



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Pacific National Services Pty Ltd T/A Pacific National
(AG2023/225)

PACIFIC NATIONAL BULK RAIL NSW ENTERPRISE AGREEMENT 2022

Rail industry

DEPUTY PRESIDENT SAUNDERS

NEWCASTLE, 20 FEBRUARY 2023

Application for approval of the Pacific National Bulk Rail NSW Enterprise Agreement 2022

[1] An application has been made for approval of an enterprise agreement known as the *Pacific National Bulk Rail NSW Enterprise Agreement 2022 (Agreement)*. The application was made pursuant to section 185 of the *Fair Work Act 2009 (Act)*. The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings (*Undertakings*). A copy of the Undertakings is attached in Annexure A to this decision. I am satisfied that the effect of accepting the Undertakings is not likely to:

- (a) cause financial detriment to any employee covered by the Agreement; or
- (b) result in substantial changes to the Agreement.

[3] The views of each person who the Fair Work Commission knows is a bargaining representative for the Agreement have been sought in relation to the Undertakings.

[4] Pursuant to subsection 190(3) of the Act, I accept the Undertakings. The Undertakings are taken to be a term of the Agreement.

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

[6] The Australian Rail, Tram and Bus Industry Union, being a bargaining representative for the Agreement, has given notice under section 183 of the Act that it wants the Agreement to cover it. In accordance with subsection 201(2) of the Act, I note that the Agreement covers the organisation.

[7] The Agreement is approved and, in accordance with section 54 of the Act, will operate from 27 February 2023. The nominal expiry date of the Agreement is 19 February 2027.



DEPUTY PRESIDENT

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:

AG2023 / 225

Applicant:

Pacific National Services Pty Ltd (ABN 48 052 134 362)

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Paul Scurrah, Managing Director and CEO of Pacific National Services Pty Ltd (ABN 48 052 134 362) give the following undertakings with respect to the Pacific National Bulk Rail NSW Enterprise Agreement 2022 ("the Agreement"):

1. I have the authority given to me by Pacific National Services Pty Ltd to provide this undertaking in relation to the application before the Fair Work Commission.
2. Pacific National Services Pty Ltd undertakes that clause 'A4.1 – Term' of the Agreement shall be amended to be read as:

"This Agreement shall commence operation from the Commencement Date and shall have a nominal expiry date of 4 years from the date that the Agreement is approved by the Fair Work Commission".

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



Signature

17/02/23

Date

ENTERPRISE AGREEMENT

Pacific National Bulk Rail NSW 2022

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 the agreement.

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SECTION A COMMON CONDITIONS

A1 TITLE

A1.1 This Agreement shall be referred to as the Pacific National Bulk Rail NSW Enterprise Agreement 2022 (the Agreement).

A2 PARTIES

A2.1 The Parties to this Agreement are:

- a) Pacific National Services Pty Ltd (ABN 48 052 134 362); and
(Collectively referred to in this Agreement as “**Pacific National Bulk Rail**”);
- b) Australian Rail Tram and Bus Industry Union (**ARTBIU**); and
- c) Employees employed by Pacific National Bulk Rail who fall within the scope of clause A3.1(b) of this Agreement.

A3 SCOPE

A3.1 This Agreement shall apply to:

- a) Each of the Parties; and
- b) Employees employed by Pacific National Bulk Rail in the classifications listed in this Agreement, who are employed and predominantly located in the New South Wales Bulk and Coal businesses. For the avoidance of doubt, this Agreement does not apply to Employees employed in any other part of the Pacific National business.

A3.2 This Agreement shall comprise of this Section A, the Classification Specific Sections (either Section B, C, or D) and the Schedules. Section A and the Classification Specific Sections (either Section B, C, or D) shall be read in conjunction with each other.

A3.3 No person engaged by Pacific National Bulk Rail under an Appointment Agreement, to perform work equivalent to the classifications contained within this Agreement are to receive less than the applicable terms and conditions which apply to that classification, position or role.

A4 TERM

A4.1 This Agreement shall commence operation from the Commencement Date and shall have a nominal expiry date of 4 years from the Commencement Date.

A5 RELATIONSHIP TO AWARD AND NATIONAL EMPLOYMENT STANDARDS

- A5.1** This Agreement applies to the exclusion of any modern award, Federal, State or Territory agreements relating to the matters governed by this Agreement, notional agreement, preserving State Award, or transitional award as defined in the Act or the Regulations.
- A5.2** This Agreement shall be read in conjunction with the National Employment Standards (NES). Where a term of this Agreement is in conflict or inconsistent with a term of the NES, then the term of the NES will prevail to the extent of any inconsistency.

A6 GLOSSARY OF TERMS

- A6.1** The following terms that appear throughout this Agreement are defined below:

Act	The Fair Work Act 2009 (<i>Cth</i>) as amended or varied from time to time.
Agreement	Pacific National Bulk Rail NSW Enterprise Agreement 2022.
Aggregate Allowance	An allowance payable to an Employee in lieu of any other allowance which may be payable to the Employee if the Employee was covered by an award (as set out in clause B5.3 or C7.2, as applicable).
Aggregate/ Shift Penalties	The additional payments received by an Employee in lieu of shift and weekend penalties and annual leave loading (as set out in clause B5.4 or B14.10(b) or C7.3 or D5.4, as applicable).
Appointment Agreement	The contract of employment between Pacific National Bulk Rail and the Employee.
Barracks/Rest Location	A nominated location where Train Crew are signed off/on and are accommodated away from their Home Base.
Barracks/Resting Working	A shift where Train Crew are rostered to complete a shift at a Barracks/Rest Location away from their Home Base.
Base Rate/ Base Remuneration	Shall mean the relevant rates as set out in Schedule 1.
Blank Line Roster	A roster or a line or lines in a roster where no known work is indicated (i.e. not Forecast Roster work).
Commencement Date	7 days after this Enterprise Agreement is approved by the Fair Work Commission.
Dayworker	Any Employee whose roster provides for ordinary hours to be worked on any day Monday to Friday between the hours of 0600 and 1800.

