



FAIR WORK
AUSTRALIA

DECISION

Fair Work Act 2009

s.185—Approval of enterprise agreement

Coastal Tug and Barge Pty Ltd

(AG2010/11777)

COASTAL TUG & BARGE & MUA ENTERPRISE AGREEMENT 2010.

Maritime industry

COMMISSIONER RAFFAELLI

SYDNEY, 20 JULY 2010

Application for approval of the Coastal Tug & Barge & MUA Enterprise Agreement 2010.

[1] An application has been made for approval of an enterprise agreement known as the *Coastal Tug & Barge & MUA Enterprise Agreement 2010* (the Agreement). The application was made pursuant to s.185 of the Fair Work Act 2009 (the Act). The agreement is a single-enterprise agreement.

[2] I am satisfied that each of the requirements of ss186, 187 and 188 as are relevant to this application for approval have been met.

[3] The *Maritime Union of Australia*, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers that organisation.

[4] The Agreement is approved and, in accordance with s.54, will operate from 27 July 2010. The nominal expiry date of the Agreement is 27 January 2013.

COMMISSIONER

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**COASTAL TUG & BARGE
&
MUA
ENTERPRISE AGREEMENT 2010**

*An Enterprise Agreement under the Fair Work Act (Cth) 2009 between Coastal Tug & Barge Pty Ltd
and the Maritime Union of Australia*

1. TITLE

The title of this Agreement is the Coastal Tug & Barge & MUA Enterprise Agreement 2010.

2. ARRANGEMENT

1.	TITLE	2
2.	ARRANGEMENT	2
3.	PARTIES TO THE AGREEMENT	3
4.	APPLICATION OF AGREEMENT	3
5.	PERIOD OF OPERATION	3
6.	PURPOSE OF AGREEMENT	4
7.	PRINCIPLES	4
8.	CONSULTATION REGARDING MAJOR WORKPLACE CHANGE	6
9.	DISPUTE RESOLUTION PROCEDURE	7
10.	TYPES OF EMPLOYMENT	9
11.	TERMINATION OF EMPLOYMENT	12
12.	OPERATING ARRANGEMENTS - HOURS AND DUTIES	12
13.	SALARY	14
14.	ALLOWANCES	15
15.	SUPERANNUATION	16
16.	PREDICTABLE LEAVE	17
17.	ANNUAL LEAVE	17
18.	PERSONAL LEAVE	18
19.	COMPASSIONATE LEAVE	18
20.	PARENTAL LEAVE	19
21.	PUBLIC HOLIDAYS	19
22.	RECRUITMENT	19
23.	CREWING AND EMPLOYMENT	20
24.	SAFETY	20
25.	COMPENSATION FOR PERSONAL EFFECTS LOST	21
26.	COMPENSATION FOR ACCIDENTS-ACCIDENT MAKE UP	21
27.	OUTSIDE WORK	22
28.	VICTUALLING AND ACCOMMODATION ALLOWANCE IN OUTPORTS	23
29.	TRAVELLING	24
30.	RECORDS	24
31.	REDUNDANCY	24
32.	FLEXIBILITY	26
33.	FAIR WORK INFORMATION STATEMENT	27
34.	REVIEW OF THE AGREEMENT	27
35.	NO EXTRA CLAIMS	27
36.	ENDORSEMENT OF AGREEMENT	28

3. PARTIES TO THE AGREEMENT

3.1. The Parties ("the Parties") to the Agreement are:

- 3.1.1. Coastal Tug & Barge Pty Ltd ("the Company") located at Suite 6 / 448 Pacific Hwy, Artarmon, NSW 2064;
- 3.1.2. The Maritime Union of Australia, located at Level 2 / 365 – 375 Sussex Street, Sydney, NSW 2000 ("MUA")("the Union") upon approval of Union coverage by Fair Work Australia ("FWA"); and
- 3.1.3. The employees of Coastal Tug & Barge Pty Ltd who come within the scope of the Agreement prescribed by clause 4 ("the employees").

4. APPLICATION OF AGREEMENT

- 4.1. The Agreement applies to the Company and the General Purpose Rating employees of the Company ordinarily based in the Port of Darwin in respect of work performed by such employees on tugs operating at or about Darwin and to or from Darwin.
- 4.2. The terms and conditions of this Agreement shall replace in its entirety the terms and conditions of the *Marine Towing Award 2010* and all variations thereof, and any award or industrial instrument replacing such an Award which would otherwise govern the relationship between the parties to this Agreement
- 4.3. This Agreement shall operate to the exclusion of and shall supersede all prior, determinations, Orders and Agreements and all customs and practices of a port or industry nature, but no right, obligation or liability accrued or incurred under any such provision prior to the commencement of this Agreement shall be affected.
- 4.4. This agreement shall be subject to the Better Off Overall Test ("BOOT") in accordance with the Fair Work Act 2009 and the "BOOT" shall be conducted by Fair Work Australia.
- 4.5. Compliance with the National Employment Standard ("NES").
 - 4.5.1. The terms of this Workplace Agreement are subject to compliance with the National Employment Standard ("NES") prescribed by the Fair Work Act 2009.

5. PERIOD OF OPERATION

- 5.1. This Agreement shall take effect on and from the date of approval by FWA, such date to be confirmed by FWA, and shall remain in force until the 27th of January 2013.
- 5.2. This Agreement shall be submitted to Fair Work Australia in accordance with the *Fair Work Act 2009*.

6. PURPOSE OF AGREEMENT

6.1. This Agreement seeks to establish a positive direction for the future.

6.2. The objectives of the Agreement are to:

6.2.1. Contribute to the long term improvement in the Company's performance in terms of:

- (a) financial viability in relation to employee controllable matters;
- (b) the highest standards of customer service;
- (c) safety and quality;
- (d) process improvement; and
- (e) employment conditions.

