



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Adept Plant Hire Pty Ltd
(AG2020/738)

ADEPT PLANT HIRE PTY LTD ENTERPRISE AGREEMENT 2020

Building, metal and civil construction industries

DEPUTY PRESIDENT BOYCE

SYDNEY, 7 MAY 2020

Application for approval of the Adept Plant Hire Pty Ltd Enterprise Agreement 2020.

[1] An application has been made for approval of an enterprise agreement to be known as the *Adept Plant Hire Pty Ltd Enterprise Agreement 2020* (**Agreement**). The application was made pursuant to s.185 of the *Fair Work Act 2009* (**Act**). It has been made by Adept Plant Hire Pty Ltd (**Employer**). The Agreement is a single enterprise agreement.

Application brought out of time

[2] I note that the Agreement was made on 28 February 2020, but was filed for approval with the Fair Work Commission on 17 March 2020. Observing that s.185(3)(a) of the Act imposes a 14-day time limit to bring an application of this kind (and that the time is measured by reference to the day an agreement is made), the Applicant has brought this application four days out of time.

[3] Despite the Applicant's non-compliance in this regard, I find that it is fair to extend the period for making the application by four days. I do so in reliance of the power afforded to me by s.185(3)(b) of the Act, and having had regard to all of the circumstances (namely, that the delay is of a short duration, and has not caused prejudice to any employees seeking to be covered by the Agreement).

Undertakings

[4] The Employer has provided written undertakings dated 28 April 2020. Those undertakings are attached at **Annexure A** to this decision and become terms of the Agreement. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement (as compared to the relevant provisions of the *Building and Construction General On-site Award 2010*), and that the undertakings will not result in substantial changes to the Agreement.

Conclusion

[5] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 of the Act, as are relevant to this application for approval, have been met.

[6] I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[7] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 14 May 2020. The nominal expiry date of the Agreement is 31 January 2024.



DEPUTY PRESIDENT

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2020/738

Applicant:

Adept Plant Hire Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Kevin Jones, Director for Adept Plant Hire Pty Ltd give the following undertakings with respect to the *Adept Plant Hire Pty Ltd Enterprise Agreement 2020* ("the Agreement").

I have the authority given to me by Adept Plant Hire Pty Ltd to provide this undertaking in relation to the application before the Fair Work Commission.

1. Clause 5.1.2 – Engagement

The Applicant undertakes to apply the following in addition to Clause 5.1.2 – Engagement:

All hours worked in excess of a part-time employee's agreed weekly or daily hours shall be paid at the applicable overtime rates in Clause 7.2.1.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

Date: 28 April 2020

**Adept Plant Hire Pty Ltd
Enterprise Agreement 2020**

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.

1. Parties to the agreement

The parties to the agreement will be as follows:

- Adept Plant Hire Pty Ltd (the Employer); and
- The employees of Adept Plant Hire Pty Ltd engaged in the classifications contained herein.

2. Application of Agreement

This agreement will apply to the employer and to their employees in the performance of all work in or in connection with employer's business in civil construction, earthmoving, plant hire and related works.

Civil construction works shall include, but not restricted, to the construction, alteration, installation, and maintenance of;

- Water supply and sewerage
- Roads, bridges and wharves
- Dams
- Railways
- Subdivisions and site development work.
- Earthworks and land clearing
- Civil Engineering Infrastructure projects

3. Duration of Agreement

The agreement shall apply from seven (7) days after the date of lodgement with the Fair Work Commission until 31 January 2024.

4. Purpose of Agreement

The purpose of the Agreement is to provide comprehensively the wages and conditions of employment for the work performed described herein. The Agreement is a stand-alone document and applies to the exclusion of the *Building and Construction General On-site Award 2010*, except as provided by specific reference in this Agreement.

This agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

5. Contract of Employment

5.1. Engagement

The employment shall be either full time, part-time or casual. The employee will be notified at the time of engagement of the employment status.