Duty Free Period (DFP)/ Not Required	A period of time in which an Employee is not required to attend work that does not conform to the hours of a Rostered Day Off (RDO), but does conform to all other conditions and payments related to an RDO.
Duty Cycle	For Train Crew Employees only, it shall mean a stand alone period of 4 weeks, where ordinary hours are averaged. The Duty Cycle consists of 152 ordinary hours.
Employee	A person who is employed in a full time, part time, fixed, task or casual basis by Pacific National Bulk Rail who is covered by clause A3.1(b) of this Agreement.
Employee Representative Committee	Established to consider matters including but not limited to the implementation of this Agreement as set out in clause A47 of this Agreement.
Forecast Roster	A roster where sign-on/off and shift lengths are provided.
FWC	Fair Work Commission
Home Base	The Employee's normal location where they commence their shift.
Local Working	Work performed in a depot's local area, including but not limited to relief, loading, shunting, shed, provisioning, preparing and working trains in the local area, which does not include working to a Barracks/ Rest Location.
Master Roster	Roster(s) that are permanently displayed at a location that show rostered days off and any known tasks or work.
Permanent Line	An allocated line on a roster.
Roster Committee	A group of Employees elected from a local classification specific workgroup to monitor, progress and assist in the development of a roster for their workgroup. The election process may be assisted by the employees representative or Union.
Roster Cycle	For Non Train Crew - the period of weeks an Employee's normal rostered hours are averaged over as agreed through the roster consultation process.
Shiftworker	For the purpose of the National Employment Standards and this Agreement, any Employee who works rostered shifts outside the hours of 0600 to 1800 Monday to Friday.
Total Remuneration	As outlined in either clause B5.1, B15.7, C7.1 or D5.2 of the Agreement, whichever is applicable
Train Crew	An Employee who is covered by the Locomotive Driver classifications as set out in Sections B or C of this Agreement.

Transition Committee Leave	Leave for the purposes of attending Transition Committee Meetings and undertaking work associated with the Transition Committee. Paid at Total Remuneration.
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A7 CONTRACT OF EMPLOYMENT

A7.1 General Principles and Undertakings

- (a) Pacific National Bulk Rail shall ensure that, as far as is operationally practicable, permanent full-time employment will be the main and preferred form of employment. Further, subject to the provisions contained in this Agreement, no Employee shall have their form of employment altered without agreement of the affected Employee(s).
- (b) Notwithstanding the above, Pacific National Bulk Rail may offer employment on one or more of the types of employment described at A7.1(c), A7.1(d), A7.2 and A7.3 below.
- (c) "Full-time Employees" are those who are engaged to work ordinary hours of nineteen hundred and seventy six hours (1976) per annum, inclusive of public holidays and annual leave hours. This is the equivalent of fifty-two weeks at thirty eight hours per week.
- (d) "Part-time Employees" are those (other than "Casual Employees") employed to work less than the ordinary hours of work for an equivalent Full-time Employee. Further, a Part-time Employee shall:
 - (i) Be engaged for no fewer than 4 hours per engagement;
 - (ii) Be entitled to pro rata accruals with respect to annual and long service leave;
 - (iii) Have the minimum number of hours agreed to in writing and may be required to work additional hours at ordinary rates up to a maximum of 38 hours;
 - (iv) Have any additional hours beyond 38 paid at the appropriate penalty rates.

A7.2 "Casual Employees" are Employees paid on an ad hoc basis by the hour. The minimum engagement on each instance shall be 4 hours. Casual Employees shall be entitled to the Base Rate of pay applicable to the equivalent full time classification (and Aggregate Allowance where applicable) plus an additional loading of 25%.

- (a) Casual Employees shall not be entitled to:
 - (i) Annual leave, personal/carer's leave or paid compassionate leave; or
 - (ii) Parental leave (unless the Casual Employees are entitled to parental leave in accordance with the Act); or
 - (iii) Public holidays (unless work is performed on a public holiday by the Casual Employee, in which case he/she will be entitled to the payment specified in clause A19.5(b); or
 - (iv) Redundancy payments.

- (b) Pacific National Bulk Rail may, at any time, offer a Casual Employee the opportunity to be appointed as a Full-time Employee or as a Part-time Employee, under terms provided for in this Agreement.
- (c) Where a Casual Employee has worked the equivalent ordinary hours of a Full-time Employee for a continuous period of 12 months he/she may seek to be appointed as a Full-time Employee or as a Part-time Employee. Where a Casual Employee seeks appointment under this sub-clause, Pacific National Bulk Rail will comply with such a request and make the appointment.
- (d) Any offer to convert the employment status of a Casual Employee must be in writing. The Casual Employee may elect to accept or to reject any offer made.
- (e) Where an offer is made and rejected, Pacific National Bulk Rail may seek to fill the position by other means.

A7.3 “Fixed term Employees” are engaged for a specific task or project (which may include the replacement of an Employee who is on leave) for a specified, fixed period of time and shall generally not be engaged for a period greater than 12 months.

A7.4 Job Sharing

- (a) The parties acknowledge the benefits of job sharing to both the Employees and to Pacific National Bulk Rail and agree to make all reasonable efforts to facilitate such arrangements where requested by Employees, subject to the reasonable needs of the business and any legal requirements.
- (b) The potential for any Employee to undertake job sharing will be dependent upon identifying another current Employee with similar qualifications and skills levels that will allow the pairing of individuals to share the position.
- (c) Employees undertaking a job sharing arrangement will be required to seek approval from their relevant manager/s, and sign a letter of agreement which confirms their work arrangements and also any conditions which have been varied from those outlined in this Agreement.
- (d) Where an Employee is unable to be paired with another Employee or an Employee already job sharing is left without a partner for any reason and an alternative cannot be found, the Employee may revert to a part time role or a full time role if a vacancy exists.
- (e) Where Employees have secondary employment outside of their job sharing position with Pacific National Bulk Rail, the Employee is obliged to advise Pacific National Bulk Rail so that the parties can ensure that the Employee is capable of arriving at work fit for duty.
- (f) Prior to a permanent full-time Employee entering into a job share or permanent part-time arrangement under this clause, the Employee will be provided with a letter outlining how pro-rata redundancy entitlements are to be calculated in the event that the Employee is retrenched.

