

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/283

TITLE: **Australian Pavement Maintenance System Enterprise Agreement 2005-2008**

I.R.C. NO: IRC5/4031

DATE APPROVED/COMMENCEMENT: 23 September 2005 / 26 August 2005

TERM: 36

**NEW AGREEMENT OR
VARIATION:** New.

GAZETTAL REFERENCE: 21 October 2005

DATE TERMINATED:

NUMBER OF PAGES: 11

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Australian Pavement Systems Pty Ltd, located at Factory 80-82 Barnes Street, Tamworth NSW 2340, who fall within the coverage of the Asphalt and Bitumen Industry (State) Award.

PARTIES: Australian Pavement Systems Pty Ltd -&- The Australian Workers' Union, New South Wales

AUSTRALIAN PAVEMENT MAINTENANCE SYSTEM ENTERPRISE AGREEMENT 2005 - 2008

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Appendix A - Wages and Classification

1. Title

This agreement shall be known as The Australian Workers' Union and Australian Pavement Maintenance Systems Enterprise Agreement 2005-2008.

The parties to this agreement are the Australian Pavement Maintenance System Pty Ltd and The Australian Workers' Union

2. Application

(a) The agreement shall apply to all employees of the employer employed;

- (b) Notwithstanding (a) above, the agreement shall not apply to projects covered by a project specific agreements to which the AWU is a party;
- (c) The agreement shall apply to the extent of the scope of the award and shall be read and interpreted wholly in conjunction with the award;
- (d) Where any inconsistency exists between this agreement and the award, this agreement shall prevail to the extent of the inconsistency;
- (e) The terms of this agreement may be varied by agreement between the parties and such variation shall take effect only if approved by the Commission.

3. Term of Agreement

This agreement shall operate from the date of Approval by the NSW Industrial Relation Commission and shall continue in force for three years from the date. The parties agree to commence negotiations for a new agreement no later than three months prior to the expiry of this agreement.

4. Objectives

The Australian Workers' Union and Company recognise that the Industry is a highly competitive industry.

Therefore, the parties through this agreement are committed to the following:

Developing innovative, flexible and responsive workforce/management practices;

Increased workforce productivity;

The effective marketing, planning and execution and maintenance and/or construction projects in co-operation with the AWU;

Developing co-operative arrangements for the purpose of providing the owner community with a highly qualified and competitive construction option that will produce expanded work opportunities and economic benefits for both the employer and members of the AWU;

Improve security of employment;

The provision of safe working areas and systems of work and the provision of appropriate occupational health and safety training for both management and employees;

Developing and maintaining a workforce that is highly skilled, flexible and motivated;

Developing a workplace culture of co-operation, consultation, participation, trust and teamwork;

The enhancement of employees skills through the provision of competency based training.

5. Consultative Committee

- (a) The parties agree that a consultative committee shall be established .
- (b) The role of the consultative committee shall be: -
 - (i) To monitor the implementation and on-going operation of this agreement, and to seek remedies where the objectives of the agreement are not being met;
 - (ii) To develop and monitor key productivity improvements, and to measure the effectiveness of those initiatives;

- (iii) To monitor the implementation of training measures the purpose of which will be to advance the concept of continuous workplace training and skills enhancement; and
 - (iv) To ensure effective compliance with the Grievance/Disputes Procedure by all parties.
- (c) The Committee shall consists of an equal number of an equal of employer and union representative employee's.
- (d) The Committee may, as far as is reasonable, call on persons and experts to attend the Committee and to advise it on specific matters of concern to the Committee.

6. Contract of Employment

Weekly employment

- (a) Except as provided in subclause (b) hereof employment shall be by the week. An employee not specifically engaged as a casual shall be deemed to be employed by the week;

Casual employment

- (b)
- (i) A casual employee is one engaged with a minimum of four ordinary hours payment for each day he/she is required;
 - (ii) A casual employee working ordinary time shall be paid per hour 1/38 of the actual weekly rate prescribed by Attachment A of this agreement, plus 25%
 - (iii) A casual employee shall not be entitled to annual leave, sick leave and public holidays, leave loading or redundancy prescribed by the award;
 - (iv) All superannuation payments will be on pro rata basis of days worked per week;
 - (v) Casual employees can accrue RDO's by mutual agreement.

7. Productivity/Multi Skilling/Traineeship

It is agreed that for the project to achieve productivity and efficiency gains that multi skilling will occur. Multi skilling performed by individuals shall be subject to employee capability and training, to perform such tasks within the employee's award coverage. Its also acknowledge that the company will employ trainees in this industry under National recognized training programmes and Awards from time to time.