6.2.2. Establish an environment where there will be better understanding between the Parties.

6.2.3. Create an environment which seeks to enhance the career prospects of the employees.

7. PRINCIPLES

The Parties are committed to the following principles as a means of achieving objectives under this Agreement.

7.1. Consultation

7.1.1. Consultation is an essential factor in establishing and maintaining a productive relationship between the parties to this Agreement.

7.1.2. Recognising that the Company has the principal responsibility to initiate business changes, organisational changes and continual improvement, consultation in future will be as follows:-

- (a) The Parties agree that consultation, in the first instance, will occur through the Port Consultative Committee to focus on:
 - (i) Effectiveness of this Port Enterprise Agreement
 - (ii) Customer service initiatives
 - (iii) Port operation reforms and productivity improvements
 - (iv) Safety and environmental management and compliance
 - (v) Adoption of best practice

- (vi) Dissemination of knowledge, experience and skills
 - (vii) Development of training initiatives
 - (viii) Cost minimisation and removal of waste.
 - (ix) Customer Focus and Continual Improvement
-
- (b) The Port Consultative Committee shall consist of a Management representative and a delegate from each occupational group involved in the operation of a tug, that is, – Tug Masters, Tug Engineers and Tug Deckhands.
 - (c) The parties affected by the proposed changes will be informed. At this stage, parties shall be given adequate time to provide relevant input.
 - (d) Employee views will always be considered objectively.
 - (e) Having considered input from all sources, management accepts the responsibility for making the final decision.
 - (f) The Parties agree the working arrangements will endeavour to meet customer service requirements and operational considerations. Where it is agreed by all parties, work practices which are inconsistent with this objective, will be jointly identified and referred to the Port Consultative Committee. This does not preclude the right of any party to seek resolution of the matter pursuant to Clause 9 – Dispute Resolution Procedure, of this Agreement.

7.2. Information Sharing

The Parties agree to work together to develop and maintain a two way flow of information.

7.3. Introducing Work Practice Change (Other than “Major Change”)

- 7.3.1. The parties are committed to review any reasonable work practice changes proposed at the site in accordance with the Consultation provisions prescribed above.
- 7.3.2. Where the proposed work practice change only affects one occupational group (e.g. Deckhands) and not all of the occupational groups represented on the Port Consultative Committee, the provisions of clause 7.1(a) and (b) shall not apply and consultation shall be carried out in accordance with the remainder of the clause with only the occupational group of employees affected by the proposed work practice change
- 7.3.3. Where it is necessary for the implementation of agreed change the parties shall either vary the terms of this Agreement by consent or implement a further agreed Enterprise Agreement in accordance with the requirements of the Fair Work Act 2009.

8. CONSULTATION REGARDING MAJOR WORKPLACE CHANGE

8.1. This term applies if:

8.1.1. the employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and

8.1.2. the change is likely to have a significant effect on employees of the enterprise.

8.2. The employer must notify the relevant employees of the decision to introduce the major change.

8.3. The relevant employees may appoint a representative for the purposes of the procedures in this term.

8.4. If:

8.4.1. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

8.4.2. the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

8.5. As soon as practicable after making its decision, the employer must:

8.5.1. discuss with the relevant employees:

(a) the introduction of the change; and

(b) the effect the change is likely to have on the employees; and

(c) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

8.5.2. for the purposes of the discussion -- provide, in writing, to the relevant employees:

(a) all relevant information about the change including the nature of the change proposed; and

(b) information about the expected effects of the change on the employees; and

(c) any other matters likely to affect the employees.

8.6. However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

8.7. The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

- 8.8.** If a term in the enterprise agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in subclauses (2), (3) and (5) are taken not to apply.
- 8.9.** In this term, a major change is **likely to have a significant effect** on employees if it results in:
- 8.9.1.** the termination of the employment of employees; or
 - 8.9.2.** major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - 8.9.3.** the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - 8.9.4.** the alteration of hours of work; or
 - 8.9.5.** the need to retrain employees; or
 - 8.9.6.** the need to relocate employees to another workplace; or
 - 8.9.7.** the restructuring of jobs.
- 8.10.** In this term, **relevant employees** means the employees who may be affected by the major change.

9. DISPUTE RESOLUTION PROCEDURE

The aim of this procedure is to ensure that during the life of the Agreement, industrial grievances or disputes which arise in relation to any matter arising under this Agreement and/or in relation to the NES are prevented or resolved as quickly as possible at the level they occur in the workplace.

When a dispute or grievance arises, the following steps are to be followed

- Step 1** In the event that either the Company or an employee or a group of employees has a grievance then there should be an attempt to resolve the grievance by the employee(s) and a Company representative conferring on the issue. If the matter remains unresolved follow Step 2.
- Step 2** The matter is discussed between the employee(s) involved and a Company representative and, if requested by the employee, another employee from the site nominated by the employee(s) in dispute. An employee who is involved in the dispute is entitled to seek assistance and representation, including from their union, at this stage in the procedure if that request for assistance and representation is specifically made in relation to the particular dispute being dealt with. If the matter remains unresolved - follow Step 3.
- Step 3** The matter is further discussed between the employee(s) and the Company representative and another more senior member of the Management. An employee who is involved in the dispute is entitled to seek assistance and representation,

including from their union, at this stage in the procedure if that request for assistance and representation is specifically made in relation to the particular dispute being dealt with. If the matter remains unresolved - follow Step 4.

Step 4 The matter in dispute shall be referred to the Fair Work Australia ("FWA") to conciliate in relation to the issue. If the issue is not resolved by conciliation, the FWA shall deal with the issue by arbitration and decision, subject to any rights of appeal under the Act, shall be final and shall be accepted by the parties. If arbitration is necessary, the FWA may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective.

Note 1 In order to allow for a peaceful resolution of grievances, the parties shall be committed to avoid stoppages of work, lockouts or any other bans or limitation on the performance of work while the procedures are being followed.