5.1.1. A full-time employee shall mean an employee engaged for 38 hours per week.

5.1.2. Part-time employees shall be entitled to the same entitlements of a full-time employee on

a pro-rata basis. Part-time employees shall be engaged on a regular basis of less than 38 hours per week.

Before commencing a period of part-time employment, the employee and Employer will agree in writing:

- That the employee may work part-time;
- Upon the hours to be worked by the employee, the days upon which the hours will be worked and commencing times for the work;
- Upon the classification applying to the work to be performed; and
- Upon the period of part-time employment.

5.1.3. Casual employees meaning employees engaged as such will receive the rates prescribed in Clause 6.1 as their ordinary rate. This rate includes a loading of 25% to compensate for all special skills and/or disabilities and/or special rates, annual leave, sick leave, notice, redundancy and any other full-time entitlements that do not apply to casuals. A casual employee shall be entitled to payment for a minimum of four (4) hours' work per engagement. There shall be no restriction on the engagement or tenure of casual employees.

All permanent employees will be subject to a 6-month probation period.

Employees shall be multi-skilled and work in a completely flexible workplace not only to increase productivity but also to provide employees with more satisfying and challenging jobs and enhance their career growth opportunities. All employees will be required to perform a diverse range of functions including but not restricted to construction, fabrication, manufacturing, technical, services and general support

There shall be no demarcation or restrictions between functions or organisational status including between traditional crafts, occupations, or vocations or callings.

An employee may be required to, and shall perform, any function providing the employee has the required expertise to safely discharge the requisite and provided that, such functions shall be subject to safe, legal and practical work practices.

The level of flexibility and skill is comprehended in the wage rates for each classification.

5.2. Casual Conversion

5.2.1. A casual employee, other than an irregular casual employee, who has been engaged by the Employer for a sequence of periods of employment under this Agreement during a period of 12 months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment if the employment is to continue beyond the conversion process.

5.2.2. An irregular casual employee is one who has been engaged to perform work on an occasional or non-systematic or irregular basis.

5.2.3. The Employer shall provide an eligible employee notice in writing of the provisions of Clause 5.2 within four weeks of the employee having attained such period of 12 months. The employee retains their right of election under Clause 5.2 if the employer fails to

comply with the clause.

- 5.2.4. Any such casual employee who does not within four weeks of receiving written notice elect to convert their contract of employment to full-time or part-time employment is deemed to have elected against any such conversion.
- 5.2.5. Any casual employee who has a right to elect under Clause 5.2, on receiving notice or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the Employer that they seek to elect to convert their contract of employment to full-time or part-time employment, and within four weeks of receiving such notice the Employer must consent to or refuse the election but must not unreasonably refuse.

5.3. Termination

A permanent employee's termination shall be in accordance with the provisions of the *Building and Construction General On-site Award 2010*. The period of notice to be given (or be paid in lieu) by the Employer shall be as follows:

Where the employee's period of continuous service with that employer is:	The period of notice is:
Up to 1 year	1 week
1 year or more but less than 3 years	2 weeks
3 years or more but less than 5 years	3 weeks
5 years or more	4 weeks

This period of notice shall be increased by one week where the employee is over 45 years of age and has completed two years of continuous service with the employer.

The period of notice to be given by the employee shall be the same as the Employer except for the additional notice for being over 45, in accordance with the *Building and Construction General On-site Award 2010*.

Payment in lieu of notice shall be made if the appropriate notice period is not given. The employment may be terminated by part of the period of notice and part payment in lieu. Payment in lieu of notice shall be at the employee's ordinary weekly wage for the ordinary hours not worked by the employee during the period of notice. Nothing in this clause shall affect the right of the employer to summarily dismiss an employee for conduct that justifies this action.

5.4. Redundancy

Redundancy shall be in accordance with the National Employment Standards and the *Fair Work Act 2009* (Cth).

The liability for payments arising in terms of this clause on the Employer can be offset or partially offset by any payments made on behalf of an employee to a recognised redundancy fund.

5.5. Safety

It is a requirement to wear and maintain personnel protective equipment and safety equipment whilst in areas requiring such equipment.

