out in Clause 5 of this Enterprise Agreement, and if those rates are further increased as a consequence of the provisions of sub clause (a) of Clause 5, the annual leave loading shall also be increased by the same percentage formula and from the same date as the wage rate is increased.
- (d) The loading prescribed above shall also apply to proportionate leave due to an employee whose services are terminated by an employer through no fault of the employee.
- (e) Except as provided in sub-clause (d) hereof as to the payment of loading on proportionate leave on termination, the provisions of the appropriate parent award shall apply.

### **26. Superannuation**

- (a) Employees of contractors and sub-contractors covered by this Enterprise Agreement shall, whilst they are engaged on this site, be covered by an appropriate superannuation scheme such as C + BUS or other union approved superannuation schemes.
- (b) Construction work to be performed under this Enterprise Agreement falls under the definition of construction work contained in the Trust Deed or Deed of Adherence of the C + BUS Superannuation Scheme.
- (c) Contractors shall contribute \$80.00 per week, or the Superannuation Guarantee Levy, whichever is the higher, on behalf of employees into a recognised industry scheme. From the first pay period commencing on or after 15 March 2005, this amount shall increase to \$85.00 per week and, from the first pay period commencing on or after 15 March 2006, this amount shall increase to \$90.00 per week, or the Superannuation Guarantee Levy, whichever is the higher.
- (d) Provided that such contribution shall not be in addition to any contributions made in accordance with legislation or an Enterprise Agreement.

## **27. Inclement Weather**

The inclement weather provisions of the National Building and Construction Industry Award shall apply in respect of all employees engaged under the provisions of this Enterprise Agreement.

Employees of contractors and subcontractors shall be employed on a weekly basis provided that this shall not affect the engagement of casual or temporary employees.

Where a weekly employee/s believes they are experiencing inclement weather conditions the following procedure shall apply :

The employee shall notify their employer that he/she believes he/she is experiencing inclement weather conditions.

The employer will consult with the affected employee/s and inspect the work area/s.

In the first instance the employer and the OH&S Committee shall determine whether inclement weather conditions are being experienced and will consult with the affected employee/s seeking their view and, work options available.

Where inclement weather conditions are being experienced the procedure set out in Appendix 5 shall apply.

If "inclement weather" creates an unsafe situation/circumstance the *OH&S Act* will apply.

The contractor and/or supplier of supplementary labour shall stop work if conditions dictate. When this does occur the following options apply:

Employees return to crib rooms - for training etc, or

Employees are relocated to work in other areas.

Employees shall not be unreasonably held on site.

No employee shall have the right to cease work or leave the SURF Project site without the permission of the employer.

The SURF Project Manager shall ensure that Contractors, Sub-Contractors and Suppliers of Supplementary Labour have fully complied with the inclement weather procedures prior to any employees leaving site.

## **28. Living Away - Distant Work**

### **(a) Entitlement**

The employer shall provide a distant worker with either reasonable board and lodging at no cost to the employee, or pay the living away from home allowance contained in the contractor's parent award when employed on the construction site at such distance from their usual place of residence that they cannot reasonably return each night or as otherwise defined in the employee's parent award.

The employer shall provide an itinerant worker with acceptable board and lodging at reasonable cost.

### **(b) Procedure**

- (i) The employer shall advise applicants for employment of their entitlement under this clause at the time of the interview.
- (ii) The employer shall determine whether the employee is correctly defined as a "distant worker", "itinerant worker" or "local worker". The appropriate definition shall be shown on the employee's records when the employee completes the Travel and/or Living Away From Home Declaration (See Appendix 1) made at the pre-employment interview.



- (iii) Any employer shall not, under any circumstances, attempt to persuade or induce applicants for employment to provide a local address as their usual place of residence in an effort to avoid the employer's obligations under this clause.

(c) Disputes

Disputes arising from application of this clause will be subject to resolution in accordance with the Settlement of Disputes clause of this Enterprise Agreement. In the event of a dispute all relevant documentation will be made available to the tribunal dealing with the matter.

(d) Definition

- (i) "Distant Worker" means an employee who has provided satisfactory evidence that, due to engagement on the site they are unable to reasonably return home each right or as otherwise defined in the relevant award.
- (ii) "Itinerant Work" means an employee with no fixed address.
- (iii) "Usual Place of Residence"
  - (a) The employer shall obtain, and the applicant for employment shall provide a statement in writing, of residence, at the time of engagement, provided that documentary evidence of the applicant's usual place of residence, such as motor vehicle driver's licence may be provided and accepted in lieu of the statement in writing.
  - (b) The employee's usual place of residence and not the place of employment shall determine the applicability of this clause.
  - (c) An employee shall notify the employer in writing of any subsequent change to their usual place of residence. No subsequent change to an employee's usual place of residence shall entitle an employee to provisions of this clause, unless the employer agrees.
- (iv) "Reasonable board and lodging means lodging in a well kept establishment with three (3) adequate meals per day, adequate furnishing, good lighting and heating, hot and cold running water, in a single or twin room if a single room is unavailable.
- (v) "Living Away From Home Allowance" means an allowance payable weekly. Such allowance shall not be wages, provided that in the case of broken parts of a week occurring at the beginning or end of employment, the allowance shall be divisible by seven (7).

The Living Away from Home Allowance will be paid in accordance with the provisions of the employees relevant parent award.

Provided further, that if the employee satisfies the employer that they reasonably incurred a greater outlay than any prescribed, the allowance shall be increased to match the outlay.