Note 2 The Company shall ensure that all practices applied during the operation of the procedure are in accordance with safe working practices and consistent with established practices at the workplace. Further, where the issue does involve a bona fide safety issue, the employees and the Company shall co-operate to ensure that:-

- All employees are effectively isolated from the safety risk and the normal operations at the site will continue in all other areas or tasks while the issue is resolved;
- That all reasonable steps are taken to correct the safety issue;
- That the parties shall confer as soon as possible about the safety issue in accordance with the above disputes procedure, which will include the observance of Note 2.

Note 3 Notwithstanding anything set out above an employee may personally process an individual grievance in accordance with these procedures.

Representation

A party to the dispute may appoint another person, organisation or association to accompany or represent at any stage of the dispute.

10. TYPES OF EMPLOYMENT

10.1. General

- 10.1.1. Subject to clause 10.1.3, an employee engaged under this Agreement may be engaged as a full time employee, part time employee, fixed term/specific task employee or a casual employee.
- 10.1.2. At the time of engagement the employee will be advised whether he or she is to be engaged as a full time permanent employee, part time permanent employee, fixed term/specific task employee or casual employee and where appropriate, the duration of the engagement and the specific term or task.
- 10.1.3. Each employee shall be subject to a 3-month probation period. During the probation period either the Company or the employee may conclude the employment relationship at the end of any day or shift without further notice.
- 10.1.4. If the Company, during or at the completion of the 3 month probation period, considers the performance of the new employee is not satisfactory for employment in one of the defined types, the appointment shall not be confirmed. Where an appointment is not confirmed there shall be no entitlement to severance payment.

10.2. Full Time Weekly Employee

- 10.2.1. A full time permanent employee is an employee who is engaged to work on a full time basis in accordance with the operating roster and all hours assigned to that employee in the port in which the employee is engaged.
- 10.2.2. Reference to hours and shift work in clause 10.2.1 shall mean that any employee employed under the terms of this Agreement shall (when all leave entitlements of those employees under this Agreement are taken into consideration) only be required to work on average 38 hours per week and reasonable additional hours over any 12 month period of employment.
- 10.2.3. Reasonable additional hours shall mean those hours deemed necessary for the employee to work having regard to the operational requirements of the industry and the employer and other matters deemed reasonable considerations under the operation of the *Fair Work Act 2009 and Regulations*.
- 10.2.4. In circumstances where a full time permanent employee voluntarily works an additional day not rostered in order to cover a vacancy, the employee shall be paid in respect of that day at the rate of 1/7 of 1/52 of the annual salary plus 0.857 of a day's leave.

10.3. Part Time Permanent Employee

- 10.3.1.** A part time permanent employee is an employee who is engaged to work less than the number of weeks worked per annum by a full time permanent employee.
- 10.3.2.** Reference to hours in clause 10.3.1 shall mean the 26 weeks of work required of a full time permanent employee over any 12 month period of employment.
- 10.3.3.** A Part time permanent employee will be paid the proportion of the full time rate of pay that the employee's weeks of employment represent to 26 weeks and will receive the same conditions as full time employees on a proportionate basis to the numbers of weeks worked.
- 10.3.4.** In circumstances where a part time weekly employee voluntarily works an additional day not rostered to cover a vacancy, the employee shall be paid in respect of that day at the rate of 1/7 of 1/52 of the annual salary plus 0.857 of a day's leave.

10.4. Fixed Term/Specific Task Employee

- 10.4.1.** An employee engaged for a fixed term or a specific task is an employee who works on either a full time or part time basis, but is engaged for a fixed term or to perform a specific task.
- 10.4.2.** Engagement of an employee on a Fixed Term/ specific task shall be agreed upon between the parties in writing either prior to or at the time of the commencement of the employee's employment.
- 10.4.3.** Subject to the terms of this Agreement, a Fixed Term/ specific task employee shall be entitled to the same rates of pay and conditions of employment as those enjoyed by other full time or part time employees employed under the same classification of labour on a pro rata basis relative to the period of the project/number of hours worked.
- 10.4.4.** The employee's employment will cease at the conclusion of the specified project or fixed term without any duty on either party to give notice of termination or to forfeit or pay any amount in lieu of notice.

10.5. The following clauses shall not apply to a Fixed Term/Specific Task employee:

- (a)** Termination of employment
- (b)** Redundancy
- (c)** Bonus Payments.

10.6. Casual Employee

10.6.1. A casual employee is an employee engaged and paid as such.

10.6.2. Prior to the commencement of employment, the Company and the employee shall agree in writing upon the rate at which the Casual employee shall be paid. The employee shall either:

- (i) Be paid by the day at the rate of 1/7 of 1/52 of the annual salary , plus a casual loading of 85.7% to cover all leave entitlement, penalty rates and statutory casual loading;

OR

- (ii) \$155.00 per completed job notwithstanding the total hours taken to complete the job (This payment option shall typically only be available where the employee is engaged to perform work for short periods of time or for a number of specific tug jobs).

10.6.3. The following clauses shall not apply to a casual employee:

- (a) Termination of employment
- (b) Personal Leave (except for unpaid carers leave as prescribed)
- (c) Redundancy

10.6.4. A casual employee's contract of employment may be terminated at any time by either the employee or the employer giving a period of one hours notice or payment in lieu of such notice.

10.6.5. A Casual employee shall be engaged to work for single periods which will not be less than one day duration. For the purposes of this clause, "one day" means 24 hours from the start time notified.