- (g) For clarity, a job sharing arrangement will be subject to an Individual Flexibility Arrangement as per clause A43.

A8 PROBATIONARY EMPLOYMENT

- A8.1** A probationary period of up to six (6) months from the date of commencement will be applied to all new Employees, other than Casual Employees and Fixed term Employees engaged for less than a period of six months and will be outlined in their letter of engagement.
- A8.2** During the probationary period, the Employee's employment may be terminated by either the Employee or Pacific National Bulk Rail by providing two (2) week's written notice.
- A8.3** On commencing employment, probationary Employees will be advised as to the performance standards required, including the provision of regular performance reviews during the period of probationary employment.

A9 RECRUITMENT SELECTION AND INDUCTION

- A9.1** The selection process for filling position vacancies will be based on the merit principle. The merit of applicants will be determined by considering the abilities, competence, qualifications, experience, standard of work performance and work history of candidates, relative to the position.
- A9.2** Pacific National Bulk Rail will advertise all vacancies for positions covered by this Agreement, unless those vacancies are filled in accordance with prevailing policy related to redeployment or transfer of Employees.
- A9.3** All vacancies will be advertised internally within all Pacific National business divisions. At times, Pacific National Bulk Rail may also advertise a vacancy simultaneously internally and through media advertisements, recruitment agencies and other sources. Internal advertisements will include the position level from the classification structure contained in this Agreement and the salary level.
- A9.4** Where an offer is made to appoint Employees under the terms of this Agreement, following advertising, the offer will be in writing in the form of a letter of engagement which shall contain the following:
- (a) Position, level and title contained in this Agreement;
 - (b) Appointment date;
 - (c) Salary level; and
 - (d) That in addition to the terms of the letter of engagement, this Agreement applies to the Employee's employment.
- A9.5** Pacific National Bulk Rail will ensure that all Employees are appropriately inducted into their workplace following appointment.
- A9.6** All selections will reflect Pacific National Bulk Rail's commitment to equal employment opportunity and the elimination of unlawful discrimination.

A9.7 Pacific National Bulk Rail will provide training relevant to job/position requirements and Employee needs that is aligned to the Transport and Logistics Industry Training Package. Certificates and statements of attainment will be issued to Employees upon satisfying the requirements of the specific training.

A9.8 Certificate IV in Train Driving

(a) Permanent Employees:

Within 24 months of the Commencement Date or an Employee's commencement date at the relevant classification level (whichever is later), Pacific National Bulk Rail will offer to train and assess all permanent Employees classified as Level 4 or Level 5 (Part B) and Level 5 or Level 6 (Part C), to a level up to Certificate IV In Train Driving.

(b) Casual Employees:

Within the Relevant Period, Pacific National Bulk Rail will offer to train and assess all casual Employees classified as Level 4 or Level 5 (Part B) and Level 5 or Level 6 (Part C) to a level up to Certificate IV in Train Driving if the Casual Employee has:

- (i) worked regular and systematic hours for Pacific National Bulk Rail for a continuous period of 2 years (which will include any relevant period prior to the Commencement Date); or
 - (ii) is converted to a permanent Employee under sub-clause A7.2(c).
- (c) For the purpose of this clause, the 'Relevant Period' means 24 months from when the Casual Employee becomes entitled to the Certificate IV training under clause A9.8(b), but cannot commence before the Commencement Date.

(d) Training

The training and assessment undertaken will be as determined by Pacific National Bulk Rail and will align with the relevant Australian Qualification Framework training package.

A10 HOURS OF WORK

A10.1 The ordinary hours of work, for a Full-time Employee, are one thousand, nine hundred and seventy six hours (1976) per annum. This is equivalent to fifty-two weeks at thirty-eight ordinary hours per week. The annual ordinary hours are made up as follows:

- (a) Ordinary working hours;
- (b) Public holidays as defined in clause A19; and
- (c) Any approved leave as described in this Agreement.

A10.2 While public holiday hours are included in the total hours outlined above, where an Employee is rostered to work on a public holiday they are required to attend for work and undertake activities as rostered, subject to the provisions of the Act.

- A10.3** In addition to the ordinary hours specified above, an Employee may be required to work reasonable overtime (with the exception of working on rostered days off (RDOs)) for payment of overtime penalty rates (as further outlined in Sections B, C or D respectively).
- A10.4** An Employee may decline to work overtime in circumstances where the working of such overtime would result in the Employee working hours which are unreasonable having regard to:
- (a) Any risk to an Employee's health and safety that may reasonably be expected to arise if the Employee worked the additional hours;
 - (b) The Employee's personal circumstances (including any family responsibilities);
 - (c) The operational requirements of Pacific National Bulk Rail in relation to which the Employee is required or requested to work the additional hours;
 - (d) Any notice given by Pacific National Bulk Rail of the requirement or request that the Employee work the overtime;
 - (e) Any notice given by the Employee of their inability to work the overtime;
 - (f) Whether any additional hours are on a public holiday;
 - (g) The Employee's hours of work over the Duty Cycle or Roster Cycle ending immediately before the Employee is required or requested to work the additional hours; and
 - (h) Any other relevant matter.

A11 HIGHER DUTIES

- A11.1** Where Employees perform work that falls within a higher classification level, they will be entitled to be paid at the higher classification level inclusive of the applicable APM for the shift / shifts during which the work was performed.
- A11.2** While acting in a position for eight (8) weeks or more, all leave taken during the period of acting in the position shall be paid at the higher rate.

A12 STAND DOWN

- A12.1** Pacific National Bulk Rail may stand down Employees without pay for any time during which they cannot usefully be employed in their normal position because of any cause for which Pacific National Bulk Rail cannot reasonably be held responsible.
- A12.2** For emergency situations, each affected Employee, and if the Employee so chooses, a representative, which can include the Union, must receive written notice (which may include email) outlining the date on which the stand down is to commence, the reasons for the stand down and the expected duration of the stand down. This advice is to be provided at least two (2) clear days prior to the stand down commencing.