8. Higher Duties

Where an employee is required to fill a position temporarily due to the absence of another employee and the temporary position carried a higher rate of pay then the employees regular pay, that employee will receive the higher rate. If the temporary position is of a lower grade, the temporary employee will suffer no loss of pay. If an employee was required to fill a temporary position full-time for a period of one month or longer then the employee would be entitled to have annual leave calculated at the higher rate of pay for the period they were to fill the temporary position.

9. Occupational Health and Safety

- (a) Objective
- (i) The parties to this agreement are committed to achieving healthier and safer jobs through workplace changes aimed at improved efficiency and productivity. This will be accomplished by establishing a comprehensive approach to managing occupational health and safety issues which aims to:

- (1) Control hazards at source;
- (2) Reduce the incidents and costs of occupational injury and illness;
- (3) Review work and management practices affecting the inter-relationship between efficiency, productivity and health and safety; and
- (4) Provide a rehabilitation system for workers affected by occupational injury or illness.

(b) Consultation

- (i) Consultative mechanisms will be established to address occupational health and safety issues. Such mechanisms will include:
 - (1) The election of union health and safety representatives who will represent fellow workers in negotiations on health and safety matters;
 - (2) The establishment of an occupational health and safety committee; and
 - (3) The establishment of consultative procedures for the resolution of health and safety issues that include the right of health and safety representatives to advise workers to refuse to do unsafe work.
- (ii) The OHS Committee shall consist of equal numbers of management and employee representatives, unless otherwise agreed.
- (iii) The Committee shall meet at least quarterly and will facilitate co-operation between management and employees on health and safety matters including the development, implementation and review of OHS policy and procedures, analysis of injury/incident trends and workers' compensation performance and review of accident/dangerous occurrence reports together with reports on preventative actions taken.

(c) Training

- (i) Employee OHS representative will be given paid leave to attend trade union OHS training courses.
- (ii) Workplace training programs, including induction and on-the-job training, will outline company OHS policy and procedures, particular hazards associated with the job, controls measures applicable to each hazard, and how to utilise OHS systems to identify hazards and instigate preventative actions.
- (iii) Management training programs will outline company OHS policy and procedures, particular hazards associated with the job, controls measure applicable to each hazard and how to utilise OHS systems to identify hazards and instigate preventative actions.

(d) Occupational Health and Safety Program

- (i) The employer shall institute procedures for collecting information on the nature of hazards and incidents of injury which includes:
 - (1) An internal system for reporting, recording and investigation of incidents, injuries and illness;
 - (2) The routine analysis of injury/illness/incident date; and
 - (3) Routine reports on key OHS performance indicators (lost time trends, injury frequency rate trends, costs and severity measures, estimation of indirect costs).

- (ii) A system of regular workplace inspections and regular hazard audits of work areas and work practices which include reference to relevant legislation, standards and codes of practice, shall be instituted at the workplace. These will be carried out with the involvement of the OHS representatives.
- (iii) Records of workplace inspections shall be maintained by the employer and made available to the Occupational Health and Safety Committee.
- (iv) A schedule maintenance program, which includes requirements of relevant occupational health and safety legislation, standards and codes of practices, shall be maintained in consultation with the Occupational Health and Safety.
- (v) The employer shall take prompt action to deal with any health and safety problems.

10. Hours of Work - Day Workers

Ordinary Hours

- (a) Subject to the provision of this clause, the ordinary hours of work for day workers shall be 38 per week and shall be worked between 6:00am and 6:00pm Monday to Friday inclusive, with a limit of eight ordinary hours per day.
- (b) All employees to start and finish at the employers depot , construction site starts only by agreement with the Union, then a payment of travel allowance will be made.

Rostered day off(Weekly Employees only)

- (b) The ordinary hours shall be worked within a four (4) week cycle of nineteen (19) working days each of eight hours and one rostered day off. Twenty four minutes of each day worked during a cycle shall accrue as an entitlement to take the NSW industry day as a rostered day off which shall be paid for as though worked.

Alternative RDO

- (c) By agreement between an employer and the Consultative Committee an alternative working day in the cycle may be substituted for the industry day as the rostered day off.

Banking of RDO's

- (d) By agreement between an employer and the Consultative Committee, up to five (5) rostered days off may be accumulated by that employee in any one calendar year (January to December) and taken later in the year at a mutually agreed time or times.

Paid Leave

- (e) Each day of paid leave taken and any public holiday occurring during any four (4) week cycle shall be regarded as a day worked for accrual purposed.

