

### REVISED SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

This table is a summary of submissions on technical and drafting issues lodged for this award on or before 5.00pm on 29 November 2016. The summary has been revised to include feedback from the hearing on 6 December 2016 ([Transcript](#)) and 7 February 2017 ([Transcript](#)).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1.	BusSA	<a href="#">Sub-30/06/16</a>	2	<b>Definitions</b> – ‘children’s services and early childhood education industry’ definition should only appear once. Definition in cl. 2 should direct readers to coverage clause 4.2.	Para 2.1.1	Agreed, see <a href="#">Transcript-6/12/16</a> [PN538]. Confirmed in <a href="#">report</a> .
	AIG	<a href="#">Reply-25/07/16</a>		Amendment not necessary, but does not oppose.	Para 129	
	AFEI	<a href="#">Reply-10/05/16</a>		Supports BusSA submission.	Para 38	
2.	AIG	<a href="#">Sub-30/06/16</a>	2	<b>Definition – ordinary hourly rate</b> Seeks definition of ‘ordinary hourly rate’ to be included.	Para 237	Agreed ‘ordinary hourly rate’ definition should be inserted, see <a href="#">Transcript-6/12/16</a> [PN538]. Confirmed in <a href="#">report</a> .
	BusSA	<a href="#">Reply-21/07/16</a>		Agrees with AIG	Pg 12	
	AFEI	<a href="#">Reply-10/05/16</a>		Agrees definition should be in cl.2, but then unnecessary to duplicate in B.1.1.	Para 39	
	AIG	<a href="#">Sub-16/01/17</a>		Definition inserted in ED published 06/01/17 does not reflect that which was earlier determined by the Commission. Suggests alternative definition.	Paras 82-86	Identified in <a href="#">Transcript 7/02/17</a> [PN55-PN56]
3.	UV	<a href="#">Sub-30/06/16</a>	2	<b>Definition – ‘ordinary hourly rate and ‘minimum hourly rate’</b> – <i>general submission effects multiple awards</i> – should refer to ‘employee’s classification, grade and level’.	Paras 1-5	To be discussed at next conference. Confirmed in <a href="#">report</a> .

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4.	AIG	<a href="#">Reply-25/07/16</a>		Minimum rate definition unnecessary, rate is prescribed in cl. 16. Regarding 'ordinary hourly rate' the additional reference to 'grade' and 'level' unnecessary as proposed definition in ED refers to classification specified in cl. 17.	Paras 130-132	
5.	UV	<a href="#">Sub-30/06/16</a>	2	<b>Definition – all purpose</b> – 'all purposes' definition should only appear at cl.17.2(a)	Para 30	AIG noted if definition of 'ordinary hourly rate' is inserted per item 2, definition uses term 'all purpose'. Therefore the definition of 'all purpose' should be included in clause 2. UV not particularly agitated by that. See <a href="#">Transcript-6/12/16</a> [PN540-PN545]. Confirmed in <a href="#">report</a> .
	AIG	<a href="#">Reply-25/07/16</a>		Notes no definition for 'all purposes' is contained in cl.2. Submission not dealt with.	Para 127	
6.—	UV	<a href="#">Sub-30/06/16</a>	3.3	<del><b>Access to the award and the National Employment Standards</b>—<i>general submission applies numerous awards</i>—The words 'whichever makes them more accessible' should be retained.</del>	Para 3	Not being pressed by UV See <a href="#">Transcript 7/02/17</a> [PN89-PN90]. Confirmed in <a href="#">report</a> .
	AIG	<a href="#">Reply-25/07/16</a>		Opposes UV's submission. Determined by FWC at early stage of review.	Para 133	