- A12.3** In circumstances where Pacific National Bulk Rail is aware in advance that Employees will be required to be stood down - for example, planned maintenance - then Pacific National Bulk Rail must give affected Employees and their Union at least twenty one (21) clear days' notice.
- A12.4** As soon as practicable and prior to the stand down commencing, Pacific National Bulk Rail will consult with the affected Employees and the Union. In this regard, the performance of useful work shall be discussed together with the performance of any training and reaccreditation that may be required by Pacific National Bulk Rail. The Pacific National Head of Operations – Coal or Head of Operations – Bulk (whichever is applicable) will have a conversation with the State Secretary of the Employees' Union to discuss the proposal and examine if all reasonable steps have been taken in order to avoid such stand downs.
- A12.5** Any Employee stood down in accordance with this clause may, at any time during the stand down, terminate their employment without notice and shall be entitled to receive, as soon as possible, any payments to which they are entitled up to the time of the resignation, without default of the Employee.
- A12.6** Any Employee who is stood down in accordance with this clause shall be at liberty to take other employment and, in the event of doing so, Pacific National Bulk Rail shall not require the Employee to attend work until the Employee has worked out a period of notice where required to do so by the other employer.
- A12.7** Employees who are stood down under this provision shall be treated for all purposes (other than payment) as having continuity of employment.
- A12.8** An Employee who is stood down in accordance with this clause may elect to take leave or other time owed by Pacific National Bulk Rail for the period of the advised stand down notification. For clarity, leave does not include personal/carer's leave.
- A12.9** An Employee who is stood down and takes annual leave will be reaccredited with the total period of annual leave impacted if they agree to return to work within the elected annual leave period as outlined in clause A12.8.
- A12.10** Notwithstanding any other provision of this clause, Pacific National Bulk Rail shall not be entitled to deduct any payment for any public holiday which occurs during a period of stand down.

A13 SUPERANNUATION AND SALARY SACRIFICE

- A13.1** For Employees who were employed by FreightCorp immediately prior to the commencement of their employment with Pacific National Bulk Rail, Pacific National Bulk Rail shall continue to be a participating member of the following complying funds:
- (a) State Authorities Superannuation Scheme;
 - (b) Aware Super (previously known as First State Super);
 - (c) State Superannuation Scheme; or
 - (d) State Authorities Non Compulsory Superannuation Scheme.

A13.2 For Employees who were employed by Freight Australia immediately prior to the commencement of their employment with Pacific National, and who have continued to have superannuation paid to the following funds, Pacific National Bulk Rail shall continue to be a participating member of the following complying funds:

- (a) The Revised Scheme;
- (b) The New Scheme;
- (c) The Transport Scheme, and

these funds are administered by the Emergency Services and State Super (ESSS).

A13.3 For all other Employees, Pacific National Bulk Rail will continue to be a participating member of AustralianSuper (previously known as Superannuation Trust of Australia (STA)). Pacific National Bulk Rail will provide superannuation benefits as required by law by making payments to AustralianSuper or to another complying fund nominated by the Employee.

A13.4 Salary sacrifice is available for Employee contributions if the Employee so chooses, subject to the rules of the relevant fund and applicable legislation and also for the sacrifice of salary continuance insurance.

A14 DISCIPLINARY PROCEDURES

A14.1 Disciplinary measures are implemented within the context of an overall performance management approach. Employees will at all times be accorded procedural fairness and if the Employee so chooses, a representative will be present which may include a union delegate.

A14.2 Before implementing disciplinary measures, Pacific National Bulk Rail will;

- (a) Gather and analyse any material relevant to the performance issue subject to the disciplinary measures and give the Employee a copy;
- (b) Advise the Employee of the allegation(s) of inappropriate performance or behaviour in writing; and
- (c) Provide the Employee with an opportunity to respond to any allegation(s).

A14.3 During the investigation described above, Pacific National Bulk Rail may suspend the Employee with pay, during part or all of the investigation and will endeavour to limit the period of time an Employee is suspended without compromising the integrity of the relevant investigation.

A14.4 In implementing disciplinary action, Pacific National Bulk Rail may:

- (a) Issue a verbal or written caution, warning or reprimand; or
- (b) Impose a temporary reduction in position or classification level and/or pay (for a period of up to twelve months) which may include a written caution or warning. When this option is implemented, the Employee will be required

to undertake work activities in accordance with the classification level to which they have been regressed; or

- (c) Suspend an Employee from duty, which may include a written caution or warning, with or without pay for a maximum period of 4 weeks; or
- (d) Dismiss an Employee.

A14.5 A record of the above disciplinary action will be noted on the Employee's file.

A14.6 For Employees covered by the classifications in Section C of this Agreement or Section D who are employed within the Coal business, any reprimand or written warning will have no direct bearing on any further disciplinary action after 12 months has expired.

A14.7 With the exception of a termination, any Employee who has a grievance in relation to the application of this clause shall follow the Dispute Settling Procedure outlined in clause A32 of this Agreement.

A15 TERMINATION OF EMPLOYMENT

A15.1 An Employee's employment (other than a Casual Employee) will be terminated with the following period of notice:

Period of service	Notice period required
Not more than 1 year	2 weeks
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

For Employees over 45, the notice period specified in clause A15.1 above will be increased by 1 week.

A15.2 In circumstances where the Employee terminates their employment, the Employee's obligations with respect to notice shall be as set out above at A15.1.

A15.3 If Pacific National Bulk Rail so chooses, the Employee shall receive a payment in lieu of working the notice period.

A15.4 Notwithstanding clause A15.1, Pacific National Bulk Rail has the right to terminate an Employee's employment without notice if the Employee is guilty of serious misconduct.

A15.5 A Casual Employee may be terminated with the provision of one (1) day's notice.