11. TERMINATION OF EMPLOYMENT

11.1. This clause shall not apply to casual, fixed term or specific project employees.

11.2. Subject to the probationary employment provisions of subclause 10.1.3, the Company may terminate the employee's employment by giving the employee notice of termination or by payment in lieu of such notice or by a combination of notice and pay in lieu in accordance with the following scale:

Period of continuous service	Period of notice
1 year or less	1 week
1 year and up to the completion of 3 years	2 weeks
3 years and up to the completion of 5 years	3 weeks
5 years and over	4 weeks

11.3. In addition to the above notice, an employee over 45 years of age with two or more year's service shall be entitled to an additional week's notice.

11.4. The Employee may terminate his/her employment by giving the Company the same notice as that required of the employer, save and except that there shall be no requirement for additional notice as set out in 11.3, based on the age of the employee.

11.5. The employee's employment may be terminated by the Company at any time without notice due to serious misconduct on the part of the employee and in such circumstances the employee shall be entitled to payment of wages up until the time of dismissal only.

11.6. Where the employee terminates his/her employment and does not give the Company the whole of the prescribed period of notice, the wage value of the balance of the notice due may be deducted by the Company from any monies due to the employee on termination, unless otherwise prohibited by a relevant statute.

12. OPERATING ARRANGEMENTS - HOURS AND DUTIES

12.1. This clause shall be read in conjunction with clause 16.

12.2. Tugs will be fully operational on the following basis:

12.2.1. The ordinary hours of duty shall be from 8.30am to 12.00 noon, Monday to Friday inclusive; however, at other times the employer shall have the right to require employees to work as directed for call-outs, berthing, mooring, unmooring or associated duties without additional payment.

12.2.2. From time to time the master, engineer or fleet manager may request that the crew work past 12.00 noon to complete maintenance without additional payments. If the crew work past 16.00 hours, then the emergency maintenance payments will be paid from 16.00 hours onwards.

12.2.3. Towage operations will be carried out on a 24 hour basis, which will be 7 days per week and 365 days per year.

12.2.4. The roster will operate as per the following: 6 weeks on duty, then 6 weeks off on leave. However the crew returning from leave will attend the tug 1 day before starting their 6 weeks on duty, for a 2 hour handover from the crew about to commence their 6 weeks off on leave.

12.3. For the purpose of this clause a day means 24 hours from midnight to midnight.

12.4. An employee shall carry out such duties and shall work such hours in excess of or outside rostered hours of duty as may reasonably be required to be worked to enable the tugs to be operated. This clause shall be enforceable to the extent allowable by the *Fair Work Act 2009 and Regulations*.

12.5. All employees will participate in the achievement of the maintenance programme and related schedules as necessary.

12.6. Resumption of Duty

There shall be a break of not less than ten hours between cessation of duty one day and commencement of duty on the next.

12.7. Transport during dry-docking other than in Darwin

The employer shall provide a taxi or transport for those employees who, for the purpose of performance of their duties, travel to and from their place of accommodation (arranged by the employer) and the dock. If a taxi is not provided, the employee shall be reimbursed the amount actually expended by the employee as taxi fare for travel as aforesaid.

12.8. Avoidance of Physical Exhaustion

12.8.1. No employee shall be required to be continuously on duty for more than fourteen (14) hours.

12.8.2. Continuous duty for the purposes of this clause is not broken by meal breaks.

12.8.3. The employees shall not be recalled to work after the cessation of continuous duty on any day except in the case of emergency.

12.8.4. Where an employee has been continuously on duty for fourteen hours, he/she shall not be required for further duty, unless he/she has had for the purpose of rest, a period of ten consecutive hours, inclusive of meal breaks, off duty.

12.8.5. Notwithstanding the provisions of sub-clause 12.8.1 above, when the exigencies of the service require it, and an employee continues on duty after fourteen hours without a 4 hour break during his/her shift, he/she shall be paid a penalty payment of \$39.00 for each hour or part thereof in excess of fourteen hours continuous duty.

12.9. Call Back

12.9.1. Notwithstanding the provisions of sub-clause 12.8.1 above when the exigencies of the service require it, and an employee is recalled to work from home and his/her total hours of duty for that day are in excess of fourteen hours, he/she shall be paid a penalty payment of \$39.00 for each hour or part thereof in excess of fourteen hours.

12.10. Meal Breaks

- 12.10.1.** The employee shall be allowed 60 consecutive minutes off duty after five hours continuous work.
- 12.10.2.** An employee shall be entitled to leave the tug for the duration of the meal hour.
- 12.10.3.** Where an employee is required to commence work before 6am and continues to work past 8.30am, Monday to Friday, the employee shall be entitled to 20 minutes for breakfast during working hours.

13. SALARY

13.1. Salaries

- 13.1.1.** Payment of the following salary shall take effect on and from the first full pay period on or after the date of approval of this Agreement by FWA.
- 13.1.2.** The amounts payable to an employee pursuant to this clause shall constitute the whole of an employee's remuneration, and take account of all aspects and conditions of employment unless otherwise expressly provided for in this Agreement.
- 13.1.3.** The salary for the term of the Agreement will be:

Date:	Annual Wage
27 th January 2009	\$80,652.75
27 th January 2010	\$84,685.50
27 th January 2011	\$88,919.75
27 th January 2012	\$93,365.75

13.1.4. The following allowances are incorporated into the above mentioned salaries in 13.1.3:

Date as of:	27/01/10	27/01/11	27/01/12
(a) Meals	\$25.26	\$26.53	\$27.85
(b) Travel/Car	\$92.06	\$96.66	\$101.50

13.2. Payment of Salary

13.2.1. An employee shall be paid weekly by means of an Electronic Funds Transfer (EFT) into an account nominated by the employee.

13.2.2. A pay slip shall be provided to the employee in accordance with the provisions of the *Fair Work Act 2009 and Regulations*.

14. ALLOWANCES

14.1. Payment of the following allowances shall take effect on and from the first full pay period on or after the date of approval of this Agreement with the FWA.