Pro rata Accrued Entitlements

- (f) An employee who has not worked a complete four week cycle shall receive pro rata accrued entitlements for each day worked or regarded as having been worked in that cycle. Such pro rata entitlements shall be payable for the rostered day off or, in the case of termination of employment, on such termination.

11. Rest Period After Overtime Duty

- (a) When overtime work is necessary it shall, whenever reasonably practicable be so arranged that employees have at least ten consecutive hours off duty between the work of successive days.

- (b) An employee who works so much overtime between the termination of his ordinary work on one day and the commencement of his ordinary work on the next day so that he/she has not had at least ten (10) consecutive hours off duty between those times shall, subject to this clause, be released after completion of such overtime until he/she has had ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If, on the instructions of his employer, such an employee resumes or continues work without having had ten (10) consecutive hours off duty he/she shall be paid at double rates until he/she is released from duty for such period and he/she shall then be entitled to be absent until he/she has had ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

12. Call Out - Day Workers

Mondays to Fridays

- (a) An employee called out to work after the expiration of his customary working time and after he/she has left work for the day on Monday to Friday shall be paid for a minimum of four (4) hours work calculated at one and a half times the ordinary prescribed rate for each time that he/she is called out. Provided that the employee, if required to work for two (2) or more hours, shall be paid for a minimum of four (4) hours work calculated at one and half times the ordinary prescribed rate for the first two (2) hours and at double the ordinary prescribed rate thereafter.

Saturdays

- (b) An employee called out to work on a Saturday shall be paid for a minimum of three hours work calculated at one and a half times the ordinary prescribed rate for each time he/she is called out. Provided that the employee if required to work for two hours or more, shall be paid for a minimum of four (4) hours work calculated at one and a half times the ordinary prescribed rate for the first two hours and at double the ordinary prescribed rate thereafter.

Sunday

- (c) An employee called out to work on a Sunday shall, for the first call out, be paid for a minimum of four (4) hours work at the rate of double time, and for each subsequent call out shall be paid at the rate of double time for the actual time worked.

Public Holidays

- (d) An employee called out to work on a public holiday shall, for the first call out, be paid for a minimum of four (4) hours worked at the rate of double time and a half; and for each subsequent call out shall be paid at the rate of double time and a half for the actual time worked.

13. Meal Allowance

An employee who is required to work in excess of one and a half hours overtime after working ordinary hours shall be paid a meal allowance of \$16.00 inclusive of first crib break. No allowance payable if full board and lodgings is supplied by employer whilst living away.

14. Inclement Weather

Definition - inclement weather

- (a) "Inclement Weather" shall mean the existence of rain or abnormal climatic conditions (whether they be of hail, snow, high wind, severe dust storm, extreme of high temperature for the locality concerned, or the like, or any combination thereof) by virtue of which it is either not reasonable or not safe for workers exposed thereto to continue working whilst the same prevail.
- (b) For the purpose of this clause weather shall not be regarded as inclement unless it is mutually agreed between the employer and employees concerned.

- (c) Except as provided in sub-clause (d) and (e) hereof, no employee shall be required to work exposed to inclement weather conditions. For the purposes of this subclause, an employee operating machinery fitted with a functional weatherproof cab shall not be deemed to be exposed inclement weather.

Completion of emergency work

- (d)
- (i) Except as provided in this subclause an employee shall not be required to work in the rain;
- (ii) Where a emergency work has been commenced prior to the commencement of a period of inclement weather employees may be required to complete such work to a practical stage and for such work shall be paid at the rate of double time calculated to the next hour, and in the case of wet weather shall be provided with adequate wet weather gear.
- If the employee's clothes become wet as a result of working in the rain during a concrete pour he/she shall, unless he/she has a change of dry working clothes available, be allowed to go home without loss of pay;
- (iii) The provision of paragraph (iii) hereof shall also apply in the case of emergency work where the employees concerned and their job representative agree that the work is of an emergency nature and can start and/or proceed;
- (e) Where it is necessary and safe for a spotter to work during a period of inclement weather thereby enabling mobile plant to continue operating, such spotter shall be entitled to the provision of paragraph (d)(iii) hereof.

15. Annual Leave

Entitlement to annual leave should be in accordance with the terms set out in the Asphalt and Bitumen (State) Award.

16. Wages and Conditions

Wages shall be paid in accordance with the wages matrix set out in APPENDIX A. Any further increases will be as shown in APPENDIX A each year and increased on the 1st day of July in each year, of the agreement.

17. Superannuation

Entitlements shall be fixed at seventy dollars (\$70.00) per week until the superannuation levy guarantee surpasses this amount. Paid monthly into the fund of choice of the employee .