5.6. Drug and Alcohol Testing

The employer has a drug and alcohol policy including random testing. The Policy may be invoked during the life of the agreement.

5.7. Consultation

The Parties to the Agreement will be bound by the Consultation Term in Schedule 1.

5.8. Flexibility

The Parties to the Agreement will be bound by the Flexibility Term in Schedule 2.

6. CLASSIFICATION AND WAGE RATES.

6.1. Classification Structure and Wage Rates

The wage rates for each classification are as prescribed below. The rates compensate for all special skills and/or disabilities and/or special rates, including annual leave loading associated with the industry of the employer. (Rates are given per hour for ordinary hours of work).

Classification	Permanent Wage Rate – Per Hour	Casual Wage Rate – Per Hour
Labourer	\$26.00	\$30.99
Skilled Labourer	\$28.00	\$33.37
Experienced Earthmoving Plant Operator (e.g. Grader, Scraper, Excavator, Loader)	\$29.60	\$35.26

These wage rates will increase in the years 2020, 2021, 2022 and 2023 by the percentage increase awarded by the National Wage Review and operative from the date of such increase by the National Wage Review.

6.2. Allowances

6.2.1. Fares and Travelling Allowance

The agreed allowance for fares and travelling will be \$23.00 per day where the employee commences and ceases on site. This allowance will not apply to anyone who is provided with a vehicle or transport to and from the job by the employer.

6.2.2. First Aid Allowance

A qualified employee appointed by the employer to perform first aid duty shall be paid \$16.00 per week in addition to ordinary rates.

6.3. Superannuation

The Employer shall pay superannuation in accordance with the prescriptions of the *Superannuation Guarantee (Administration) Act 1992* (Cth) as amended from time to time into

the employee's nominated superannuation fund. This will satisfy the statutory requirements for occupational superannuation. If the employee does not nominate a fund, the employer will nominate a default fund. The employer shall ensure that superannuation contributions pursuant to this clause are made into an eligible choice fund and that such fund is a fund that offers a MySuper product or is an exempt public sector scheme.

6.4. Salary Sacrifice

It is available by agreement between an employee and the employer to sacrifice part of an employee's wages prescribed in clause 6.1 in exchange for another benefit such as superannuation. The amount of salary sacrificed will equal the gross benefit to the employee. In circumstances where there is taxation arising from the provision of the benefit then this will be added to the gross value of the benefit to the employee.

6.5. Portable Long Service Leave and WorkCover Provision

The Company shall ensure that the requirements of the *Building and Construction Industry (Portable Long Service Leave) Act* and the WorkCover Queensland Act shall be met, and WorkCover provisions shall be paid for employees.

6.6. Payment of Wages

The employees will be paid weekly by electronic funds transfer.

7. Hours of Work and Overtime

7.1. Ordinary Hours

The ordinary hours of work shall be an average of 38 hours per week, to be worked between the hours of 6:00am and 6:00pm Monday to Friday. The work cycle will be developed on a project by project basis after consideration of the project needs and the employee needs. The daily ordinary hours shall not exceed eight (8) hours per day.

The work cycle may be altered by agreement to suit project requirements. It will be available to work alternate hours of work that provide an average of 38 hours a week over a nominated work cycle. These cycles may include weekends to suit project requirements and/or implement compacted work cycles such as:

- 14 days on, 7 days off;
- 10 days on, 4 days off; and
- Even time rosters.

The weekend penalties for ordinary hours will be time and a half for the first three (3) hours and double time thereafter on Saturday; and double time on Sunday.

7.2. Overtime/ Additional Hours

7.2.1. Rate

It is a requirement that the employee will work reasonable additional hours in excess of their ordinary hours. All time worked in excess of the nominated work cycle hours or outside of the span of ordinary hours of work shall be paid as overtime at the following rates:

- The first two (2) hours of overtime in each week, Monday to Friday will be paid at the rate prescribed in Clause 6.1.
- All time worked in excess of 40 hours per week (38 ordinary hours and 2 additional hours at the ordinary time rate), Monday to Friday, shall be paid at the rate of time and a half for the first three hours and double time thereafter.
- Saturday (until midday) at the rate of time and a half for the first three (3) hours and double time thereafter.
- Saturday (after midday) and Sunday at the rate of double time.