The allowance payable pursuant to this Clause, shall be in substitution for additional payments provided to employees for travel to and from the Project ie payments available under 'Excess Fares and Travel' in Clause 5(c)(vi) of this Enterprise Agreement

## 29. Mobility

Where an employee is sent from their usual locality to another, they shall whilst necessarily travelling be paid travelling time and expenses as follows:

- (a) The rate of pay for travelling time shall be ordinary rates, except on Sundays and Public Holidays, which shall be time and one half.

(b) The maximum travelling time to be paid for shall be twelve hours out of every twenty four hours, or when a sleeping berth is provided by the employer for all Night travel, eight hours out of every twenty four.

(c) Expenses for the purpose of this clause means:

All fares reasonably incurred. The fares allowed shall be for bus, economy air, second class rail travel, except where all night travelling is involved, then they shall travel first class, with sleeping berth, where available

Reasonable expenses incurred whilst travelling including \$9.30 for each meal taken.

A reasonable allowance to cover the cost incurred for board and lodging

(d) Where an employee proceeds to a distant construction site and provided that the employer obtains a statement in writing from the employee of their usual place of residence at the time of engagement, no subsequent change of address shall vary the entitlements under this clause unless the employer agrees.

(e) Week End Return Home

An employee who works as required during ordinary hours of work on the working day before and the working day after a weekend and who returns to their usual place of residence for the weekend, and who notifies the employer no later than Tuesday of that week of their intention to return to their usual place of residence at the weekend, shall be paid an allowance of \$27.10 for each occasion. This payment shall not apply to any employee receiving living away from home allowance, in lieu of board and lodging.

(f) Rest and Recreation - Rail and Road Travel

An employee who qualifies for the provisions of this clause, may, after two months continuous service, and thereafter at station nearest to their usual place of residence, on the pay day which immediately follows the date on which they return to the job. Provided, that no delay not agreed with the employer takes place in connection with the employee's commencement of work on the morning of the working day following the weekend.

Provided further, that if the work upon which the employee is engaged will terminate in the ordinary course within a further 28 days after the expiration of any such period of two or three months, then the provisions of this subclause shall have no application.

(g) Air Travel

The following conditions shall apply to an employee who is located in any area to which air travel is the only practicable means of travel;

The employee may return home after four months continuous service and shall in such circumstance be entitled to two days leave of which one day shall be paid.

Thereafter, the employee may return to their usual place of residence after each further period of four months continuous service, and in each case they shall be entitled to two days leave of which one day shall be paid.

Payment for leave and reimbursement for any economy class air fare paid by the employee shall be made at the completion of the first pay period commencing after the date of return to the job.

Provided further, that if the work upon which the employee is engaged will terminate in the ordinary course within a further 28 days after the expiration of any such period of four months, then the provisions of this subclause shall have no application.

(h) Limitation of Entitlement

This entitlement shall be taken as soon as is reasonably practicable after becoming due and shall lapse after a period of two months. Provided that the employee has been notified in writing by the employer in the week prior to the entitlement becoming due and of the date that the entitlement will lapse if it is not taken by the employee. (Proof of the written notice shall lie with the employer).

(i) Service Entitlement

For the purpose of this paragraph, service shall be deemed to be continuous, notwithstanding an employee's absence from work as prescribed.

(j) Variable Return Home

In special circumstances, and by agreement with the employer, the return to the Usual place of residence may be granted earlier or taken later than the prescribed date of accrual without alteration to the employee's accrual entitlements.

(k) Non-Payment in Lieu

Payment of fares and leave with pay as provided shall not be made unless taken by the employee.

(l) Termination

An employee shall be entitled to notice of termination in sufficient time to arrange transport at termination or shall be paid as if employed up to the end of the ordinary day before transportation is available.

### 30. Safety

All work undertaken for the SURF Project shall comply with the provisions of the *NSW Occupational Health and Safety Act 2000* and Regulations 2001 and the Hydro Aluminium site safety requirements.

(a) It is also accepted by the parties to this Enterprise Agreement that the procedures of the Building Industry Safety Codes shall be the procedures by which safety matters are handled, and whilst these are being followed there shall be no stoppage of work in respect of the matter being considered, except in the area or matter under consideration.

(b) Each employer shall establish a Safety Committee in accordance with the *Occupational Health and Safety Act 2000* and Regulation 2001. A Project Safety Committee comprising a SURF Project representative, the Chairs of individual employer safety committees and employer representatives shall be formed and will operate in accordance with the provisions of the *Occupational Health and Safety Act 2000* and Regulation 2001.

Frequency of site safety inspections and other matters pertinent to the *Occupational Health and Safety Act 2000* and Regulation 2001 will be determined by the Safety Committee in consultation with SURF Project Management.

(c) Each employer shall provide to their employees all appropriate safety equipment free of charge as necessitated by the tasks in accordance with any existing Regulation(s) or Regulation(s) implemented during the life of the Enterprise Agreement.

(d) Rectification Work

Contractors shall engage qualified personnel and/or sub-contractors for the purpose of performing hazard prevention and rectification work such as erecting handrails and toe boards around the perimeter of floors, openings, penetrations, up stairways, covering up openings, fixing of ladders, building walkways, ramps, etc.

(e) Scaffolding / Formwork

Employees carrying out scaffolding/formwork duties must be in possession of the appropriate Certificate of Competency issued by the New South Wales Department of Industrial Relations and Employment.

(f) First Aid

- (i) An emergency vehicle will be located on site at all times.
- (ii) First aid boxes shall be provided by all Employers as required in accordance with the *Occupational Health and Safety Act 2000* and Regulation 2001.
- (iii) All Employers shall make provision in accordance with the *Occupational Health and Safety Act 2000* (and Regulation 2001) as to the provision of personnel in administering this obligation under the said Act.

