

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/299

TITLE: Austral Brick NSW Transport Employees Enterprise Agreement 2005

I.R.C. NO: IRC5/5034

DATE APPROVED/COMMENCEMENT: 18 October 2005/7 October 2005

TERM: 32

**NEW AGREEMENT OR
VARIATION:** Replaces EA02/313.

GAZETTAL REFERENCE: Serial C4097

DATE TERMINATED:

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COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Austral Brick Company Pty Limited, engaged at the Horsley Park operations, who fall within the coverage of the Transport Industry - Mixed Enterprises Interim (State) Award.

PARTIES: Austral Brick Company Pty Limited -&- the Transport Workers' Union of New South Wales

THE AUSTRAL BRICK NSW TRANSPORT EMPLOYEES ENTERPRISE AGREEMENT 2005

1. Title

This agreement shall be known as The Austral Brick NSW Transport Employees Enterprise Agreement 2005

2. Arrangement

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3. Areas, Incidence and Parties Bound

The parties to this Agreement are:

- (a) The Austral Brick Company Pty Ltd, trading as Austral Bricks NSW (the Company) located at Wallgrove Rd Horsley Park NSW 2175.
- (b) The Transport Workers Union of Australia (New South Wales Branch), (the Union), and the Employees eligible to be members of that union employed out of the Horsley Park Operations as transport drivers (Employees).

4. Application

This Enterprise Agreement is to apply to Employees engaged at the Horsley Park operations of the Austral Brick Company Pty Ltd trading as Austral Bricks NSW.

5. Date and Period of Operation

This Agreement shall take effect from the beginning of the first pay period to commence on or after the date of approval by the Industrial Relations Commission of New South Wales and shall remain in force until 30 June 2008. The parties agree to commence discussions in relation to this Agreement thirteen (13) weeks prior to its expiration.

6. Relationship to Parent Award

The terms and conditions of this Enterprise Agreement shall be read in conjunction with the terms and conditions of the Transport Industry - Mixed Enterprises Interim State Award, as varied. Where any inconsistency occurs the terms and conditions of this Enterprise Agreement will prevail over the parent award to the extent of the inconsistency.

7. Labour Flexibility

Transport drivers shall perform a wider range of function and duties, including work which is incidental or peripheral to their main tasks or functions according to their training and competency.

Employees shall comply with all reasonable requests to transfer and to perform work covered by this Agreement. The following are areas that Employees may be required to perform under this Enterprise Agreement:

- (a) Drivers are to implement a code of conduct relative to customer service and the general public. (See Clause 14)
- (b) Drivers are to install Austral Bricks advertising signs at building sites where they deliver bricks.
- (c) Drivers are to advise the sales department of any new building sites that drivers come across in their journeys each day. The method of reporting potential areas will be by way of a spotters form.
- (d) Drivers should consider themselves part of the sales team and be willing and enthusiastic to provide information to customers, pass on orders to despatch or sales and generally do whatever is necessary to further promote Austral products. This would include carrying and handing out brochures and sales material.
- (e) Drivers agree to the use of tachographs and computers for the purposes of journey information only.
- (f) Drivers are to maintain a high standard of cleanliness inside and outside the vehicle.
- (g) It is the Company's intention to up-grade clothing and boots. It will be the driver's responsibility to ensure that clothing and footwear are maintained in a spotless condition.
- (h) Drivers are to shut down motors after three (3) minutes idle.
- (i) Austral will organise one (1) day of training each year for drivers, to be carried out in Company time to be paid at ordinary time rate on Saturday and Sunday. This training will consist of one (1) day of driver training and one (1) day of training to be decided by management.
- (j) In carrying out duties, Employees shall ensure, and take all necessary steps to ensure, the quality, accuracy and completion of any job or task.
- (k) Drivers are to be prepared to carry products on pallets other than bricks.
- (l) Driver will provide copies of their licenses annually or upon request by the Company.

8. Ordinary Hours of Work

The ordinary hours of work will not exceed thirty eight (38) hours per week to be worked on the basis of eight (8) hours per day Monday to Friday (exclusive of meal breaks) between 6:00am and 2:30pm (except as provided in Clause 9).

9. Rostered Days Off

Each Employee will receive an entitlement for a rostered day off in each four (4) week cycle by working eight (8) hours each day for the first nineteen (19) days of the twenty (20) day cycle.

This rostered day off will be taken by giving forty-eight hours (48) notice or by mutual agreement between the Employee and the Company for a mutually acceptable time.

Rostered days off may be accumulated to a maximum of ten (10) days over a forty (40) week period.

The Employees may, at their discretion, bank up to six (6) RDO's, which shall be paid out at the Christmas pay period each year. Any Employees who are engaged after the commencement of the Enterprise Agreement will be required to cash in their six (6) RDO's at the Christmas pay period each year.