A16 ABANDONMENT OF EMPLOYMENT

A16.1 Where an Employee is absent from duty for more than five (5) days this shall be considered prima facie an abandonment of employment.

A16.2 However prior to Pacific National Bulk Rail confirming the termination, Pacific National Bulk Rail must make every effort to contact the Employee including writing to the Employee, at the last known address, advising the Employee that their employment will be terminated should the Employee fail to contact their supervisor within a further five (5) business days of the date of the letter.

A16.3 If no response is received, Pacific National Bulk Rail shall confirm the abandonment of employment. In such cases, Pacific National will apply the disciplinary process outlined in clause A14.2.

A17 REDUNDANCY

A17.1 A redundancy occurs in a circumstance where Pacific National Bulk Rail decides that it no longer requires the position that an Employee has been doing to be done by anyone and there is no suitable alternative position for the Employee. A redundancy is not triggered by the ordinary and customary turnover of labour.

A17.2 For the purpose of clause A17.1 a suitable alternative position includes, but is not limited to, the following:

- (a) a position which is suitable given the Employee's skill base, competence and experience or is suitable after the provision of appropriate training and such training is offered by Pacific National Bulk Rail (or such other person) to the Employee at no cost to the Employee; and
- (b) Attracts the same or no less favourable terms and conditions of employment overall.

A17.3 Without limiting the terms of clause A17.2 above, a suitable alternative position may be a position:

- (a) Elsewhere within Pacific National Bulk Rail's operations; or
- (b) With another related entity to Pacific National Bulk Rail; or
- (c) With an unrelated entity in circumstance where Pacific National Bulk Rail has sold all or part of its business.

A17.4 Where Pacific National Bulk Rail decides that it no longer requires the position an Employee has been doing to be done by anyone, Pacific National Bulk Rail:

- (a) Shall undertake consultation, as outlined in clause A31 of this Agreement;
- (b) Shall explore opportunities for suitable alternative employment;
- (c) Shall call for expressions of interest in suitable alternative employment and/or voluntary redundancy, where appropriate, from other Employees. Pacific National Bulk Rail has the right to accept or reject expressions of interest from individual Employees.

A17.5 Pacific National Bulk Rail will, as far as reasonably practicable, endeavour to mitigate the effect of redundancies by facilitating voluntary redundancy swaps across Pacific National Bulk Rail's NSW Bulk and Coal businesses prior to selecting Employees for involuntary redundancy. In doing so, the Employees need to be at the same or corresponding classification level. Pacific National

Bulk Rail may consider voluntary redundancy swaps that are not at the same or corresponding classification level subject to operational requirements.

- A17.6** In the event Pacific National Bulk Rail is able to facilitate a job swap in accordance with clause A17, a voluntary redundancy will not be treated as a genuine redundancy for taxation purposes, as required by law.
- A17.7** In the event that there are too many candidates for voluntary redundancy swaps, then Pacific National Bulk Rail at its absolute discretion will decide which voluntary redundancy candidate/s will be chosen.
- A17.8** Subject to clause A17.4(c), Pacific National Bulk Rail shall make offers to Employees for suitable alternative employment, voluntary redundancy and/or initiate involuntary redundancy, as appropriate, following consideration of all of the criteria outlined in this clause.
- A17.9** Selection for redundancies shall be made having regard to the following criteria:
- (a) Pacific National Bulk Rail's needs for competencies;
 - (b) Employee qualifications;
 - (c) Employee past work performance and experience;
 - (d) An Employee's suitability for Pacific National Bulk Rail's future needs; and
 - (e) Any expressions of interest for voluntary redundancy.
- A17.10** Severance payments are payable upon termination on account of redundancy and are in addition to:
- (a) Notice or payment in lieu of notice; and
 - (b) Payment for any accrued but untaken leave or days in lieu which are payable on termination.
- A17.11** Severance payments shall:
- (a) Be calculated on the Employee's Base Rate at the time of termination;
 - (b) Be paid on a pro rata basis for part years of service. Pro rata shall be calculated to the day.
 - (c) Comprise of a rate of payment of four weeks' pay per year of service up to a maximum of eighty weeks, calculated on the Base Rate. To avoid doubt, an Employee's prior service includes any previous continuous service with FreightCorp or National Rail Corporation. With respect to previous continuous service with FreightCorp, this includes prior continuous service with NSW Government Agencies.
 - (d) Where an Employee has been offered an alternative position which would require the Employee to relocate, irrespective of whether that position is suitable or otherwise, and the Employee chooses to accept the offer of employment in lieu of accepting a redundancy, Pacific National Bulk Rail shall offer to pay the Employee's relocation expenses, as set out in clause

A33 to a maximum of \$34,000.00 provided however that the cost of relocation shall be no more than 75% of the cost of the redundancy.

A18 ANNUAL LEAVE

- A18.1** Employees are entitled to annual leave in accordance with the Act and as set out below.
- (a) A Dayworker shall receive 4 weeks annual leave being the equivalent to 152 hours;
 - (b) Shiftworkers shall receive 5 weeks annual leave being the equivalent to 190 hours.
- A18.2** An Employee's entitlement to annual leave accrues progressively during a year of service according to an Employee's ordinary hours of work, and accumulates year to year.
- A18.3** Annual leave loading is included in the Aggregate Penalties payment.
- A18.4** Annual leave is normally applied for, rostered and taken in blocks of one or more calendar weeks. Employees may request to take leave in less than one week blocks. Any such request is subject to approval by Pacific National Bulk Rail.
- A18.5** For all Employees, when annual leave is taken in fewer than 1 week blocks, it will be deducted from the Employee's accrual at 7.6 hours for each day of leave taken. Otherwise all annual leave will be deducted, from the Employee's accrual of annual leave, at 38 hours per week.
- A18.6** Where a public holiday falls during a period of annual leave, Pacific National Bulk Rail will credit the Employee with an additional day of annual leave.
- A18.7** Leave should be taken in the year following its accrual. For this to happen, Pacific National Bulk Rail will develop rosters, in consultation with affected Employees. Employees must take leave in accordance with leave rosters and may accumulate up to 1.5 years leave entitlement.
- A18.8** Employees may, subject to approval by Pacific National Bulk Rail, exchange rostered blocks of annual leave with other Employees in the same position. Exchanges must not create operational constraints and must be cost neutral to Pacific National Bulk Rail. Subject to these conditions, Pacific National Bulk Rail will not unreasonably withhold approval.
- A18.9** Where an Employee believes that special circumstances exist, they may apply to their manager to defer the taking of their annual leave for up to twelve months. Applications to defer annual leave should be made prior to the posting of the annual leave roster and approval by Pacific National Bulk Rail is subject to the operational needs of the business.
- A18.10** Payment of accrued leave, including upon termination, will be made at the Total Remuneration rate.
- A18.11** The Parties acknowledge that if, in a particular respect, the Act provides a more favourable outcome for Employees than the entitlements in this clause, then the Act prevails.