(g) Occupational Health & Safety

The Parties have agreed to adopt Hydro Aluminium's Site Safety Management Plan. As part of this plan Contractors will be required to submit comprehensive risk assessments for all work undertaken on the project. The provisions of the *Occupational Health and Safety Act 2000* (NSW) and Regulation 2001 or their successors shall apply to and regulate all work covered by this Enterprise Agreement. A First Aid Room, complying with the Act, Regulations and industry standards, will be provided.

(h) Protective Clothing

Upon commencement on the project, employees will be issued with the following protective clothing, equipment and footwear:

One pair of approved safety footwear.

Two pairs of standard issue long pants and two standard-issue long sleeved shirts or two pairs of long sleeved overalls. Shirts and overalls shall be "high visibility" in accordance with Hydro Aluminium's requirements.

One hard hat (with substantial add-on shade 'brim') designating the employee's employer and name.

Appropriate safety glasses (either tinted or non-tinted - employee choice). Employees with prescription glasses will be issued with monogoggles or have their prescription safety glasses face-hardened (employee choice).

Each employee on commencement of employment on site shall be eligible to be issued with one woollen "bluey" type warm jacket, which will be issued between 1 May and 1 September

It is a condition of issue and of employment that the issued equipment shall be worn whilst on site. Replacement of issued equipment that is lost by the employee is the responsibility of the employee.

An employee who resigns within three months of receiving the issue may have the pro-rata cost withheld from their final pay.

Hard hats, safety glasses and safety footwear must be worn at all times other than whilst in offices and crib sheds.

Replacement of any articles shall be on the basis of fair wear and tear provided the worn out item is produced for replacement. An employee who loses parts of the issue will be required to purchase necessary replacements.

Where an employee transfers

- (I) to the project with the same employer, or
- (II) between project employers and has already received an issue of approved protective safety footwear, will only be eligible for any re-issue on the basis of fair wear and tear provided the worn out item is produced for replacement.

Employees who receive their issue of protective safety footwear as part of their employer's policy will not be entitled to additional issues under this clause.

The employer shall issue, on a loan basis, all safety equipment and protective clothing necessary for specific work tasks. Requisite safety equipment shall be worn.

The employer shall make available sun screen (SPF 30+) and mosquito repellent for personnel engaged in outside work.

- (i) Where an individual, who has been issued with required protective safety equipment, including safety footwear, helmets, harnesses and adequate clothing is found not to be wearing same on the job then such employee shall be counselled in the presence of the site Safety Committee elected representative.

Further infractions in relation to the non-wearing of the said protective equipment referred to in this clause shall result in the individual being required to show cause to the Site Safety Committee why the said individual should not be removed from the site.

Exemption from this clause is to be from the recommendation of the site safety committee only.

- (j) The employer shall ensure that employees required from time to time to use hand tools, eg Riggers are supplied with appropriate "fit for purpose" tools at all times.

### **31. Workers Compensation**

Hydro Aluminium shall instruct all contractors that it is a term and condition of their contract that they shall ensure that all workers they engage to work on the site are covered by New South Wales Workers' Compensation insurance and are aware of their responsibilities under the legislation which is current at the time. Proof of such insurance shall be required by Hydro Aluminium (See Clause 11 hereof).

Hydro Aluminium shall instruct all contractors that it is a term and condition of their contract that provided an injured worker (or their representative if the injured worker is unable to do so) reports an injury and complies with claims requirements and the insurer and employer are satisfied that such injury is compensable, the employer shall pay to the injured worker the back payments within two (2) days of acceptance of liability and weekly payments of compensation will thereafter be made on normal pay days.

The employer will provide all necessary information to the insurer within twenty-four (24) hours of the injury occurring or them being notified of a possible claim for workers' compensation.

In all other respects the provisions of the *Workers' Compensation Act 1987* (as amended), will apply.

Hydro Aluminium must be immediately notified of all accidents on site. All contractors and employees must ensure all injuries are reported in both the employer's Accident Book and the Site Accident Book.

### **32. Fitness for Duty Policy**

Under no circumstances will any employee affected by alcohol and/or affected by any other drug be permitted to work and/or operate any equipment on the Project. Supervisors will be responsible for reporting such incidents.

Hydro Aluminium's Alcohol and other Drugs Policy and procedures (as amended) will be applied to all employees working on the SURF Project.

A copy of this Policy will be provided to employees at the project induction and will be posted on notice boards throughout the site. Further additional copies can be obtained on request.

Consultation with the relevant site safety committee or company consultative committee will take place to review and monitor this policy and compliance.

### **33. Top Up/24 Hour Income Protection Insurance**

Each employer shall provide Top Up/24 Hour Income Accident Insurance with the UPLUS or other scheme with comparable benefits, provided the rates for the comparable scheme are also comparable, to provide cover of up to \$1,200 per week with a 21 day waiting period for any claims.

### **34. Rehabilitation**

In accordance with WorkCover Regulations and Guidelines Hydro Aluminium and contractors will implement their respective Rehabilitation Policy.

### **35. Amenities**

- (a) Amenities as prescribed in the Enterprise Agreement and/or legislation and WorkCover codes are to be provided.
- (b) All lunch sheds shall contain reverse cycle air-conditioning.
- (c) Refrigerators shall be provided in crib sheds.
- (d) Outside/inside hand washing.
- (e) Each contractor shall ensure that amenities are provided and comply with (a), (b), (c) and (d) above.
- (f) Hot and cold water shower block(s).
- (g) Hot and cold water in toilet blocks.