14.2. Casuals

14.2.1. A casual employee will not receive any other entitlements, including allowances.

14.3. Airfares

14.3.1. Employees engaged before the 1st January 2000 who, under previous Agreements, when taking annual leave were entitled to receive a sum equal to two adult economy return airfares Darwin to Sydney as an allowance to compensate for traveling expenses incurred associated with annual leave, will now receive this entitlement as two adult economy return airfare tickets per year (non accumulative), Darwin to Sydney, booked with the airline by the Company. Except in the case of an emergency, the employee will provide the Company with at least 4 weeks notice of the travel dates required by the employee.

14.4. Emergency Maintenance

14.4.1. When requested by the Company, an employee will carry out emergency maintenance in order to maintain the operational readiness of the tugs. Emergency maintenance is defined as breakdown maintenance.

14.4.2. Where an employee who is rostered on a primary shift and is required to perform maintenance outside the duration of that employees rostered shift, the employee shall receive \$43.50 per hour.

14.4.3. Where an employee who is rostered on the secondary shift carries out emergency maintenance outside 0800 to 1600 hours Monday to Friday, exclusive of public holidays, the employee shall receive \$43.50 per hour:

14.5. Cyclones

An additional payment of double time of the master's hourly rate for standing by or operating the tug during a cyclone or cyclone alert, provided that such payment shall only be made from the time of first arriving on board the tug.

14.6. Telephone Allowance

The company has introduced company issued mobile phones with an allowance of \$20.00 per month for General Purpose Hands to cover business calls. Monthly Call costs exceeding the \$20.00 allowance shall be payable by the employee. The Company shall no longer pay the employee's home phone costs.

15. SUPERANNUATION

15.1. General

15.1.1. From the first pay period commencing on or after, the approval of this Agreement, monthly contributions equivalent to 14.5% of 1/12th of the employee's annual salary as prescribed by clause 12 will be made by the Company to a complying superannuation fund. These contributions will be remitted to the fund within 14 days of the end of each month.

15.1.2. The contributions prescribed by 15.1.1 shall not apply to Part Time and Casual employees. Part Time and Casual employees shall receive, commencing on or after the date of approval of this Agreement, monthly contributions equivalent to 14.5% of the employee salary as prescribed by clause 12 contributed to a complying superannuation fund. These contributions will be remitted to the fund within 14 days of the end of each month.

15.1.3. An employee may choose a complying Superannuation Fund into which the Company shall pay the employee's monthly contributions.

15.1.4. An employee shall not be able to change their choice of Superannuation fund any more than once every 12 months.

15.2. Salary Sacrifice for Superannuation

15.2.1. Where an employee provides a written request, the company shall facilitate a scheme that permits an employee to sacrifice a proportion of salary (subject to the limits set by the Australian Tax Office), and permit the Company to make contributions in respect of the employee to a Superannuation Fund of that amount.

15.2.2. Upon such an agreement being entered into, the employee's salary under Clause 13.1.3 shall be reduced by the amount of salary sacrifice specified in the agreement.

15.2.3. Any party may cancel an election made under this sub-clause in the event that changes in taxation law or ruling materially alter the benefit to the employee or the cost to the Company of the salary sacrifice arrangement.

15.2.4. Implementation of the above arrangements are subject to the Trust Deed of the Superannuation Fund.

15.2.5. The salary set out in Clause 13.1.3 is the deemed wage for the purpose of determining an employee's superannuation entitlements.

16. PREDICTABLE LEAVE

16.1. The Roster provides for annual leave and all leave and holiday entitlements (other than long service leave). The roster shall operate so as to provide in any 12 month period, 182.5 intervals of duty and 182.5 intervals of leave.

16.2. The Roster and predictable leave shall be granted and work in accordance with the provisions of clause 12.2.4.

16.3. For the purpose of this clause, a day's pay shall be $1/7^{\text{th}}$ of $1/52^{\text{nd}}$ of the annual salary.

16.4. Because the Roster provides more than the 168 days free of duty per annum, the parties agree and understand that, notwithstanding the entitlement to 182.5 days leave prescribed by 16.1, should a new roster be introduced in Darwin that does not provide for more than 168 days free of duty per annum (due to the introduction of a fourth crew or new tug or other similar reason), employees shall not receive any additional remuneration or compensation or any additional accrual of leave.

17. ANNUAL LEAVE

17.1. Weekly Employees

17.1.1. A Full Time Weekly employee's entitlement to Annual Leave (4 weeks) is included in the employee's entitlement to predictable leave as prescribed by 16.1.

17.2. Casual Employees

17.2.1. A Casual employee's entitlement to Annual leave is included in the employee's entitlement to payment in lieu of leave as prescribed by 10.6.2.

18. PERSONAL LEAVE

- 18.1.** The employee will be entitled to fifteen (15) days Personal Leave (which includes Sick Leave/Carers Leave) each year without loss of pay in accordance with the *Fair Work Act 2009*.
- 18.2.** For the purpose of this clause an employee shall be deemed to have served continuously for the aggregate of the employee's services although such service has been interrupted temporarily by transfer to some other work of the Company or by suspension or breakdown of machinery or plant or by any period of leave of absence on account of holidays or sickness to which the employee is entitled under this Agreement or by leave granted by the Company.
- 18.3.** For the purpose of this clause, service shall include service before the commencement of this Agreement as well as service thereafter.

19. COMPASSIONATE LEAVE

- 19.1.** Subject to the provisions of the *Fair Work Act 2009*, Compassionate Leave is paid leave taken by an employee:
- 19.1.1.** for the purposes of spending time with a person who:
- (i) is a member of the employees immediate family or a member of the employees household; and
 - (ii) has a personal illness or injury, that poses a serious threat to his or her life; or
- 19.1.2.** after the death of a member of the employee's immediate family or a member of the employee's household.
- 19.2.** A employee shall be entitled to a period of 2 days compassionate leave for each permissible occasion that a member of the employee's immediate family or a member of the employee's household either:-
- (i) contracts or develops a personal illness that poses a serious threat to his or her life; or
 - (ii) sustains a personal injury that poses a serious threat to his or her life; or
 - (iii) dies.
- 19.3.** Evidence of such serious illness, serious injury or death shall be furnished by the employee to the satisfaction of the employer in order for compassionate leave to be taken.
- 19.4.** This clause shall have no operation where an entitlement to compassionate leave coincides with any other period of paid absence.