Employees will be entitled to a payment for a minimum of four (4) hours' work for all weekend and public holiday work performed.

7.2.2. Recall

An employee recalled to work overtime after leaving the site on any day Monday to Friday (whether notified before or after leaving the site) shall be paid for a minimum of four hours' work at the appropriate rate for each time the employee is recalled.

Except in the case of unforeseen circumstances arising, the employees shall not be required to work the full four hours if the job the employee was recalled to perform is completed within a shorter period.

This overtime shall not be regarded as overtime for the purpose of Clause 7.2.1 when the actual time worked is less than four hours on the recall or on each of the recalls.

7.2.3. Rest Period

An employee who works overtime shall have at least a ten hour rest period between the end of ordinary hours on any one day and start of ordinary hours on the next day.

If on the instructions of the employer, the employee resumes or continues work without having had 10 consecutive hours off duty, the employee shall be paid double time until he or she is released from duty for ten hour rest period. The employee shall then be entitled to be absent without loss of pay for ordinary working hours occurring during the ten hour rest period.

In the case of shift workers, eight hours shall be substituted for ten hours when overtime is worked:

- (a) for the purpose of changing shift rosters; or
- (b) to provide coverage for a shift worker who has not reported for work; or
- (c) where employees have mutually agreed to swap shifts

7.3. Meal Breaks and Rest Pauses

There will be a meal break and a rest pause for each shift or day where a minimum of five hours is worked Monday to Friday. The meal break shall be thirty minutes duration and will be unpaid. The rest pause will be twenty minutes duration and paid.

An employee required to work overtime on a Saturday, Sunday or rostered day off shall be allowed a 20-minute paid crib break after five hours worked if the work is scheduled to continue after the break. Payment for the crib break shall be at the prevailing overtime rate. A second meal break of 20 minutes shall be due if working 8 hours or more and paid at the prevailing overtime rate. Subsequent paid meal breaks are due every 4 hours

An employee may be required to change the meal break to suit the requirements of the employer or client. In these circumstances, the meal break will be taken at another time during the day to suit the continuity of work. An employee cannot change their meal break without prior approval from their supervisor.

7.4. Shift Work

Shift work meaning ordinary hours worked outside or partly outside of the ordinary span of hours of at least 5 consecutive shifts may be worked to suit the requirements of a project. The requirement to work shift work will only occur after consultation with the appropriate employees.

An Afternoon Shift is defined as a roster whereby the ordinary hours of work commence between 10:00am and 8:00pm.

A Night Shift is defined as a roster whereby the ordinary hours of work commence between 8:00pm and 6:00am.

Day work (i.e. work commencing between 6:00am and 10:00am) is not shift work.

Shift work shall be paid as follows:

- Where less than five (5) continuous afternoon or nights or a rostered 38 hours per week are worked, a 50% loading shall apply on the ordinary hours of work only;
- Where five (5) continuous afternoon or nights or more per week are worked, a 15% loading shall apply on the ordinary hours of work only;
- Where a non-rotating shift roster is worked for a four (4) week period or more, a 30% loading shall apply on the ordinary hours of work only.

All overtime worked by shift workers Monday to Friday will be paid at the rate of double time. The overtime penalties as prescribed in Clause 7.2.1 shall apply to all hours worked on shift work on a Saturday or Sunday.

7.5. Wet Weather

During periods of inclement weather that prevents work from being performed on site, the employer, where practical, will transfer employees to an alternative site not so affected, or to the employer's depot/yard to perform maintenance, service-type duties or training.

Where this is not practical, all permanent employees shall be entitled to payment by the employer for ordinary time lost through wet weather and the effects of wet weather for up to 32 hours in each calendar month (non-cumulative) subject to an employee being ready willing and able to work. The number of hours credited to any employee under this clause shall be reduced by the number of hours for which payment is made in respect of lost time through wet weather.