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7.	UV	<a href="#">Sub-30/06/16</a>	4	<del>Coverage</del> amend reference to <i>Clerks—Private Sector Award 2010</i> — industrial dispute history of childcare centre clerical workers being misclassified as support workers under this award, when they are classified under the Clerks Award [UV v <i>Cuddlepie Early Childhood Learning Centre</i> <a href="#">[2015] FWC 6661</a> ]	Pg 6	Appears to be substantive issue, parties given opportunity to write to Commission seeking to have it referred after conference. See <a href="#">Transcript-6/12/16</a> [PN546-PN561]  Moved to substantive issues. See <a href="#">Transcript 7/02/17</a> [PN98]. CCSA contest AIG's submission that they sought to vary the Clerks Award, this claim has been withdrawn by CCSA. See <a href="#">Transcript 7/02/17</a> [PN101, PN106-108]. Confirmed in <a href="#">report</a> .
	ABI & NSWBC	<a href="#">Reply 22/07/16</a>		Opposes UV submission, disputes will have intended effect, as 4.1 notes award does not cover employers and Clerks Award is occupational award, childcare centre employees would be covered by this award.	Para 4.1	
	AIG	<a href="#">Reply 25/07/16</a>		Submits substantive claim. Notes CCSA seeks to vary Clerks Award to exclude employers covered by Children's Services Award.	Para 134-135	
	APEI	<a href="#">Reply 10/05/16</a>		Opposes UV's proposal.	Para 40	
	UV	<a href="#">Sub-6/10/16</a>		See variation in draft determination. Parties disagree whether substantive or not.	Pg 2	
8.	AIG	<a href="#">Sub-30/06/16</a>	11.1	<b>Casual Employment</b> – Removing 'as such' substantially alters clause. Clause be amended to insert 'as such' after 'engaged'. Current cl.10.5(b) to be restored as separate subclause, words 'for temporary and relief purposes' deleted cl.11.1.	Paras 238-240	Agreed, see <a href="#">Transcript-6/12/16</a> [PN562]  Resolved see <a href="#">Transcript 7/02/17</a> [PN110]. Confirmed in <a href="#">report</a> .
	ABI &	<a href="#">Sub-1/07/16</a>		Submits 'as such' should be retained.	Para 5.1	

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	NSWBC					
	BusSA	<a href="#">Reply-21/07/16</a>		Agree with AIG and ABI submissions.	Pg 12	
	AFEI	<a href="#">Reply-10/05/16</a>		Agree with AIG and ABI submissions.	Pg 7	
9.	AIG	<a href="#">Sub-30/06/16</a>	11.1	<b>Casual employment</b> – calculation of casual loading should be based on minimum hourly rate, not ordinary hourly rate. To calculate on ordinary hourly rate is substantial change to current award. Related amendment to Sch. B.3 required.	Para 241	UV opposes AIG proposal see <a href="#">Transcript 7/02/17</a> [PN115].  UV to provide submission in reply. See <a href="#">Transcript 7/02/17</a> [PN126]. Confirmed in <a href="#">report</a> .
10.	BusSA	<a href="#">Sub-30/06/16</a>	13.9(g)	<b>Hours of work—out-of-school care, preschools and kindergartens</b> – <i>response to request from Commission</i> Reference to transitional instrument and Div 2B State awards no longer necessary, cl. 1.4 protects employees from reduction in pay.	Para 2.2.1	Subject to further discussion at another conference <a href="#">Transcript 7/02/17</a> [PN136]. Confirmed in <a href="#">report</a> .
	UV	<a href="#">Sub-30/06/16</a>		Clause preserves entitlements of employees employed under those instruments and is still necessary.	Para 32	
	AFEI	<a href="#">Reply-10/05/16</a>		Agrees with BusSA	Para 43	

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10A	G8E	<a href="#">Sub-12/11/15</a>	16.2	<b>Minimum wages</b> Seeks to insert clause from <i>Educational Services (Teachers) Award 2010</i> at 16.2 (clause 14.2 of current award).	Page 1	Raised at hearing, may be a substantive issue. To be discussed at conference. See <a href="#">Transcript-6/12/16</a> [PN570-PN571]  To be moved to substantive issues conference. See <a href="#">Transcript 7/02/17</a> [PN154]. Confirmed in <a href="#">report</a> .
11.	BusSA	<a href="#">Sub-30/06/16</a>	16.7(d)	<b>Minimum Wages – higher duties –</b> <i>response to request from Commission</i> Seeking member feedback	Para 2.2.2	BusSA withdrawing submission. See <a href="#">Transcript 7/02/17</a> [PN163].
	UV	<a href="#">Sub-30/06/16</a>		<b>Minimum Wages – higher duties –</b> Does not support 'Supervising officer' to be amended to 'Authorised supervisor', gives history of use of wording. Notes award modernisation process chose term with intention it be a catch-all title for various types of persons with statutory supervisory responsibilities.	Paras 33-41	UV continues to support retaining wording. See <a href="#">Transcript 7/02/17</a> [PN165]. Agreed see <a href="#">report</a> .