20. PARENTAL LEAVE

Parental Leave shall be provided in accordance with Chapter 2 of Part 2-2, Division 5 of the *Fair Work Act 2009*.

21. PUBLIC HOLIDAYS

21.1. Subject to the provisions of the *Fair Work Act 2009*, the Company may require an employee to work on any public holiday and the aggregate wage payable to an employee and the amount of leave entitlements accrued under this Agreement take into account and compensate the employee for both work performed on public holidays and for those public holidays that fall during periods of leave.

22. RECRUITMENT

22.1. Prior to appointment, successful applicants for weekly employment will undergo a medical examination including hearing assessment. Appointment shall be subject to the medical assessment indicating that the Applicant is fit for work on a Tug. Such medical examinations shall be provided by the Company's medical adviser. Medical examinations will thereafter be provided on a two yearly basis.

22.2. Fixed term/Specific task and casual employees will also undertake the same medical examination prescribed in 22.1 by the Company's medical adviser prior to initial engagement. Thereafter a two yearly medical examination will apply.

22.3. Where the Company needs to recruit new General Purpose Ratings, it:

22.3.1. May advertise the position and shall advise all existing employees.

22.3.2. Where prudent, the Company may choose to source applicants from the Seafarers Engagement Centre;

22.3.3. Screen and interview applicants. (A permanent general purpose hand may be involved in the interview.)

22.3.4. Check references and medical fitness for the position.

22.3.5. Be solely responsible for the selection of the employee.

22.3.6. Select employees on the basis of merit.

23. CREWING AND EMPLOYMENT

23.1. Existing practices as to the crewing on tugs at Darwin shall continue to apply for the duration of the Agreement.

23.2. To meet operational requirements, the Parties agree the Company shall:

23.2.1. utilise suitably qualified and accredited casuals when required, or

23.2.2. utilise available voluntary permanent Darwin employees.

24. SAFETY

24.1. The Parties agree to the following:

24.1.1. Develop the Company Safety System;

24.1.2. All employees, (i.e. existing, new and casuals), to complete an accredited safety induction program;

24.1.3. Continued participation in the O H & S Port Safety Committee;

24.1.4. Implementation of regular safety audits with published results;

24.1.5. To maintain the highest standards of safety; and

24.1.6. Regular published recording of safety performance.

The Parties agree to commence immediate implementation of these arrangements.

24.2. Industrial and Protective Clothing/Safety Equipment

24.2.1. The following protective and industrial clothing and footwear suitable for employees will be supplied by the company free of cost in accordance with the scale of issue set out hereunder. Such clothing will have a company logo displayed and will be replaced on a fair wear and tear basis.

(a) 4 Shorts – Navy Blue drill

(b) 4 Shirts – Navy Blue drill

(c) 2 White Boilersuits - (cotton/tropical) in lieu of (a) and (b) above

(d) 1 pair of Safety Shoes

(e) 1 sun Hat

(f) 1 Safety Helmet

24.2.2. Each employee shall be provided with wet weather clothing consisting of a three-quarter-length coat, trousers and calf-length rubber boots for his/her own use free of cost.

24.2.3. Each employee shall be solely responsible for the safekeeping on board the tug of

each article supplied for his/her personal use.

24.2.4. Sun screen cream will be provided for all employees.

24.2.5. The Company shall be obliged to replace any of the above items if the employee satisfies the employer that the article concerned has been destroyed or rendered unusable without the fault and/or neglect of the employee in the course of carrying out their duties; or that the item concerned was damaged and/or stolen without the fault and/or neglect of the employees whilst aboard the tug or that the employee has outgrown the article concerned and that it is unsuitable for proper use by him/her.

24.3. Clip-ons will be supplied where requested. Where an employee uses prescription sunglasses, the Company will upon production of a receipt, reimburse that employee up to \$200.00 per year. Employees may also purchase their sunglasses directly and be reimbursed by the Company, up to \$63.00 per year.

24.4. All employees, when at work and required by this Agreement and Safety Committee, are to wear safety clothing, footwear and equipment as provided by the Company.

25. COMPENSATION FOR PERSONAL EFFECTS LOST

25.1. If by fire, explosion, foundering, shipwreck, collision or stranding, an employee should sustain damage to or loss of his personal effects or equipment, the employer shall compensate him for such damage or loss by a payment equivalent to the value thereof to a maximum of \$2750.

25.2. The maximum payable for any one article is limited to \$785.00.

26. COMPENSATION FOR ACCIDENTS-ACCIDENT MAKE UP

26.1. The Company shall pay and an employee shall be entitled to receive accident pay in accordance with this clause.

26.2. "Accident make-up" pay means either:

26.2.1. a weekly payment of an amount being the difference between the weekly amount of compensation paid to an employee and the weekly salary to which such employee is entitled in the classification under which they are employed at the date of injury; or,

26.2.2. where the incapacity caused by the injury is for a lesser period than one week, it shall mean the difference between the amount of compensation and the said Agreement rate for that period.