If an employee is required to work in the rain without cover the employee shall be paid single

time in addition to the prevailing rate for all work performed. The additional payment shall not apply to employees working in dry situations or working undercover.

8. Conditions of Employment

8.1. Annual Leave

8.1.1. Entitlement

A permanent employee shall be entitled to be paid annual leave at the rate of four (4) weeks of ordinary time for each year of continuous service consistent with the *Fair Work Act 2009* (Cth). The period of annual leave shall be exclusive of any public holiday that occurs during the period.

Notwithstanding the above, an employee defined as a shift worker for the purposes of the National Employment Standards (NES) will be entitled to an additional week of annual leave as provided for in the NES. A shift worker shall mean an employee engaged to work in a system of consecutive shifts throughout the 24 hours of each of at least six consecutive days without interruption (except during breakdown or meal breaks or due to unavoidable causes beyond the control of the employer) and who is regularly rostered to work those shifts.

At the written agreement between the Employer and employee, annual leave may be taken as a payment in lieu of leave subject to the following;

- A balance of four (4) weeks leave must be maintained
- The payment in lieu will be equal to the pay for that period of time as prescribed in Clause 8.1.2.

8.1.2. Calculation of Annual Leave Pay

Annual leave shall be paid at the employee's ordinary weekly wage rate for ordinary hours for the period of annual leave.

8.1.3. Taking of Annual Leave

The taking of annual leave will be subject to mutual agreement and at times convenient to requirements of projects.

The employer by giving reasonable notice may require employees to take annual leave for an annual shutdown.

8.1.4. Excess Leave Accrual

Where an employee has an excess accrual of annual leave (more than 8 weeks paid annual leave accrued or 10 weeks for shift workers), the employer may direct the employee to take excess leave subject to the following:

1. The employer must first genuinely try to reach an agreement with an employee to take excess annual leave.
2. Where no agreement can be reached, the employer may direct the employee in writing to take one or more periods of paid annual leave subject to the following circumstances:

- i. The employee's remaining accrued entitlement to paid annual leave after the requirement to take excessive leave must be more than 6 weeks;
- ii. The taking of leave must not provide that the employee take a period of paid annual leave of less than one week;
- iii. The taking of leave must not provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction/notice is given; and
- iv. Must not be inconsistent with any leave arrangement agreed by the employer and employee.

Notwithstanding the above, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave. Where agreement is not reached between the employer and the employee, an employee who has an excessive leave accrual may require an employer to grant paid annual leave on the basis that they have accrued such excess leave for more than a period of 6 months and have satisfied the above conditions outlined in sub-clauses 1 and 2 above.

8.1.5. Payment on Termination

If an employee is terminated after the end of a year of employment, the employee is deemed to have been given any untaken leave from the date of termination and shall be paid for that leave accordingly. The employee shall also be paid for any public holidays falling within the period of leave in addition to payment for the leave.

If an employee is terminated before the end of a full year of employment, the employee shall be paid pro-rata annual leave based on the period of service.

8.2. Personal/Carers Leave

8.2.1. Entitlement

A permanent employee shall accrue paid personal/carers leave at the rate of 10 days for each year of continuous service consistent with the *Fair Work Act 2009* (Cth). Personal/carers leave will be paid at the employee's ordinary rate of pay for ordinary hours for the period of leave.

Personal/carers leave shall not apply for illnesses or injury covered by worker's compensation. An employee shall not be entitled to be paid personal/carers leave for more ordinary hours than the employee would have worked on that day.

At the written initiation of the employee and the agreement of the Employer, accrued paid personal/carers leave may be taken as a payment in lieu of the leave provided the employee maintains a balance of a minimum of 15 days leave remaining.

8.2.2. Payment

Personal/carers leave shall be paid at the employee's ordinary weekly wage rate for ordinary hours and the employee must meet the following requirements:

- Have a credit entitlement to a period of leave,
- Notify the employer of the absence as soon as possible,
- Advise the employer how long the absence on personal/carers leave is likely to be,
- Provide evidence satisfactory to the employer of the illness or injury. An employee absent on personal/carers leave for more than two consecutive days or on more than two single days in any year may be required by the employer to produce a medical certificate from a qualified medical practitioner stating the nature of the illness and the period the employee will be unable to work.