18. Redundancy

The provisions of redundancy shall be governed by clause 27 of the State Asphalt and Bitumen Industry Award, regardless of how many employees are employed at the time of the redundancy. To avoid confusion the 15 employees provision does not apply.

19. Productivity

A productivity allowance has been incorporated in the wage rates in APPENDIX for all purpose of the Award and shall be paid in lieu of Industry, Inclement and In charge of plant allowances prescribed in the Award.

20. Long Service

All employees are to be enrolled in the Building Industry Long Service Leave Corporation if they are not already enrolled.

21. Protective Clothing

The employer shall provide all employees, free of charge, all safety apparel and personal protection equipment that is required to carry out an employees duties. That will include the payment for or supply of safety work boots after one calendar month of employment. All safety apparel including boots will then be replaced on a fair wear and tear basis. If payment is the preferred option the employer has the right the request receipts for such boots before payment up to the value of one hundred and fifty dollars (\$150.00).

22. Demarcation Disputes

It is agree that demarcation disputes will be resolved in accordance with nation demarcation agreements with the Union involved. It the Union involved in a demarcation is not party to a national demarcation agreement then the dispute will be resolved in accordance with the New South Wales Labor Council demarcation dispute procedures.

The Union agrees to Demarcation dispute settlement as set out hereunder:

In all Demarcations Disputes, the Union shall:

- (a) Maintain the genuine status quo that existed prior to the dispute, ie: the way the work had been allocated by the employer prior to the dispute.
- (b) Ensure that no stoppage of work or other forms of industrial action shall be taken until there have been proper negotiations among the parties concerned.

23. Prevention and Settlement of Disputes

The parties to the agreement will strive to create a co-operative and productive industrial relations environment on all projects covered by this agreement.

In the event of actual or threatened industrial action, the parties to this agreement will make every effort in good faith to avert or end such action.

Particular circumstances that give rise or threaten to give rise to industrial situations shall be processed as follows:-

- (a) Where an employee has submitted a request concerning any matter directly connected with employment to a foreperson or a more senior representative of management and that request has been refused, the employee may, if he/she so desires, ask the job representative to submit the matter to management and the matter shall then be submitted by the job representative to the appropriate representative of the employer concerned;
- (b) If not settled at this stage the matter in dispute shall then be submitted by an Organiser of the State Secretary of the AWU to the employer;
- (c) If not settled at this stage the matter in dispute shall be discussed between such representatives of the AWU as the AWU may desire and the employer who may be accompanied by or represented by such officers or representatives of an association of employers as they may desire with a view of settling the dispute;
- (d) If the matter is still not settled it shall be submitted to the Commission for determination;
- (e) Where the above procedures are being followed work shall continue normally except as to bona fide safety issues. No party shall be prejudice as to the final settlement by such continuation of work;
- (f) The parties shall take all reasonable steps to ensure that the above procedures are completed within five working days of a grievance or dispute being raised by an employee.

24. Sick Leave

An entitlement of ten days per year with unlimited accumulation. All new employees will accrue sick leave at one day per month until the ten day entitlement is achieved.

25. Sub-Contractors

- (a) The parties are committed to the use of only quality sub-contractors on the company's projects. The quality the parties seek will relate to the sub-contractors capacity to deliver a quality outcome on time and on budget and will also relate to the sub-contractors capacity to implement consultative labour relations that include adherence to the range of industrial laws and standards applicable. Sub-contractor must be complying withal State Industrial legislation in the construction industry and if not this will be seen as a possible breach of contract and could lead to termination of that contract

26. Job Representatives

- (a) The company recognises and supports the continuing role for the job representatives in the handling of the grievance resolution process;
- (b) AWU job representatives will be permitted sufficient time and provided with adequate resources to perform their representative role;
- (c) The employer shall provide the AWU job representative with access to telephone, facsimile machine and a lockable cabinet to assist in the performance of the job representative role;
- (d) As part of the induction of new starters to the project, the employer shall introduce new starters eligible for membership of the Union to the job representative of the AWU;
- (e) The company shall allow a reasonable amount of time off for training of AWU Job Representatives. A reasonable amount shall be a minimum of two (2) full days per six (6) months;
- (f) Company agrees to payroll deduction of union fees;

27. Picnic Day

All employees shall be entitled to one paid Union Picnic Day in each calendar year. The Union Picnic Day shall be the first Monday in December or any other day agreed to by the parties to the agreement, but must first notify the Union District Office in writing for approval of such alternative day. Proof of attendance is current Union membership card.