By individual negotiation, and mutual consent, an individual may cash in all RDO's. Payment will be for seven (7) hours thirty six (36) minutes per day, including the day on which a rostered day off is taken.

10. Measures to Achieve Gains in Productivity Efficiency and Flexibility

In making this Enterprise Agreement, the parties are undertaking to co-operatively and positively work towards creating the most efficient means of providing service delivery in a timely fashion in order to meet the needs of customers.

This is to be achieved through the identification of work practices and work job organisation which seeks to ensure the running of trucks on the most efficient routes, ensuring that truck time on the road is maximised.

11. Wages

- (a) This Award is to provide for three (3) enterprise-based wage adjustment increases on the Employee's current rate of pay.

The first increase of 4% will be made available from the first full pay period on or after the date of approval by the Industrial Relations Commission of New South Wales.

The second 4% increase will be made available from first pay period commencing on or after 1 July 2006.

With a further increase of 4% will be payable from the first pay period commencing on or after 1 July 2007.

- (b) Productivity Bonus

In addition to the above increments a productivity bonus arrangement is currently in operation for drivers at the Horsley Park site. The productivity bonus delivers to drivers a payment which, at the time this Agreement was entered into, is in the vicinity of 4%. Drivers may however receive a payment of more or less than 4% depending on performance over the bonus period. The payment of this bonus is dependent upon productivity criteria being met. The method of calculation of the measures is maintained by the Transport Manager of Austral Bricks NSW operations.

- (c) Safety Awareness Incentive

For the duration of this Agreement, an annual Safety Awareness Bonus of \$345.00 (gross) will be paid to each Employee who successfully complete twelve (12) month cycle of continuous service without sustaining a "lost time injury" as at the 1st July each year for the duration of this Agreement.

For the purpose of this Agreement, a "lost time injury" is defined as a compensable injury / illness occurring out of or in the course of employment where time lost from work is one (1) full day / shift or more.

- (d) The increase provided for under the 2002 Enterprise Agreement replaced and incorporated any amount available for tea money (2002 Agreement).

12. Engagement of Casual Drivers

The parties to this Agreement are committed towards establishing timely service delivery of Austral's product. The engagement of casual drivers will enable more efficient utilisation of the fleet, especially during peak periods of demand.

In the engagement of the four-hour casual employees, a full time employee shall have preference over a four-hours casual employee if overtime is available but if a load has been allotted then it shall not be re-allocated (unless the said driver takes ill or is injured) for the purposes of this clause.

13. Disputes Procedure

It is agreed that all parties will confer in good faith with a view to resolving a problem by direct consultation and negotiation while work continues normally.

Disputes arising between the Company and the Employees who are employed under this Agreement will be settled in accordance with the procedures set out below:

- (a) Where an Employee or Delegate 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 the Employee so desires, ask the Union Delegate to submit the matter to management. The Company shall reply promptly within twenty four (24) hours if the appropriate person can be contacted.
- (b) If not settled at this stage, the matter shall be formally submitted by a State official of the union to the Company.
- (c) If not settled at this stage, the matter should then be discussed between representatives of the Union and the Company, who may be represented by such officers or representatives as the Union and the Company may desire.
- (d) Where the parties fail to resolve the dispute, it is agreed that a dispute notification should be made to the Industrial Relations Commission of New South Wales, for the express purpose of ensuring that all avenues of conciliation and mediation are fully explored.
- (e) Without prejudice to either party, work shall continue in accordance with the Agreement while the matters in dispute are being dealt with in the manner laid down in this clause .i.e. It is also a term of this Agreement that no industrial action will be taken by the Parties bound by this Agreement for the duration of this Agreement until this disputes procedure is exhausted.

14. Code of Conduct for Drivers

The parties shall discuss and agree upon a code of conduct for drivers when carrying out their duties. This code will be made available for all drivers and form part of the general Company Policy.

15. Sick Leave

Sick leave accumulated up to the anniversary of employment prior to the commencement of this Enterprise Agreement shall be kept in reserve.

At each Christmas period all untaken sick leave which has accumulated (with the exception of five (5) days leave in reserve) shall be paid out. Sick Leave which has been kept in reserve can only be used if an Employee's medical condition/s has resulted in the taking of leave.

Drivers will also be required to undertake medical checks conducted by the Company doctor according to the following schedule:

- under 40 years every 3 years
- 40 years to 50 years every 2 years
- over 50 years every 1 years

16. Additional Long Service Leave

Employees who commence employment with Austral Bricks Pty Ltd (as defined in Clause 4) on or after 1 July 2005. (New Employees) will be entitled to ten (10) weeks long service leave on completion of ten (10) years continuous service.

Employees who commence with Austral Bricks Pty Ltd (as defined in Clause 4) prior to 1 July 2005 (Current Employees) will be entitled to the same long service leave benefits that they enjoyed prior to the making of this Agreement.