8.2.3. Deduction from Personal/Carers Leave Credits

Personal/Carers leave debits will be equivalent to the ordinary hours an employee would have worked had they not been on personal/carers leave.

8.2.4. Personal/Carers Leave Cumulative

Personal/Carers leave shall accumulate from year to year.

8.2.5. Continuity of Employment

Continuity of employment for personal/carers leave accumulation is not broken by absence from work on leave granted by the employer; or the termination or standing down of the employee for any period not exceeding 3 months, provided that the employee is re-employed by the employer. But such period of absence or stand down will not count as service.

8.2.6. Carers Leave

An employee may use accrued personal/carers days as carers leave to tend to the care or support to a member of the employee's immediate family, or a member of the employee's household. The leave will be subject to the employee providing reasonable proof of the need for the use of carer's leave. In circumstances where the employee has exhausted all of the paid leave, a further two (2) days unpaid leave may be taken per occasion. Casual employees shall be entitled to a maximum of two (2) unpaid days per occasion.

8.3. Parental Leave

Employees will be entitled to Parental Leave in accordance with the *Fair Work Act 2009 (Cth)*.

8.4. Compassionate Leave

A permanent employee may take compassionate leave when a member of the employee's immediate family or household member: contracts or develops a personal injury or illness that poses a serious threat to their life; or dies. Compassionate leave shall be a maximum of two (2) paid days per occasion. Compassionate leave for casual employees shall be a maximum of two (2) unpaid days per occasion.

The following are members of an employee's immediate family:

- a spouse or de-facto partner, child, parent, grandparent, grandchild or sibling of the employee; or

- b. a child, parent, grandparent, grandchild or sibling of a spouse or de-facto partner of the employee.

8.5. Community Service Leave

Employees will be entitled to Community Service Leave in accordance with the *Fair Work Act 2009* (Cth).

8.6. Long Service Leave

All employees shall be entitled to long service leave in accordance with the relevant State Legislation. The employer will ensure that any registration necessary for the purposes of portable long service schemes will be undertaken.

8.7. Public Holidays

All permanent employees shall be entitled to the following Public Holidays without loss of pay;

- Christmas Day,
- Boxing Day,
- New Years Day,
- Australia Day,
- Good Friday,
- Easter Saturday,
- Easter Sunday,
- Easter Monday,
- Anzac Day
- Labour Day,
- Queens Birthday,
- A public holiday prescribed by legislation for the district and/or state that the employee is working in (eg Show Day).

Any employee required to work on a public holiday nominated herein shall be paid at the rate of double time and a half for all time so worked.

It will be available for the employer and a majority of the affected employees by mutual agreement to substitute the nominated public holiday for another day and the prescriptions of this clause will apply to the substituted day.

Provided a weekly employee who has been employed continuously for two weeks and who: is terminated by the employer or stood down during December; and is re-employed by the employer at any time before the end of January in the following year; shall be paid for the public holidays of Christmas Day, Boxing Day and New Year's Day when those days occur during the period of the termination or standing down.

9. Dispute Resolution Procedure

The Parties to this Agreement shall observe the following Industrial Dispute Resolution procedure in respect of disputes relating to the operation of this Agreement and the application of the National Employment Standards;

The Employer or employee may appoint a representative at any of the steps of the dispute process.


1. Parties to the dispute will first meet and confer by holding discussions between the employee/s concerned and an immediate supervisor/s.
2. If the matter is not resolved at such a meeting the parties will arrange further discussions involving more senior management as appropriate.
3. If the matter remains unresolved, the Employer or employee may refer it to a more senior level of management for consideration.
4. In the event of the matter remaining unresolved, either party may refer the matter to the Fair Work Commission for conciliation.
5. Where conciliation of the matter is unsuccessful, either party may refer the matter to the Fair Work Commission for arbitration. Any decision, determination or outcome of the Fair Work Commission shall be consistent with the *Code for the Tendering and Performance of Building Work 2016*.