A18.12 Employees' annual leave may be taken in any combination of 7-days based on a calendar week.

A18.13 Cashing Out of Annual Leave

- (a) Employees may, with the agreement of Pacific National Bulk Rail, cash out accrued annual leave as follows:
 - (i) Each request made by an Employee must be agreed to in writing by Pacific National Bulk Rail; and,
 - (ii) An Employee may only cash out accrued annual leave in excess of the equivalent of one (1) years entitlement. That is, after cashing out, an Employee must have no fewer than the equivalent of one (1) years entitlement of accrued annual leave.
 - (iii) The Employee must be paid at least the full amount that would have been payable to the Employee had the Employee taken the leave that the Employee has forgone.

A19 PUBLIC HOLIDAYS

A19.1 Due to the nature of the work performed by Pacific National Bulk Rail being a business that operates 24 hours per day, 365 days per year, Employees can be required to work on public holidays in accordance with their respective roster.

A19.2 All Employees shall be entitled to the following public holidays without loss of pay:

- (a) New Year's Day; Good Friday; Easter Monday; Christmas Day; Boxing Day; Australia Day; Anzac Day; Queen's Birthday, Eight Hours' Day (Labour Day); and
- (b) Excepting Shiftworkers who shall also be entitled to, on the same basis as above, Easter Saturday; and
- (c) Bank Holiday (which shall be taken on 31 December of each year); and
- (d) Any other days gazetted by NSW. Such days however shall not include those excluded by the regulations of the Act.

A19.3 Substitution for Dayworkers

- (a) Where Christmas Day and/or Boxing Day falls on a Saturday or Sunday, then the next Monday and/or Tuesday shall be substituted as the public holiday.
- (b) Where Anzac Day; Australia Day; New Years Day fall on a Saturday or Sunday then the following Monday shall be substituted as the public holiday.
- (c) Where 31 December falls on a Saturday or Sunday, then the previous Friday shall be substituted as the public holiday.

A19.4 Substitution for Shiftworkers

- (a) Where the government gazettes an alternative public holiday, (e.g Christmas Day falls on a Saturday but the Government changes the public holiday to Monday), it is agreed that Shift workers will substitute the public holiday for the original day, (i.e. Christmas Day is Saturday so Saturday will be the public holiday). This applies even in the instance that the Government gazettal notices specify the substituted date which is different to the original day.
- (b) In the instance where two public holidays happen to fall on the same day (Anzac Day and Good Friday) the next weekday that is not a gazetted public holiday will be classified as the second public Holiday.

A19.5 Payment:

- (a) Shiftworkers have compensation included in their annual cycle of hours (i.e. 1976 hours) for public holidays set out in sub clause A19.2
- (b) Employees shall receive their normal fortnightly pay of 76 hours plus the additional payments as indicated in the following table:

	Shift workers		Day workers
	Train Crew	Non Train Crew	
1. Has a rostered Day Off	An additional payment of 7.6 hours or option to bank a DIL.	An additional payment of 7.6 hours. In addition to above, non Train Crew: 1. Previously covered by the Pacific National Operation Services Union Collective Agreement 2006 shall be entitled to a day off in lieu (DIL). 2. Previously covered by the Pacific National Southern Coal Union Collective Agreement 2006 shall be entitled to a day off in lieu (DIL).	Receive their normal pay.
2. Is available to be rostered to work but is given the day off i.e. Duty Free Period/ Not Required.	An additional payment of 7.6 hours or option to bank a DIL.	An additional payment of 7.6 hours or option to bank a DIL.	Receive their normal pay.
3. Is rostered to work and works.	150% for all hours worked on the PH If a DIL option is taken 7.6 hours is banked and an additional payment of 50% of 7.6 hours plus 150% for all hours worked over 7.6.	150% for all hours worked on the PH Or if the DIL option is taken the hours worked on the PH are banked and an additional payment of 50% for all hours worked on the public holiday will be made.	150% for all hours worked on the PH or the option to bank a DIL. If the DIL option is taken an additional payment of 50% for all hours worked on the public holiday will be made.
4. Works an overtime shift	Overtime penalty multiplier for all hours worked for the shift. An additional payment of 7.6 hours for the PH.	Overtime penalty multiplier for all hours worked for the shift. An additional payment of 7.6 hours for the PH.	Overtime penalty multiplier for all hours worked for the shift. An additional payment of 7.6 hours for the PH.
5. Has been rostered but job is cancelled on the day and no further work is available	150% for minimum shift length. Plus an additional payment of 7.6 hours for the PH or the option to bank a DIL.	150% penalty payment applied to the minimum shift length. Plus an additional payment of 7.6 hours for the PH or the option to bank a DIL.	Receive their normal pay.