### **36. Plant and Equipment**

- (a) All mobile plant and equipment shall, prior to commencement on of work site, be certified and have a certificate of currency as complying with the *Occupational Health and Safety Act 2000* and Regulation 2001.
- (b) Every part of the structure, working gear and anchoring and fixing of every crane, joist and scaffolding winch and of all other hoisting machines, ropes and slings, whether metal or non-metal, and gear shall, as far as is reasonable practicable, be examined in position by a competent person:
  - (i) at least once in every month; or
  - (ii) at such more frequent intervals as are necessary to ensure that the hoisting machine or gear is in safe working order (*Occupational Health and Safety Act 2000* and Regulation 2001).
- (c) A competent person shall inspect all chains, ropes, slings and other gear used for hoisting or lowering or as a means of suspension:
  - (i) at least once every month; or
  - (ii) at such more frequent intervals as are necessary to ensure that the scaffolding is safe.
- (d) A report signed and dated by the competent person (as defined above) shall be lodged with SURF Project Management immediately following such inspection at intervals of not less than one (1) calendar month. Should such written reports not be submitted in accordance with this clause there shall be no

cessation of work. SURF Project Management shall take all appropriate steps to ensure that the report is obtained or another inspection undertaken within two (2) working days of the expiration of the previous certificate (*Occupational Health and Safety Act 2000 and Regulation 2001*).

- (e) All hire cranes required on site shall come from a recognised crane yard.
- (f) Crane drivers and dogmen will be suitably qualified.
- (g) When engaging the most appropriate plant, preference will be given to plant fitted with Ergonomic R/C Air filtered/conditioned cabs with Roll Over protection.

### **37. Union Membership**

To the extent that the appropriate legislation permits, contractors and sub-contractors shall give favourable consideration to the employment of financial members of the appropriate Union respondent to this Enterprise Agreement.

Union membership shall not of itself in any way limit the operation of Clause 5 of the Enterprise Agreement with respect to the duties of any employee.

### **38. Job Delegates**

- (a) An employee appointed as a job delegate shall upon notification by the union to the employer be recognised as the accredited representative of the union to which they belong and they shall be allowed all necessary time during working hours to submit to the employer matters affecting the employees they represent and shall be allowed reasonable time during working hours to attend to job matters affecting their union.
- (b) Delegates from each union shall be allowed time off with pay for up to six (6) days in any one (1) year to attend Approved Trade Union Training Schools providing that reasonable notice is given to the respective employer of the day or days that a course will take place and adequate discussion in relation to the total numbers attending has taken place with SURF Project Management.
- (c) The contractors shall ensure that where previous arrangements have been made with individual contractors/sub-contractors for a delegate to attend an approved Trade Union Training Course that, where possible, those arrangements are upheld.
- (d) Job delegates shall be allowed access, upon request, to a telephone for union business related to the site.
- (e) Prior to dismissal or transfer, two (2) days notice shall be given to any shop delegate and their appropriate union.
- (f) Payment in lieu of notice shall not be given.
- (g) In the event of the union disputing the decision of management to transfer or terminate the services of a job delegate, they shall remain on the job during which time the Settlement of Disputes Procedure under this Enterprise Agreement shall be invoked.

### **39. Site Communications Meeting**

- (a) Delegates' Meetings

As a means of achieving better industrial relations on site, accredited job delegates shall be entitled to attend a combined site delegates prior to the scheduled Monthly Meeting of employees, without deduction of pay, for a maximum period of three (3) hours on each meeting.

The meetings shall be convened by the Peak Union Councils on behalf of affiliated unions and shall be held on dates and commence at times to be mutually agreed between SURF Project Management and the Peak Union Councils.

(b) Monthly Meeting of Employees

- (i) Subject to sub-clause (b) of this clause, one (1) hour per month shall be allowed employees between 11.00am and 12.00 noon to discuss union affairs at a time to be agreed upon between the parties. Once established, no alteration is to be made to the scheduled date and time for such meeting unless a change is requested on behalf of all unions by the Peak Union Councils.
- (ii) The granting of time to discuss union affairs is to be reviewed by SURF Project Management every three (3) months while any time lost during ordinary working hours by attendance at unauthorised meetings shall not be paid.
- (iii) The right to hold meetings as prescribed by this clause may be withdrawn at any time should any group of employees attend meetings outside the times and dates so prescribed.

(c) Joint Monthly Meeting

A monthly meeting shall be held between nominated job delegates, their union officials, site management (including the site safety supervisor) and where possible an official of both Peak Union Councils, to discuss site matters, with particular emphasis on accident prevention. This meeting shall be held immediately after (where practicable) the monthly meeting of employees.

#### **40. Settlement of Disputes**

- (a) Where an employee or the shop steward has submitted a request concerning any matter directly connected with employment to a supervisor or a more senior representative of management and that request has been refused, the employee may, if they desire, ask the job delegate to submit the matter to management and the matter shall then be submitted by the delegate to the appropriate executive of the employer concerned.
- (b) If not settled at this stage, the matter shall be formally submitted to a State Official of the union to the employer.
- (c) If not settled at this stage, the matter shall then be discussed between such representatives of the union as the union may desire and the employer, who may be accompanied by or represented by such officers, representatives of Ai Group or other persons as SURF Project Management may authorise.
- (d) If the dispute is still not resolved the Peak Union Councils shall be advised to enable the Councils to assist in the resolution of the dispute.
- (e) If the parties fail to resolve the dispute in accordance with (d) above, they shall refer it to the Industrial Relations Commission of New South Wales for conciliation and mediation.
- (f) If the parties fail to resolve the dispute in accordance with (e) above, they may, by agreement request the Commission to assist in resolving the matter by arbitration.
- (g) Where the procedures from (a) to (f) are being followed or where it is agreed to proceed to arbitration, work shall continue normally. This condition shall be strictly enforced by the Peak Councils.
- (h) In the event that a dispute appears likely to remain unresolved or, that stoppages of work, bans and limitations have been placed on the performance of work and, the dispute is unlikely to be resolved by resort to the Settling of Disputes Procedure, nothing in this Clause shall restrict a union or contractor referring the matter to the Industrial Relations Commission of New South Wales for resolution.