Except in situations where there is a perceived immediate and significant threat to employee health and safety, work will continue and consideration of the needs of the business will remain a priority.

SIGNATURE PROVISIONS

Signed for and on behalf of

Adept Plant Hire Pty Ltd

Signed 

Name KEVIN JONES

Capacity to Sign DIRECTOR ADEPT PLANT HIRE

Address PO BOX 804 NERANG QLD 4211

Witness 

Name of Witness (print) Katherine Smith

Address 1/19 Stevens St Nerang QLD 4211

Date 10 Mar 20

Signed For and on behalf of the

Employees of Adept Plant Hire Pty Ltd

Signed  _____

Name _____ Ian Croxson _____

Capacity to Sign _____ Plant Operator _____

Address _____ 1 Glenn Court, Worongary, QLD 4213 _____

Witness  _____

Name of Witness (print) _____ Katherine Smith _____

Address _____ 1/19 Stevens Street, Nerang, QLD 4211 _____

Date _____ 17 MARCH 2020 _____

Schedule 1

Consultation Term

(1) This term applies if the employer:

- a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
- b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

(2) For a major change referred to in paragraph (1)(a):

- a) the employer must notify the relevant employees of the decision to introduce the major change; and
- b) subclauses (3) to (9) apply.

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

(4) If:

- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(5) As soon as practicable after making its decision, the employer must:

- a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- b) for the purposes of the discussion--provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.

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

- (7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
- (9) In this term, a major change is likely to have a significant effect on employees if it results in:
 - a) the termination of the employment of employees; or
 - b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
 - c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - d) the alteration of hours of work; or
 - e) the need to retrain employees; or
 - f) the need to relocate employees to another workplace; or
 - g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

- (10) For a change referred to in paragraph (1)(b):
 - a) the employer must notify the relevant employees of the proposed change; and
 - b) subclauses (11) to (15) apply.
- (11) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (12) If:
 - a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

- (13) As soon as practicable after proposing to introduce the change, the employer must:
 - a) discuss with the relevant employees the introduction of the change; and
 - b) for the purposes of the discussion--provide to the relevant employees:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and

- c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- (14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.
- (16) In this term relevant employees means the employees who may be affected by a change referred to in subclause (1).

Schedule 2

Flexibility Term

- (1) An Employer and employee covered by this Enterprise Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
 - (a) the Agreement deals with 1 or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) leave loading; and
 - (b) the arrangement meets the genuine needs of the Employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by the Employer and employee.
- (2) The Employer must ensure that the terms of the individual flexibility arrangement:
 - (a) are about permitted matters under section 172 of the *Fair Work Act 2009* ; and
 - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009* ; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) The Employer must ensure that the individual flexibility arrangement:
 - (a) is in writing; and
 - (b) includes the name of the Employer and employee; and
 - (c) is signed by the Employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (d) includes details of:
 - (i) the terms of the Enterprise Agreement that will be varied by the arrangement; and
 - (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
 - (e) states the day on which the arrangement commences.
- (4) The Employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) The Employer or employee may terminate the individual flexibility arrangement:
 - (a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) if the Employer and employee agree in writing at any time.

IN THE FAIR WORK COMMISSION

FWC Matter No.:

AG2020/738

Applicant:

Adept Plant Hire Pty Ltd

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Kevin Jones, Director for Adept Plant Hire Pty Ltd give the following undertakings with respect to the *Adept Plant Hire Pty Ltd Enterprise Agreement 2020* ("the Agreement"):

I have the authority given to me by Adept Plant Hire Pty Ltd to provide this undertaking in relation to the application before the Fair Work Commission.

1. Clause 5.1.2 – Engagement

The Applicant undertakes to apply the following in addition to Clause 5.1.2 – Engagement:

All hours worked in excess of a part-time employee's agreed weekly or daily hours shall be paid at the applicable overtime rates in Clause 7.2.1.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

Date: 28 April 2020