26.3. The Company shall pay the employee accident make up pay where the employee receives an injury for which compensation is payable by or on behalf of the Company pursuant to the provisions of the:

26.3.1. *Workplace Health & Safety Act 2007 (NT);*

26.3.2. *Workers Rehabilitation & Compensation Act 2008 (NT)*

- 26.4.** The Company shall pay accident make up pay during the incapacity of the employee within the meaning of the said Act until such incapacity ceases, or until the expiration of the period of 52 weeks from the date of injury, whichever event shall occur first.
- 26.5.** The termination of the employee's employment for any reason during the period of the incapacity shall in no way affect the liability of the Company to pay accident pay as herein before provided.
- 26.6.** An employee shall not be entitled to any payment under this clause in respect of any period of paid annual leave or long service leave, or for any paid public holiday.
- 26.7.** In the event that an employee received a lump sum in redemption of weekly payment under the said Act, the liability of the Company to pay accident pay as herein provided shall cease from the date of such redemption.
- 26.8.** Where the employee recovers damages from the Company or from a third party in respect of the said injury, independently of the said Act, the employee shall be liable to repay to the Company the amount of accident pay which the Company has paid under this clause and the employee shall not be entitled to any further accident pay thereafter.
- 26.9.** The Company will provide equivalent insurance cover if the Territory Workers' Compensation scheme no longer provides cover for accidents occurring during an employee's direct journey between his/her place of employment and home, and vice versa.

27. OUTSIDE WORK

27.1. Definitions

For the purposes of this clause:

27.1.1. 'Outside work' means work on a tug which proceeds to sea on a special voyage outside the limits of bays, rivers or regulated port boundaries/limits.

27.2. Detailed hereunder are current outside rates payable:

OUTSIDE WORK:		
Type:	Rating:	From the date of Lodgment of this Agreement
Free running and delivery	General Purpose Hand	\$394.00 per day
Contract Towing	General Purpose Hand	\$543.00 per day
Emergency Towing	General Purpose Hand	\$692.00 per day

- 27.3.** The amount contained in table 27.2 will only be payable from the time that the tug leaves the wharf to proceed on any special voyage and until the tug ties up at the wharf following the termination of such special voyage.
- 27.4.** The amount contained in table 27.2 are all inclusive and are the total amount payable to an employee for outside work performed in the first 24 hours or part thereof. If a voyage exceeds 24 hours, the employee will be entitled to 8 hours pay, at the hourly rate, (the rate for outside work divided by 24) for each period or part period of 8 hours worked.
- 27.5.** Leave shall accrue and be payable at the Darwin port leave accrual and salary rate as prescribed by this Agreement.
- 27.6.** Casual employees engaged for any special voyage shall accrue leave as prescribed in subclause 27.5.

28. VICTUALLING AND ACCOMMODATION ALLOWANCE IN OUTPORTS

- 28.1.** An employee required by the Company to take a meal or meals ashore or to sleep ashore whilst in a port other than the port at which the employee is customarily employed, shall be entitled to be paid therefore at the following respective rates:

Breakfast	\$15.00
Lunch	\$17.25
Dinner	\$27.60
Accommodation (per day)	\$73.60
Total daily allowance for victualling and Accommodation	\$133.45

- 28.1.1.** Provided that an employee shall only be entitled to the accommodation allowance if:

- (i) the place at which the employee sleeps is not the usual place of residence; and
- (ii) the employee produces evidence to the reasonable satisfaction of the Company that the employee has properly incurred expenditure on the provision of accommodation for the night or nights in question.

- 28.1.2.** Notwithstanding the provision for the payment of victualling and accommodation allowances as set out in this Clause, alternative arrangements may be agreed by Company.

29. TRAVELLING

- 29.1.** In conjunction with the traveling provisions set out below, no deduction shall be made from the pay of any employee in respect of any time spent on work-related travel.
- 29.2.** Every employee shall be entitled to free passage by such appropriate means of transit as the Company may select and to the employee's reasonable traveling expenses in the following cases:
- (i) in the case of traveling for the purpose of the Company,
 - (ii) in the case of traveling to and from the home port incidental to the taking of leave of absence;
 - (iii) in the case of service beginning or ending elsewhere than at the home port, excepting where an employee is dismissed for misconduct or chooses to terminate employment elsewhere, or in cases where the tug is trading to the employee's home port or where an employee having given such notice seeks and is refused permission to extend such notice until the vessel's arrival at the employee's home port.
- 29.3.** The free passage, if by air in Australia is to be in a commercial aircraft, economy class if available.

30. RECORDS

- 30.1.** The Company shall keep or cause to be kept a record or records in accordance with the *Fair Work Act 2009* and *Fair Work Regulations 2009*.
- 30.2.** Such records shall be open to inspection by an employee in accordance with the provisions of the *Fair Work Act 2009* and *Fair Work Regulations 2009*.

31. REDUNDANCY

- 31.1.** Redundancy provisions of this Agreement apply only to those employees who are made redundant during the life of this Agreement and who have been employed by the Company for more than twelve months.
- 31.2.** The provisions of this clause shall, where possible, be read in conjunction with the terms of NES under the *Fair Work Act*. Where any inconsistency arises, the provisions of this clause shall take precedence to the extent of the inconsistency.
- 31.3.** Selection
- 31.3.1.** When redundancies are to occur, the company will advise all employees of the competencies, skills, experience, training and performance levels required by the Company to maintain the most effective workforce to meet the current and

expected future operational requirements of the business.

31.3.2. After advising the employees of the Company's expected future needs 31.3.1, the Company, will then identify the position(s) and employees holding those positions that are to be made redundant within a section or department and the associated classification level(s). The employees working in identified positions shall be known as the "affected employees".

31.3.3. The "affected employees" shall be comprised of those employees which the Company identifies as not meeting the current and expected future operational requirements of the business and those which do not possess the level of competencies, skills, experience, training and performance levels required by the Company to allow the Company to maintain the most effective workforce.

31.3.4. Expressions of interest for voluntary redundancies will be sought from the affected employees.

31.3.5. The Company will select the employees that are no longer required from the volunteers.

31.3.6. In the event that there are not sufficient volunteers and where all things are equal, forced redundancies will take place on a last on first off basis. This is subject to the competencies, skills, experience, training and performance levels required by the Company to allow the Company to maintain the most effective workforce.