From 1 July 2005 current and new Employees (as defined in Clause 4), long service leave will accrued at the rate of 1 (one) week per year of continuous service. This new arrangement will not be made retrospective for entitlements accrued up until 1 July 2005.

17. Superannuation

17.1 Definitions

The Fund means

- (a) the WHSP Superannuation Fund; or
- (b) TWU Super Fund

as may be amended from time to time and including any Superannuation schemes which may succeed them;

Ordinary wage is the amount of money usually earned by an Employee during the Employee's ordinary hours of work, or shift and included Leading Hand Allowance, shift allowance, and penalty rates the Employee may be entitled to for working ordinary hours under the Award. For the purposes of this clause the terms "ordinary time rate of pay", "ordinary rates of wage(s)", "ordinary rates" and "days pay" and "ordinary time earnings" have the same meaning. It does not include overtime payments for working outside of an Employees ordinary hours or rostered shift.

17.2 Choice of Fund

The Company Will Make Superannuation Contributions on Behalf of Each Employee Covered By This Agreement, in Accordance With the *Superannuation Guarantee Charge Act 1992* (Cth) and Associated Legislation, as Varied from Time to Time. Such Contributions Will be Made Into:

- (a) The WHSP Superannuation Fund; or

(b) TWU Super Fund

The Company will provide each Employee with the opportunity to nominate a fund from (a) or (b) above into which their superannuation contributions will be made. The Employee's nomination must be recorded in writing, signed by the Employer and Employee and kept on the Employee's file. Employees already in existing Superannuation funds can remain as such but Employees who wish to vary their fund membership then Clause 18.1 of this Agreement will only apply.

The Company must contribute to the fund in respect of each Employee an amount at least the equivalent of the contribution required by the Superannuation Guarantee legislation but in any case not less than 9%.

For the purposes of this Agreement in the absence of an Employee making a nomination, the default fund will be the WHSP Superannuation Fund.

17.3 Unpaid Absences

An Employer will not be required to make a contribution on behalf of an Employee who is absent from work without pay and the Employer's contribution in any week when unpaid leave occurs will be reduced by a proportionate amount.

17.4 Employee contributions

Subject to the rules of the Fund, Employees who wish to make additional contributions to the Fund are entitled to do so. They may either forward their own contributions directly to the Fund Administrators or, where it is practicable to do so, authorise the Employer to pay into the fund from the Employee's wages amounts specified by the Employee.

17.5 Cessation of Contributions

An Employee's eligibility for contributions to the fund will cease on the last day of employment with the Employer and the Employer must not make any contributions to the fund in respect of any period beyond that last day of employment.

18. Occupational Health and Safety and Environment

Compliances

The Employer and Employees both agree that the following issues must be complied with:

- (a) Follow all established site rules with respect to health, safety and environment.
- (b) Follow safe work procedures (such as isolation procedures, environmental clean up) at all times. If there is a reason why the procedure is unworkable then report it and offer a solution.
- (c) Participate in Health, Safety and Environment committee meetings to be held monthly.
- (d) Health and safety toolbox meetings to be held monthly
- (e) Wear (and maintain) personal protective equipment wherever it is required, and if there is a problem with equipment, report it and/or replace it.
- (f) Maintain good housekeeping practices in the work area and around the site at all times.
- (g) Reduce waste by ensuring proper handling, recycling and disposal methods.
- (h) Offer suggestions to improve health, safety and environment practices around the site and work areas.

- (i) Report hazards and near misses in the "Hazard Inspection Log Sheets". Review and use the "Hazard Inspection Log Sheets" at every Health, Safety and Environment Committee meeting.
- (j) Participate in health, safety and environment training programs.
- (k) Participate in the Company rehabilitation program by helping injured workers return to work as soon as possible. This may include attending a Company preferred/nominated medical practitioner for the treatment or review of compensable work-related injuries or illnesses.
- (l) Company supplied clothing to be worn at all times. Employees are required to maintain clothing in a clean and tidy manner.
- (m) Where Employees are injured seriously or fall ill at their work, the Employer shall provide means of getting them to the nearest treatment facility, or pay reasonable expenses of transmission to hospital.

19. Drugs and Alcohol Policy

All Company sites are to be free from the consumption of drugs (recreational) and alcohol.

All drug and alcohol related matters will be dealt with in accordance with the Company's Drugs and Alcohol Policy. This policy is an integral part of the Company's Health and Safety policy which is intended to ensure that company activities are performed in a manner that protects the health and safety of Employee's, contractors and the general public.

Appropriate Senior Management Personnel will review each case on its own merits. Where an Employee is deemed to be impaired to a point that he/she cannot perform their job safely or is a risk to others, they may be asked to cease work immediately and seek medical attention if required. The Employee must report to the responsible Manager for counselling prior at the commencement of their next rostered shift.