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12.	DECD SA	<a href="#">Sub-21/07/16</a>	17.2(b) 15.6 (current award)	<b>Wage related allowance – qualifications allowance</b> – submits ambiguous as to what 'graduate certificate is', does not define qualification required to be eligible for allowance.	Pg 2	No representative present at conference to discuss claim see <a href="#">Transcript 7/2/17</a> [PN170]. Confirmed in <a href="#">report</a> .
13.	AIG	<a href="#">Sub-30/06/16</a>	17.2(c)	<b>Wage related allowances – broken shift allowance</b> – 'who' should appear after 'employee'	Para 243	Agreed, see <a href="#">Transcript-6/12/16</a> [PN562]
		<a href="#">Reply-25/07/16</a>			Para 137	
	ABI & NSWBC	<a href="#">Sub-1/07/16</a>		Insert the word 'who'	Pg 5	Matter resolved see <a href="#">Transcript 7/2/17</a> [PN176]. Confirmed in <a href="#">report</a> .
	AFEI	<a href="#">Reply-10/05/16</a>		Does not oppose inclusion	Para 41	
	BusSA	<a href="#">Reply-21/07/16</a>		Agrees	Pg 12	
<del>14.</del>	BusSA	<a href="#">Sub-30/06/16</a>	17.3(d)	<b>Expense related allowances – use of vehicle allowance</b> – ED changes 'where an employer requests' to 'if employer requests' alters operation of clause. Retain original wording.	Para 2.1.2	Withdrawn see <a href="#">Transcript 7/2/17</a> [PN178].
	AIG	<a href="#">Reply-25/07/16</a>		Change proposed by BusSA is not necessary.	Para 138	
	AFEI	<a href="#">Reply-10/05/16</a>		BusSA's amendment is unnecessary.	Para 42	

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15.	DECD SA	<a href="#">Sub-21/07/16</a>	Sched A.1.1 – A.1.8	<b>Classification</b> – (current award B.1.1 – B.1.8) – ambiguity over whether employee classified by level of qualification obtained or by duties engaged to do. Interpretation DECD takes is that employee's classification should be dictated by duties employee is engaged to perform unless they are engaged as 'qualified educator' for purposes of child/educator ratio, in which case classification be determined by qualification.	Pg 1	No representative present at conference to discuss claim. See <a href="#">Transcript 7/2/17</a> [PN178].
16.	DECD SA	<a href="#">Submission – 21 July 16</a>	Sched A.1.10	<b>Classification</b> – (current award – B.1.10) – terminology of 'licensed' does not reflect current processes for approval under the National Qualification Framework. Propose amending it to 'approved places' to reflect current terminology.	Pg 1	No representative present at conference to discuss claim see <a href="#">Transcript 7/2/17</a> [PN178].
17.	AIG	<a href="#">Sub-30/06/16</a>	Sched B	<b>Summary of hourly rates</b> – table structure '% of ordinary rates' could be misleading, if people fail to read in context of B.1. Issue raised in other EDs. Propose to amend to read '% of minimum hourly rate' or indication within table that different rates apply where employee entitled to allowances in cl. 17.2.	Paras 244-248	Agreed, see <a href="#">Transcript-6/12/16</a> [PN562]
	AFEI	<a href="#">Reply-10/05/16</a>		Agrees with AIG's submission and proposed solutions.	Para 44	AIG contend amendments in ED do not reflect what was agreed to previously. UV does not necessarily oppose but would submit further additions to the clause to make it clearer.

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						See discussion in <a href="#">Transcript 7/2/17</a> [PN201-202]  ED amended to reflect general approach to references to ordinary hourly rate in tables.
	AIG	<a href="#">Sub-16/01/16</a>		Do not consider proposed insertion of footnotes in tables adequately addresses concern. Suggest this be discussed during conference listed for 7 February 2017.	Paras 87-88	
18.	ABI & NSWBC	<a href="#">Sub-1/07/16</a>	Schedule C.2.1(a)	<b>Summary of monetary allowances – expense related allowances</b> – submits word ‘increased’ should be replaced with ‘adjusted’, current wording presumes that relevant figures will always be increase.	Para 5.3	United Voice to provide position. See <a href="#">Transcript 7/2/17</a> [PN216]. To be discussed further at next conference. Confirmed in <a href="#">report</a> .
	AFEI	<a href="#">Reply-10/05/16</a>		Does not oppose ABI & NSWBC’s amendment, but notes ED consistent with current award.	Para 45	
	BusSA	<a href="#">Reply-21/07/16</a>		Agrees with ABI & NSWBC’s proposal.	Pg 12	

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

ABI & NSWBC	Australian Business Industrial and the NSW Business Chamber
ACA	Australia Childcare Alliance
AFEI	Australian Federation of Employers and Industries
AIG	Australian Industry Group
BusSA	Business SA, Chamber of Commerce and Industry South Australia
CCSA	Community Connections Solutions Australia
DECD SA	Department for Education and Child Development – South Australia
ED	Exposure draft
G8E	G8 Education Ltd
UV	United Voice