31.4. Severance Pay –

31.4.1. A weekly employee who is made redundant will be eligible, in addition to the notice requirements of clause 11, to a severance payment in accordance with the following table:

Period of continuous service	Employee entitlement
0 - 15years	4 weeks' pay per year of Company service
16- 25 years	3 weeks' pay per year of Company service
26 -30 years	2 weeks' pay per year of Company service
31 years and over	1 weeks' pay per year of Company service

31.4.2. The expression "weeks' pay" specified in clause 31.4.1 means the ordinary weekly rate of pay for the employee not including any allowances or overtime.

31.5. Suitable Alternate Employment

An employee is not entitled to any severance payments where the Company finds suitable alternate employment for an employee who would have otherwise been made redundant.

31.6. Transmission of Business

The parties agree that the provisions of this clause shall not apply to an employee whose employment service is continuous in accordance with the transfer of business provisions set out in the *Fair Work Act 2009*.

31.7. Retraining Payment

Where an employee is made redundant in accordance with the provision of this clause 31, and the redundant employee completes a training course/program in order to find other suitable employment, the employee shall upon production of a receipt for payment of such a training course/program, be reimbursed the cost of his/her training up to a maximum of \$2000.00.

32. FLEXIBILITY

32.1. The Company and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:

32.1.1. The Agreement deals with one or more of the following matters:

- (i) arrangements for when work is performed;
- (ii) overtime rates;
- (iii) penalty rates;
- (iv) allowances;
- (v) leave loading; and

32.1.2. the arrangements meets the genuine needs of the Company and the employee in relation to one or more of the matters mentioned in clause 32.1.1; and

32.1.3. the arrangement is genuinely agreed to by the Company and the employee.

32.2. The Company must ensure that the terms of the individual flexibility arrangement:

- (i) Is about permitted matters under section 172 of the Fair Work Act 2009; and
- (ii) Are not unlawful terms under section 194 of the Fair Work Act 2009; and
- (iii) Result in the employee being better off overall than the employee would be if no arrangement was made.

32.3. The individual flexibility arrangement between the Company and the individual employee must:

32.3.1. be in writing,

32.3.2. name the Company and the employee;

32.3.3. be signed by the Company and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;

32.3.4. include details of:

- (i) the terms of the Enterprise Agreement that will be varied by the arrangement;
- (ii) how the arrangement will vary the effect of the terms; and
- (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- (iv) states the date the arrangement commences to operate.

32.4. The Company must give the individual employee a copy of the arrangement within 14 days after it is agreed to.

32.5. The Company or the individual employee may terminate the individual flexibility arrangement :

32.5.1. By giving no more than 28 days written notice to the other party to the arrangement; or

32.5.2. If the Company and the employee agree in writing - at any time.

33. FAIR WORK INFORMATION STATEMENT

Upon the commencement of employment, each employee will be issued with a copy of the Fair Work Information Statement issued by the Fair Work Ombudsman.

34. REVIEW OF THE AGREEMENT

The Parties will commence discussions to review the operation of the agreement within six months prior to the expiry date of this Agreement.

35. NO EXTRA CLAIMS

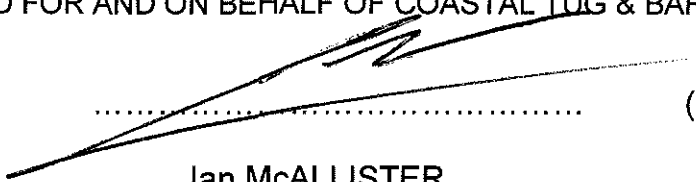
Unless provided for under this Agreement, there shall be no extra claims by the Union or the employees in respect of Salaries, Allowances or any other condition of employment for the life of this Agreement.

36. ENDORSEMENT OF AGREEMENT

The parties agree to accept and endorse the terms contained herein and confirm and state that either party has not, either directly or indirectly, pressured or coerced the other party into execution of the Agreement. In addition, either party has not, either directly or indirectly, pressured or coerced the other about the contents or form of this Agreement.

The signatories below accept the terms of the Agreement on behalf of their organisations and endorse its terms.

SIGNED FOR AND ON BEHALF OF COASTAL TUG & BARGE PTY LTD)


..... (Signature)

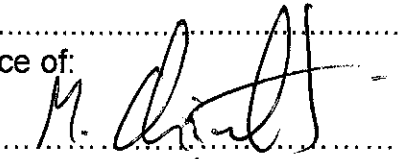
Ian McALLISTER
General Manager
COASTAL TUG & BARGE PTY LTD

Address:

The above person is authorised to sign the Agreement on behalf of the company for the following reason/s:

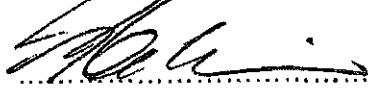
..... GENERAL MANAGER FOR COASTAL TUGS & BARGE PTY LTD

In the presence of:


..... (Signature)

Maurice Chiarella
..... (Name/Title)
Financial Accountant

SIGNED FOR AND ON BEHALF OF THE MARITIME UNION OF AUSTRALIA (MUA)



(Signature)

**MARITIME UNION OF AUST.
LEVEL 2
365-375 SUSSEX STREET
SYDNEY NSW 2000
AUSTRALIA**

..... Paddy Crumlin
National Secretary

(Name)

(Position)

Address:

The above person is authorised to sign the Agreement on behalf of the Union for the following reason/s:

National Secretary MUA Rules 32(a) + (b); 15 (b) + (c) + (vi)

In the presence of:



(Signature)

**MARITIME UNION OF AUST.
LEVEL 2
365-375 SUSSEX STREET
SYDNEY NSW 2000
AUSTRALIA**

..... Christopher Ryan (Legal
Officer)

(Name/Title)