Where a breach is deemed to be of a serious nature, this will be considered gross misconduct and may result in summary dismissal for misconduct.

Where appropriate, the company will assist the Employee with counselling, treatment and rehabilitation through the Employee Assistance Program. The affected Employee will be required to take accrued leave or leave without pay for the length of the program, at the conclusion of which a certificate signed by the Counsellor to confirm successful completion of the program.

All Employees and their immediate family members with concerns regarding drug and alcohol issues are able to access the Employee Assistance Program on a confidential basis.

20. Anti-Discrimination

Refer clause 4 of the Transport Industry - Mixed Enterprise Interim (State) Award.

21. Transmission of Business

- (a) Where a business is, whether before or after the date of insertion of this clause in the Agreement transmitted from an Employer (transmittor) to another Employer (transmittee), and an Employee who at the time of such transmission was an Employee of the transmittor of the business, becomes an Employee of the transmittee:
 - (i) the continuity of the employment of the Employee shall be deemed not to have been broken by reason of such transmission; and
 - (ii) the period of employment which the Employee has had with the transmittor or any prior transmittor shall be deemed to be service of the Employee with the transmittee.
- (b) In this clause, 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether

or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

- (c) The provisions of clause 16 'Redundancy' are not applicable where a business is before or after the date of the insertion of this clause into the Agreement, transmitted from an Employer (transmittor) to another Employer (transmittee), in any of the following circumstances:
- (i) where the Employee accepts employment with the transmittee which recognises the period of continuous service which the Employee had with the transmittor, and any prior transmittor, to be continuous service of the Employee with the transmittee; or
 - (ii) where the Employee rejects an offer of employment with the transmittee:
 - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the Employee at the time of ceasing employment with the transmittor; and
 - (B) which recognises the period of continuous service which the Employee had with the transmittor and any prior transmittor to be continuous service of the Employee with the transmittee.

22. Brickworks Share Plan

Employees will be given the opportunity to participate in the Brickworks Employee Share Plans. Offers to participate in the Plans will be made on an annual basis subject to the Plan Trust Deed. The Company will contribute \$2.50 per week for those Employees who choose to participate in the Brickworks Employee Share Plans.

23. No Extra Claims

The Union and each of the Employees bound by this Agreement will not pursue extra claims, for increased wages and improvement of award conditions or over award, for the duration of this Agreement.. This includes claims relation to changes arising from award variations or decisions of the New South Wales Industrial Relations Commission other than changes that are consistent with the terms of this Agreement.

24. Union Matters

All planned Union meetings are to be held in the Employee's own time unless otherwise agreed with Management. The Union delegates shall be allowed reasonable time during working hours to interview Employees and the Employer or Employer representative or Union official from their Union on legitimate Union business on matters arising from the awards or this Agreement and affecting the Employees whom he/she represents.

25. Saving Clause

In the event that legislative change enacted after the making of this agreement (including legislative change enacted by the commonwealth parliament) renders inoperative or invalid any or all of the provisions of this registered enterprise agreement, the parties agree to treat the agreement and all of its provisions as subsisting independent of any legislative framework.

In the event that legislative change enacted after the making of this agreement (including legislative change enacted by the commonwealth parliament) affects the operation or validity of state award provisions, with the result of eliminating or reducing award entitlements of persons covered by this agreement the parties agree that such state award provisions will be deemed to be part of this agreement (and incorporated as provisions of this agreement) from the moment they cease to be operative or valid, except where they are inconsistent with an express provision of this agreement.

In the event that legislative change (including legislative change enacted by the commonwealth parliament) affects the capacity of the Union to exercise the rights it possesses under section 296, 297 or 298 of the *Industrial Relations Act NSW 1996*, the parties agree that those provisions will be deemed to be part of this agreement (and incorporated as provisions of this agreement) from the moment they cease to be operative or valid.

In the event that legislative change (including legislative change enacted by the commonwealth parliament) affects the capacity of an employee or the Union to exercise the rights it possesses under Part 6 of Chapter 2 of the *Industrial Relations Act NSW 1996*, the parties agree that the following provision will be deemed to be part of this agreement (and incorporated as provisions of this agreement) from the moment that capacity is affected:

- A. Termination of an employee's employment shall not be harsh, unreasonable or unjust.
- B. The parties commit to using the dispute settlement procedure to resolve any disputes over termination of employment, including disputes where it is alleged by a former employee that termination was harsh, unreasonable or unjust.

26. Signatures to the Agreement

As an indication of their acceptance of the terms and conditions of this Agreement the parties have placed their signatures below.

Signed for The Austral Brick Company Pty Ltd Date: Witnessed _____

Signed for Transport Workers Union, NSW Branch Date: Witnessed _____