No party shall be prejudiced as to final settlement by the continuance of work in accordance with this sub-clause.

#### **Demarcation Dispute**

- (a) Settlement within the Union Movement



- (i) Demarcation disputes should be resolved by agreement between the unions concerned.
- (ii) Where agreement cannot be achieved directly between the unions concerned, the unions will notify the Newcastle Trades Hall Council in Newcastle or The Labor Council of New South Wales.
- (iii) Affiliated unions will not refer demarcation disputes to industrial tribunals unless there has been a reasonable opportunity to discuss the issued within the union movement.
- (iv) Work shall continue while a demarcation dispute is resolved on the pre-dispute basis. Any dispute as to what constitutes the pre-dispute basis shall be referred to the Industrial Relations Commission for determination as a threshold question and the Commission may make a recommendation to the parties for resolution of the dispute.

#### **41. Community Standards**

The parties acknowledge that during the term of this Enterprise Agreement significant changes to community standards in respect of terms and conditions of employment may occur.

In the event that such a change/s does occur, other than to wages and allowances, but including, the parties to this Enterprise Agreement shall discuss this change and the implications of a possible variation to this Enterprise Agreement.

If the parties are unable to resolve any issue arising out of these discussions the issue shall be processed through the Settlement of Disputes (Clause 40).

This shall not constitute a re-opening of negotiations on the terms and conditions of this Enterprise Agreement.

The operation of this Clause is subject to no industrial action being or having been taken by employees engaged on the project in relation to the change.

#### **42. Temporary Electrical Installation**

All temporary electrical installations set up by contractors on site must conform with the following Codes of Practice under the *Occupational Health and Safety Act 2000* and Regulation 2001:

Electrical Practices for Construction Work

Low Voltage Electrical work

#### **43. Electrical Equipment**

All flexible extension cords, portable tools and electrical plant used on voltages above 32 volts must be inspected, tested and tagged monthly by a licensed electrician in accordance with details set out in the Codes of Practice.

All extension cords, portable tools, electrical plant brought on to the site by the contractor must bear the correct monthly tag.

Contractors are required to keep a logbook of all inspections of the equipment. The Principal's representative shall be able to inspect these log books on a random basis to ensure that safety requirements are being adhered to.

Any equipment found without a valid inspection tag will be disconnected and the contractor advised to remove the equipment from the site until the equipment has been re-inspected and a new inspection tag attached. No extensions of time will be granted due to electrical equipment not having a valid inspection tag.

All temporary electrical work and installations must conform with the *Occupational Health and Safety Act 2000* and Regulation 2001, and the *Electrical Safety Act 1995*.

All welding units shall be fitted with either a voltage reduction device (VRD) in accordance with the provisions of AS 1674 or a trigger switch that opens the welding circuit unless it is closed complying with AS 1674.

#### **44. Entry to and Movement Within Construction Site**

The following procedures shall apply in relation to the entry to and movement within the construction site of visiting union officials after they have completed the Site Safety Induction or attending as an escorted visitor:

- (a) A union official, on entering the site, shall advise their name and the union they represent to the gatekeeper at the main gate.
- (b) The gatekeeper will notify a representative of SURF Project Management of a union official's arrival and that representative will arrange for the union official to proceed to SURF Project Management site office.
- (c) A union official who wishes to visit a contractor on the construction site is to notify their intention to SURF Project Management's representative prior to entering the site. The contractor's manager or his/her representative will then arrange for the official to be issued with a Visitor's Pass.
- (d) Union officials visiting the site will be permitted to park their cars in a designated visitors' car parking area adjacent to the site entrance. If necessary, and upon request, transportation to various contractors' locations will be arranged by SURF Project Management.
- (e) Before entering a work place a union official is to report to the representative of the contractor within the construction area.
- (f) A union official is required while in the construction area to observe all safety rules and established site policy, which includes, as a minimum, the wearing of hard hats, adequate foot protection and safety glasses.
- (g) Subject to job requirements, and authority being given by an authorised representative of a contractor a union official may converse with their job delegate during the course of their visit.
- (h) A union official shall not hamper or hinder other employees during their visit.
- (i) Any contractor's representative on site shall not unreasonably withhold permission for a union official to meet with the official's representative/members on the site.

#### **45. Termination Pay**

In lieu of award termination and redundancy payments otherwise payable, employers shall contribute into ACIRT, MERT or an Occupational Redundancy Fund approved by the parties, \$75.00 per week per employee, in respect of each completed week of employment at the construction site. From the first pay period commencing on or after 15 March 2005, this amount shall increase to \$80.00 per week and, from the first pay period commencing on or after 15 March 2006, this amount shall increase to \$85.00 per week.

An employee engaged on-site from time to time for less than a completed week of employment shall be paid \$2.10 per hour 'flat' for all ordinary hours worked to a maximum of thirty eight (38) ordinary hours (36 after 15 March 2006) per week, in lieu of the required contributions on behalf of employees into ACIRT, MERT or an Occupational Redundancy Fund approved by the parties. Such amounts are to be shown separately on the employee's pay advice.

#### **46. Enterprise Agreement not to be used as Precedent**

The Peak Union Councils on behalf of their affiliated unions, and the AIG on behalf of contractors agree that this Enterprise Agreement was made having regard to the special circumstances existing on the SURF Project Construction Site and that the contents herein are not to be used as a precedent by either party.