“PH” = Public Holiday (as defined in clause A19.2), “DIL” = day in lieu

- A19.6** Days Off In Lieu (DIL) can be accumulated and banked as per the above table for taking at a later date either as single days or with rostered blocks of annual leave. Subject to clause A19.8, an Employee's DIL balance must be cleared before they return from their rostered block of annual leave or by the 30 November (Relevant Date) of every year.
- A19.7** Employees who use their DIL will get at least a full 24 hours off work. Accordingly, an Employee will be able to nominate their DIL to apply in one of the following ways:
- (a) For Blankline Rostering:
 - (i) From 1200 on one day to 1200 the following day; or
 - (ii) From 0000 on one day to 0000 the following day.
 - (b) For Forecast Rostering:
 - (i) DIL for a shift
 - (c) For Part C Zonal Rostering:
 - (i) Zone to zone.
- A19.8** An Employee can request, and Pacific National Bulk Rail will not refuse, to exhaust accumulated DILs after the Relevant Date by attaching them to upcoming rostered annual leave up to 12 months after the Relevant Date.
- A19.9** When a DIL is taken, payment is at 7.6 hours for blank line rosters and rostered hours for all other rosters.
- A19.10** When a DIL is taken, there will be no reduction to the APM and aggregate penalty payment for that Duty Cycle.
- A19.11** For Train Crew, when a DIL is taken, 7.6 hours will be credited to the Duty Cycle.
- A19.12** An Employee must nominate in writing on an annual basis of their intention to accumulate DIL rather than receive payment for a public holiday. Any Employee who has not nominated will by default receive payment for public holidays.
- A19.13** Where a public holiday falls during a period of annual leave and/or Long Service Leave, Pacific National Bulk Rail will provide the Employee with an additional day of leave.
- A19.14** An Employee may apply for their accumulated DIL to be cashed out due to genuine hardship reasons. If approved, DIL will be cashed out at accumulated hours at Base Rate.

A20 LONG SERVICE LEAVE ("LSL")

- A20.1** Subject to clause A20.11 or A20.12 below, Employees will be entitled to four hundred and fifty-six (456) hours, equivalent to twelve (12) weeks of paid long service leave, following a period of ten (10) years continuous employment.
- A20.2** Subject to clause A20.11 or A20.12 below, for each year of additional service above ten years, long service leave will accrue at the rate of fifty (50) hours of leave per year of service thereafter.

- A20.3** In those states where the relevant legislation concerning Long Service Leave so allows, an Employee may elect to receive a cash payment in-lieu of taking long service leave, subject to agreement by Pacific National Bulk Rail. The cashing out of long service leave is subject to the Employee retaining a bank of at least one hundred and fifty-two (152) hours long service leave to be taken for recreational purposes.
- A20.4** In the event of a termination for Employees who have in excess of five (5) years service but who have not yet qualified for LSL as per clause A20.1, any pro rata LSL accrued for such service will be paid out. If the termination is for misconduct, no payment shall be made.
- A20.5** Employees will apply for long service leave and Pacific National Bulk Rail will roster the approved long service leave on the basis of the number of calendar days to be taken. Applications to take long service leave must be made at least one (1) months prior to the expected commencement date for approval by the relevant manager. The Employee will be advised within two (2) weeks of the application being made whether it has been successful or not. Subject to mutual agreement between an Employee and their manager, this period of notice may be reduced.
- A20.6** Pacific National Bulk Rail will not unreasonably withhold approval of long service leave. Where more than one application to take long service leave is received at a location for the same time period, consideration and approval will be treated on a "first in first served" basis, where operational difficulties do not provide for all Employees to take leave at the same time.
- A20.7** Pacific National Bulk Rail can roster LSL following consultation with the Employee and/or their representative provided that a minimum of 4 weeks notice is given prior to the commencement of the requirement to take the LSL.
- A20.8** Long service leave will be paid at the Base Rate and as per legislation as varied or amended from time to time
- A20.9** Long Service Leave is normally applied for, rostered and taken in blocks of one or more calendar weeks. Any such request is subject to approval by Pacific National Bulk Rail.
- A20.10** Employees may apply to take long service leave at half pay only under the following circumstances:
- (a) After the birth/adoption of a child and all Parental Leave has been exhausted.
 - (b) After an Employee or an immediate family member has been diagnosed with a terminal illness and has exhausted all Personal/Carers leave.
- A20.11** Special provisions for some former National Rail Employees:
- (a) This provision relates to Employees who were employed by PN (ACT) Ltd at 27 February 2004. For these Employees the long service leave outlined in A20.1 and clause A20.2 will be paid at the Total Remuneration.
- A20.12** Special provisions for some former FreightCorp Employees:

- (a) This provision relates to Employees who were employed by FreightCorp as at 21 February, 2002 and who have had continuous service since that date with Pacific National Bulk Rail. These Employees have the following entitlement to long service leave in place of the provisions outlined in clause A20.1 and clause A20.2, above:
- (i) Two calendar months of paid leave after ten (10) years service;
 - (ii) Fifteen (15) calendar days leave for each additional year of service beyond ten (10) years;
 - (iii) All book-off days and weekends are considered part of the leave and are not paid separately;
 - (iv) Long Service Leave for these Employees is paid at the Base Rate.

A21 PERSONAL CARER'S LEAVE

- A21.1** The paid personal / carer's leave entitlement for a permanent full-time Employee is one hundred and fourteen (114) hours per annum, which is equivalent to fifteen (15) days at 7.6 hours per day and shall accrue at the rate of 9.5 hours per month. Any untaken leave will accumulate from year to year, without limit.
- A21.2** Part-time Employees will receive a pro-rata allocation of personal / carer's leave.
- A21.3** Employees are required to provide a medical certificate (or statutory declaration in circumstances where it is not practicable to obtain a medical certificate) when personal/carer's leave:
- (a) Exceeds three (3) working days for all Employees other than those Employees who were previously covered by the Pacific National Northern Coal Union Collective Agreement 2006 who shall be required to produce a medical certificate or statutory declaration after two (2) working days; or
 - (b) If a Pacific National Bulk Rail manager doubts whether an Employee's previous absences from work are due to genuine illness or injury, the Employee may be required to provide medical certificates for every personal/carer's leave absence within a defined period of up to twelve (12) months.
- A21.4** Unless provided for in this clause, the operation of personal/carer's leave will be in accordance with the provisions of the Act. This includes, but is not limited to, provisions of the Act regarding:
- (c) The method or manner required for taking personal/carer's leave; and
 - (d) The provision of documentary evidence regarding personal/carer's leave.
- A21.5** All payments for personal / carers leave will be based on the following:
- (a) Total Remuneration for up to seventy six (76) hours per annum;
 - (b) Total Remuneration for continuous blocks of leave of seventy six (76) hours or more;
 - (c) Base Remuneration for hours in excess of 76 hours per annum.