28. Definitions

- (a) "Award" shall mean Asphalt and Bitumen (State) Award as varied from time to time;
- (b) "AWU" shall mean The Australian Workers' Union;
- (c) "Job Representative" shall mean a job representative, delegate or shop steward who holds office in accordance with the rules of the AWU.
- (d) "Site" shall mean any other location other than Company's depot.

29. Meal, Crib and Tea Breaks

Meal Breaks - Day Workers

- (a) On each day Monday to Friday there shall be a cessation of work of not less than forty five (45) minutes duration between 11:00am and 1:30pm for day workers to take a meal break. Provided that, by agreement the employer and the employee and the Union, the meal break may be shortened to not less than thirty (30) minutes with a consequential adjustment to the daily time of cessation or work;

Overtime Breaks

- (b) An employee working overtime shall be allowed a crib time of twenty (20) minutes without deduction of pay after each four hours of overtime worked if the employee continued after such crib time.

Weekend Crib Breaks

- (c)
 - (i) An employee working overtime on a Saturday, or working on a Sunday, shall be allowed a paid crib time of twenty minutes after four hours work, to be paid for at the ordinary rate of pay but this provision shall not prevent any arrangements being made for the taking of a thirty (30) minute meal period, the time in addition to the paid twenty (20) minutes being without pay;
 - (ii) In the event of an employee being required to work in excess of a further four (4) hours, such employee shall be allowed to take a paid crib time of thirty (30) minutes which shall be paid at the ordinary rate of pay.

Tea Breaks

- (d) Two tea breaks of ten (10) minutes duration or one break of twenty (20) minutes duration shall be allowed to employees without deduction of pay on each day or shift.

30. No Extra Claims

The employees of APMS and the Union party to this agreement shall not make any extra claims for increase in rates of pay or allowances during the term of this agreement.

31. Travel Allowance

- (i) For the purposes of this agreement a travel allowance of eighteen dollars (\$18.00) per day shall be paid if reporting to site in own vehicle. The above stated allowance shall not be payable if the Company provides or offers to provide a company vehicle for transport free of charge to employees to travel to and from their place of work.
- (ii) Travel in excess of 50 kilometres radius one way from the employees residence to the work site shall attract a rate of seventy five cents (\$0.75) per kilometre travelled, if own vehicle. Transport supplied by the employer shall attract ordinary rates of pay for such excess time travelled to be paid in fifteen minute increments.
- (iii) Employees who have reported to the Company's Depot to start work will be paid ordinary time earning for all time spent travelling.
- (iv) The driver of the company's vehicle will be considered to be working at all times so occupied and paid accordingly

32. Classifications

All classifications will be in accordance with the Asphalt and Bitumen (State) Award any plant operator classification will be in accordance with the Plant Operators on Construction (State) Award and paid in accordance with that Award.

33. Site Agreements

It is agreed between the parties that if a registered Site Agreement or Award delivers better wages or conditions than this agreement the higher rates and conditions of the Site Agreement or Award, shall apply whilst on working on that site.

34. Night Shift

All night shift work Monday to Friday, for continuous shift of five (5) days will be paid the prescribed rate of time and one quarter if night shift commences between 6:00pm and 10:00pm. For work that starts after 10p.m and is finished on or before 6:00am is to be paid the prescribed rate of time and one half, any broken shifts worked will be paid at double time rates. Broken shifts if occasioned by the employee(absent or sick) will receive the rate applied to five continuous shifts

35. Anti-Discrimination

1. It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* (NSW). To prevent and eliminate discrimination in the workplace on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age, and responsibilities as a carer.
2. It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award, which by its terms or operation has a direct or indirect discriminatory effect.
3. Under the *Anti-Discrimination Act, 1977* (NSW) it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
4. Nothing in this clause is to be taken to affect:
 - (a) Any conduct or act which is specifically exempted from anti-discrimination legislation.
 - (b) Offering or providing junior rates of pay to persons under 21 years of age.
 - (c) Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977* (NSW)
 - (d) A party to this award from pursuing matters of unlawful discrimination in any state or federal jurisdiction.
5. This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

36. Living Away Provisions

All accommodation will be supplied and paid for by the employer at the standard of at least two and a half stars, were ever possible.

An allowance of seventy dollars (\$70) a day will be provided to compensate for all meals and any other incidentals.

Or alternatively the employer supplies all meals and accommodation plus an incidental allowance of \$10 per day, this will be at the sole discretion of the employer.

37. Parties Signatures

Signed for and on behalf of
Australia Pavement Maintenance Systems

Date

Signed for and on behalf of
The Australian Workers' Union

Date