**47. Surf Hand-Over - Hydro Aluminium Acceptance**

- (a) Items of plant, equipment or areas related to the Hydro Aluminium Smelter Upgrade and Retro-Fit Project Construction Site and/or any of its systems may be accepted by Hydro Aluminium upon completion at any time during the course of the construction project. Such items shall, subject to clause (c) of this clause, be deemed to be pre-commissioned for the purposes of this Enterprise Agreement with the result that Hydro Aluminium employees may involve themselves with the use and operation of such equipment and facilities.
- (b) It is the responsibility of SURF Project Management to issue a statement of practical completion to Hydro Aluminium and the responsibility of Hydro Aluminium to issue a certificate of practical completion. Any item of work embraced by clause (a) of this clause shall be clearly identified by area or by other means (such as tags). Subsequent to such identification all such areas, equipment, systems, faculties, etc., will become the responsibility of Hydro Aluminium.
- (c) It is the responsibility of Hydro Aluminium to declare industrial acceptance on any item of work as embraced in clause (a). Hydro Aluminium reserves the right to pass back to SURF Project Management any item of work which it determines requires major design changes after acceptance. Further Hydro Aluminium reserves the right to utilise vendors for equipment that is under warranty to modify or correct any defects/deficiencies that may occur to the equipment once industrial acceptance is effected.

**48. Execution**

Signed for and on behalf of the Australian Industry Group - New South Wales Branch:

<hr/> <p>Signature</p>	<hr/> <p>Stuart Gordon</p>
	<hr/> <p>Print Name</p>
Date: <u>26 / 03 / 04</u>	

Signed for and on behalf of the Labor Council of New South Wales:

<hr/> <p>Signature</p>	<hr/> <p>Peter McPherson</p>
	<hr/> <p>Print Name</p>
Date: <u>30 / 03 / 04</u>	

Signed for and on behalf of the Newcastle Trades Hall Council:

<hr/> <p>Signature</p>	<hr/> <p>Gary Thomson Kennedy</p>
	<hr/> <p>Print Name</p>
Date: <u>30 / 03 / 04</u>	

Signed for and on behalf of the Australian Workers' Union:

<hr/> <p>Signature</p>	<hr/> <p>Kevin Maher</p>
	<hr/> <p>Print Name</p>
Date: <u>30 / 03 / 04</u>	

Signed for and on behalf of the Automotive Food Metals Engineering Printing & Kindred Industries Union:

\_\_\_\_\_  
Signature

Date: 14 / 04 / 04

Timothy Ayrel

Print Name

Signed for and on behalf of the Construction Forestry Mining and Energy Union (Construction Division):

\_\_\_\_\_  
Signature

Date: 01 / 04 / 04

Andrew Ferguson

Print Name

Signed for and on behalf of the Communication Electrical Electronic Energy Information Postal Plumbing and Allied Services Union of Australia (NSW) Branch - Plumbing:

\_\_\_\_\_  
Signature

Date: 02 / 04 / 04

S McCarney

Print Name

Signed for and on behalf of the Electrical Trades Union of Australia (NSW Branch):

\_\_\_\_\_  
Signature

Date: 07 / 04 / 04

Bernie Riordan

Print Name

Signed for and on behalf of the Transport Workers Union by:

\_\_\_\_\_  
Signature

Date: 12 / 04 / 04

A Sheldon

Print Name

## **APPENDIX 1**

HYDRO ALUMINIUM KURRI KURRI SMELTER UPGRADE AND RETRO-FIT PROJECT  
ENTERPRISE AGREEMENT 2004

TRAVEL AND/OR LIVING AWAY FROM HOME DECLARATION

AUSTRALIAN INDUSTRY GROUP NEW SOUTH WALES BRANCH

and

LABOR COUNCIL OF NEW SOUTH WALES NEWCASTLE TRADES HALL COUNCIL

Our Goal is ZERO Injuries, Zero Defects

Name of Applicant: \_\_\_\_\_

An Employee of: \_\_\_\_\_

Name of Employer: \_\_\_\_\_

make application to be classified as:

Either:

A local worker

Signature of Applicant: \_\_\_\_\_

Or:

An itinerant worker - that is, defined as an employee with no fixed address

Signature of Applicant: \_\_\_\_\_

Or:

A distant worker - that is, it is unreasonable for me to return home each night

Signature of Applicant: \_\_\_\_\_

Either:

As a distant worker, I also- make application for accommodation to be provided for me free of charge	Yes •	Tick
	No •	One Box

Or:

As a distant worker, I also make application for excess fares and travelling time	Yes •	Tick
	No •	One Box

I, the applicant, have read the Project Enterprise Agreement (including Clause 29) and understand my entitlements.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Recommendation by Employer

## APPENDIX 2

HYDRO ALUMINIUM KURRI KURRI SMELTER UPGRADE AND RETRO-FIT PROJECT  
ENTERPRISE AGREEMENT 2004

SITE RULES

AUSTRALIAN INDUSTRY GROUP NEW SOUTH WALES BRANCH and LABOR COUNCIL OF NEW  
SOUTH WALES NEWCASTLE TRADES HALL COUNCIL

Our Goal is ZERO Injuries, Zero Defects

THE SITE RULES ARE FOR YOUR PROTECTION AND SAFETY.

ADHERENCE IS MANDATORY FOR ALL INCLUDING SURF PROJECT CONSTRUCTION PROJECT STAFF, EMPLOYERS AND EMPLOYEES WHILST ON SITE.

1. A breach of the following will be considered serious and may lead to an official warning, summary dismissal and/or legal action:

Reporting for work in an unfit Condition.

Possession or use of alcohol, drugs of addiction or non-prescribed drugs on the site is strictly forbidden.

Committing any act of violence, fighting or horseplay.

Unauthorised removal from the site of Hydro Aluminium, SURF Project Management, contractors' or another employee's property.

Wilful damage to Hydro Aluminium, SURF Project Management, contractors' or other employees' property.

Breach of safety rules and regulations.

Illegal gambling.

Refusal of duty.

Sleeping on the job.

Breaches of site security procedures.

Transporting personnel in vehicles in breach of RTA regulations.

Travelling in vehicles in breach of RTA regulations.

We want you to enjoy your employment on the site and to achieve job satisfaction. Your assistance in maintaining project performance and behaviour standards will help make the site a safe place to work.

2. Bag and Vehicle Inspections Leaving the Site

From time to time you may be requested to open your bag and or vehicle for routine inspection by the Security Officers at the Plant and/or Construction gate. You will be expected to allow the inspection in the interests of overall security of Hydro Aluminium, SURF Project Management, contractors and employee property.

Random bag and/or vehicle inspections apply to all Hydro Aluminium, SURF Project Management and Contractors' staff and employees and you should not feel that you have been treated differently from others.

3. Personal Property

Whilst every effort is made to keep your property safe, or Hydro Aluminium, SURF Project Management the contractors take no responsibility for personal belongings left in crib huts, amenities or other parts of the site.

4. Where to park your Car

Parking is available in the site car park. Employees' personal cars are not permitted on the site.

Please take care whilst using the car park to avoid damage to your own or other vehicles. Signs are provided to show directions and speed limits. (Low Speed / No "Wheelies")

Always lock your vehicle whilst it is parked. Hydro Aluminium, SURF Project Management and contractors will not accept liability for theft of or from or damage to your vehicle whilst it is parked in the car park.

5. Canvassing

Canvassing monies or goods for charity or other purpose is not permitted on site, in the car park, or outside the plant gates without written permission from SURF Project Management

6. Cameras

Cameras of any sort are not permitted on the plant or site without prior written permission from Hydro Aluminium or SURF Project Management.

7. Mobile Phones and Audio Devices

Audio devices are permitted to be used in crib sheds only. Mobile phones must not be used on site whilst driving or operating any type of vehicle, plant and equipment.

8. Firearms

Firearms are not permitted on site under any circumstances.

9. Animals

No animals are permitted on site.

10. Fire Fighting Equipment

Any employee found to have misused fire extinguishers or fire fighting equipment will be subject to summary dismissal.

11. Shirts and Trousers

Proper long sleeved shirts in designated areas must be worn at all times on site.

12. Plant Area

Employees are not permitted in the existing plant areas without authorisation. Hydro Aluminium or SURF Project Management reserves the right to amend the Site Rules as deemed necessary during the duration of the Enterprise Agreement of which this document forms part.

### **APPENDIX 3**

HYDRO ALUMINIUM KURRI KURRI SMELTER UPGRADE AND RETRO-FIT PROJECT  
ENTERPRISE AGREEMENT 2004

INTERFACE AGREEMENT

AUSTRALIAN INDUSTRY GROUP NEW SOUTH WALES BRANCH and LABOR COUNCIL OF NEW  
SOUTH WALES NEWCASTLE TRADES HALL COUNCIL

Our Goal is ZERO Injuries, Zero Defects

Following discussions between the Australian Industry Group and, the Labor Council of New South Wales and the Newcastle Trades Hall Council, on behalf of affiliate trade unions, it is agreed that during construction

activities for the expansion of the Hydro Aluminium SURF Project, members of affiliate trade unions will not make any claims or take any action on behalf of their members employed as maintenance or production workers at Hydro Aluminium Smelter which would extend or allow construction wage rates or conditions to flow to such employees.

The parties to this Interface Agreement expect normal Smelter expansion / activity will continue uninterrupted (as will normal industrial activities between Smelter management and affiliate trade unions, namely the AMWU, AWU and CEPU), and remain separate from construction work.

#### APPENDIX 4

HYDRO ALUMINIUM KURRI KURRI SMELTER UPGRADE AND RETRO-FIT PROJECT ENTERPRISE AGREEMENT 2004

AUTHORITY TO OBTAIN FROM DIMA DETAILS OF IMMIGRATION STATUS

AUSTRALIAN INDUSTRY GROUP NEW SOUTH WALES BRANCH and LABOR COUNCIL OF NEW SOUTH WALES NEWCASTLE TRADES HALL COUNCIL

Our Goal is ZERO Injuries, Zero Defects

I. \_\_\_\_\_  
(Family Name) (Given Names)

Date of Birth: \_\_\_\_\_ Nationality: \_\_\_\_\_

Visa Number: \_\_\_\_\_ Passport Number: \_\_\_\_\_

Authorise the Department of Immigration and Multicultural Affairs (DIMA) to release by fax to \_\_\_\_\_ (Name of employer representative) details of my immigration status and entitlement to work legally in Australia.

This information will only be made available to a representative of the Principal at the Hydro Aluminium SURF Project and authorised trade union officer on request.

I also understand that the above - named will only use this information for the purpose of establishing and verifying only my legal entitlement to work in Australia and for no other purpose.

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

Name of employer: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Please send or fax this form to:

The Department of Immigration and Multicultural Affairs  
Phone: (02) 92584730 Fax: (02) 92584763



## APPENDIX 5

HYDRO ALUMINIUM KURRI KURRI SMELTER UPGRADE AND RETRO-FIT PROJECT  
ENTERPRISE AGREEMENT 2004

INCLEMENT WEATHER PROCEDURES

AUSTRALIAN INDUSTRY GROUP NEW SOUTH WALES BRANCH

and

LABOR COUNCIL OF NEW SOUTH WALES NEWCASTLE TRADES HALL COUNCIL

Our Goal is ZERO Injuries, Zero Defects

The Parties to the Enterprise Agreement acknowledge that the Construction Project is not a "greenfields" site and involves the construction of new plant facilities together with substantial upgrades to sections of existing plant.

Accordingly, all Parties need to appreciate there may, from time to time, be some difficulty implementing the Inclement Weather provisions set out under Clause mm of the Enterprise Agreement and the inclement weather provisions set out under Clause mm of the National Building and Construction Industry Award in their entirety.

The Parties agree that employees cannot cease work or leave the site without the permission of their employer, until the award provisions have been observed.

The Parties agree that without Precedent, the Project Construction Site is quite different to a traditional "greenfields" site in a number of areas, particularly the fact that the Smelter continues to operate during construction and in many cases, contractor access is determined by the operational requirements dictated by the plant.

It is also agreed, without Precedent, that it is extremely difficult to provide covered walkways to work locations throughout the plant and within the various site amenity areas due to molten metal transport requirements of the plant and the need to maintain open access for cranes and mobile equipment within defined amenity and construction areas.

The Parties agree that an employee (other than an employee working on a concrete pour or emergency work as set out above) shall not be required to work in the rain.

The Parties believe that in extreme circumstances "adequate protection" from rain may include the use of an umbrella or raincoat or transport provided by the employer, to enable employees to reach their amenities or dry work location.

The Parties are committed to a co-operative and flexible approach to the application of inclement weather on the Construction Project. In this regard, the Parties believe there may be occasions where work areas should be assessed by the appropriate Project Safety Committee before a return to work is effected.

The Parties further agree that all disputes concerning the application of inclement weather be processed through the Enterprise Agreement Settlement of Disputes Procedure (Clause mm) with resort to the Industrial Relations Commission of New South Wales is necessary.

What is inclement weather?

Inclement weather generally means the existence of rain, hail, snow, cold, high wind, severe dust storm and the like.

How is inclement weather determined?

The employer and employees or a group of employees generally meet within 30 minutes of a claim to determine by agreement whether the prevailing weather conditions are inclement or not.

What if the employer, or his / her representative refuses to discuss the claim within a reasonable period up to 30 minutes?

If the employer or his / her representative refuses to discuss the claim, the affected employees are entitled to cease work for the rest of the day and be paid inclement weather.

Can employees working for the same employer and not affected by inclement weather eg rain, continue working?

Yes. The inclement weather provisions will not apply to them whilst they are working in an unaffected area.

Should a portion of the Project be affected by inclement weather, can the employer transfer employees to another site location under cover or not subject to inclement weather?

Yes, the award provisions allow the employer to transfer employees to unaffected areas on this site.

What is the entitlement for Inclement Weather under the Enterprise Agreement?

Unlike say the National Building and Construction Industry Award 2000, (NBCIA) which provides a maximum of 32 hours inclement weather each four weekly cycle, the Project Enterprise Agreement provides unlimited inclement weather because all full time employees are employed on weekly hire, compared to daily hire under the NBCIA.

What about a concrete pour?

The NBCIA provides some exceptions to working in the rain where a concrete pour has already commenced. Affected employees must be provided with adequate wet weather gear to work the pour to a "practical stage". Such work is paid at double time calculated to the next hour. If an employee working on the concrete pour gets wet and a set of dry work clothes is not available, he / she is allowed to go home without loss of pay.

What about emergency work?

The "wet pour" provisions outlined above also apply in the case of emergency work where the delegate and employees concerned agree that the work is of an emergency nature and is safe to proceed.

What do we need to do when the employer and employees agree that weather conditions are inclement?

Employees and the employer should agree and note the time work ceased and resumed.

If it is raining at 7:00 am, how long do I have to stay in the crib shed before I can go home?

Employees are required to remain on site for four hours until 11:00 am.

What if it rains during the scheduled lunch break between 12:00 noon and 12:30 pm?

In this case, the employee is required to stay in the crib shed for 50% of the remaining afternoon work. i.e., if ordinary hours cease at 3:30 pm, the affected employee is entitled to go home at 2:00 pm if it is still raining.

What if it rains between 1:30 pm and the end of ordinary time at 3:30 pm?

Employees are obliged to remain on site in the crib shed for no more than one hour before being entitled to go home.

What happens if it is raining at start time or at morning tea or lunch time?

The NBCIA states that employees are not required to go to work in a dry area, or be transferred to another site unless the rain stops, there is a covered walkway, the sheds are undercover in say a building and employees can get to their work area without going through the rain or, adequate protection is provided to the employee and where necessary, his/her tools.

## **APPENDIX 6**

HYDRO ALUMINIUM KURRI KURRI SMELTER UPGRADE AND RETRO-FIT PROJECT ENTERPRISE AGREEMENT 2004

PRE-PROJECT AWARD AND ENTERPRISE AGREEMENT WORK

AUSTRALIAN INDUSTRY GROUP NEW SOUTH WALES BRANCH

and

LABOR COUNCIL OF NEW SOUTH WALES NEWCASTLE TRADES HALL COUNCIL

Our Goal is ZERO Injuries, Zero Defects

PRE-PROJECT WORK

The Parties to the Hydro Aluminium Smelter Upgrade and Retro-Fit Project Enterprise Agreement 2004 have agreed that back pay will be applied in accordance with an agreement reached on 17 February 2004 as follows:

"All employees who have worked on the Project between 1 June 2003 and 15 March 2004, the operative date of the Project Consent Award, shall be entitled to back pay calculated on the basis of \$100 for each completed full week (Monday to Friday) worked on the Project. Pro-rata payments shall apply where less than a full week (Monday to Friday) has been worked, on the basis of \$20 per day".

Neither Hydro Aluminium nor contractors engaged on the SURF Project Shall recognize any claims made for back pay made after 30 June 2004.