- A21.6** Each shift in respect of which personal / carer's leave has been approved will be deducted on the following basis:
- (a) For Train Crew, each shift in respect of which personal / carer's leave has been approved will be deducted from the hours of work cycle at the rate of 7.6 hours per shift or rostered hours, in which case the rostered hours will be deducted from the Employee's personal carer's leave accrual. The Employee concerned will advise his/her supervisor at the time of taking the leave as to which option shall be applied.
 - (b) For all other Employees, personal / carer's leave deductions will be made in accordance with the rostered hours.
- A21.7** If an Employee has taken personal leave on the basis of an illness or injury; and it is considered necessary by Pacific National Bulk Rail that the Employee attend a medical examination in respect of the illness or injury prior to returning to work, the Employee may be required to attend a medical examination in respect of the illness or injury, conducted by a medical practitioner nominated by Pacific National Bulk Rail. Pacific National Bulk Rail will meet the cost of examination and any travelling costs. The Employee shall receive their normal Total Remuneration for any time lost due to the examination process their sick leave bank shall not be debited.
- A21.8** If an Employee becomes ill or injured whilst on annual leave, personal / carer's leave shall be approved and the Employee's annual leave shall be re-credited.
- A21.9** If an Employee becomes ill while on long service leave, personal / carer's leave may be approved and long service leave re-credited in the following circumstances:
- (a) Where the illness extends more than seven calendar days; and
 - (b) The Employee has contacted their manager / supervisor within three (3) days of becoming sick; and
 - (c) The illness is supported by a medical certificate.
- A21.10** This provision only applies for illness. It does not apply to injuries sustained on long service leave.
- A21.11** Medical retirement
- (a) Where an Employee has no reasonable prospect of returning to perform the position they are appointed to, owing to the nature of their illness or injury, Pacific National Bulk Rail will examine opportunities for reclassification to an alternate position or may initiate action to terminate the Employee's employment contract. The Employee shall submit a claim for disability retirement to the relevant superannuation fund immediately upon becoming eligible to submit such a claim.
 - (b) Where medical retirement is progressed, the Employee will either:
 - (i) Utilise all of the Employee's accumulated personal/carer's sick leave prior to a medical retirement taking effect; or

- (ii) Pay the employee the balance of their accrued paid personal/carer's leave upon termination (in addition to all other entitlements due on termination).
- (c) This provision does not apply to an Employee on worker's compensation as they are not entitled to take accumulated personal / carer's leave before medical retirement.

A21.12 Sick Leave pending Worker's Compensation

- (a) Employees may access accumulated personal leave whilst a claim for Worker's Compensation is being considered. Where the claim is accepted, any personal leave shall be re-credited.

A22 UNPAID CARER'S LEAVE

A22.1 The entitlement to unpaid carer's leave will be in accordance with the Act.

A22.2 An Employee is entitled to a period of up to two (2) days unpaid carer's leave for each occasion when a member of the Employee's immediate family, or a member of the Employee's household, requires care or support during such a period because of:

- (a) A personal illness, or injury, of the member; or
- (b) An unexpected emergency affecting the member.

A22.3 Unpaid carer's leave may be taken in a single unbroken period of up to two (2) days or in any separate periods as agreed between the Employee and Pacific National Bulk Rail.

A22.4 Unpaid carer's leave is only available when an Employee has exhausted their entitlement to paid carer's leave or has no entitlement to paid carer's leave.

A22.5 Notice of the taking of unpaid carer's leave is expected to be given to Pacific National Bulk Rail prior to the commencement of the Employee's shift, but where this is not possible, as early as is reasonably practicable to do so.

A22.6 If the care or support required is because of a personal illness, or injury, a medical certificate from a registered health practitioner will be provided by the Employee where it is reasonably practicable to do so otherwise a statutory declaration shall be adequate which includes a statement to the effect that the Employee requires (or required) leave during the period to provide care or support to the member of their household because the member requires (or required) care or support during the period because of:

- (a) A personal illness, or injury of the member; or
- (b) An unexpected emergency affecting the member.

A23 TRAUMA LEAVE

A23.1 Where an Employee is directly involved in a fatal or serious accident or event defined as a "critical incident" and the Employee is themselves not physically injured in the accident or event, they will be provided with a minimum of two (2)

days paid trauma leave. Additional days will be determined by a qualified medical practitioner after attending a compulsory medical or other counselling. The Employee will be given a choice of approved practitioners and /or counsellors. Trauma leave will be paid at Total Remuneration.

- A23.2** For the avoidance of doubt, Casual Employees are entitled to a minimum of 2 days paid trauma leave in the circumstances outlined in sub-clause A23.1 above. Payment will be 7.6 hours per day at Total Remuneration.

A24 COMPASSIONATE LEAVE

- A24.1** Employees are entitled to 2 days paid compassionate leave per occasion. The rules for the taking of compassionate leave are set out in the Act and are incorporated into this Agreement.
- A24.2** Notwithstanding the provisions of clause A24.1 above, paid leave of up to 5 days will be available where a death involves the Employee's spouse or partner or former spouse or child (which child will include a step, foster or adopted child) or parent, or step parent, grandparent or grandchild of either the Employee or their spouse and brothers and sisters of either the Employee or their spouse.
- A24.3** Compassionate leave shall be paid at the Total Remuneration.

A25 PARENTAL LEAVE

- A25.1** The Employees are entitled to Parental Leave in accordance with the relevant provisions of the Act which, for the avoidance of doubt, includes Adoption Leave. Eligible Employees may also access benefits over and above those provided under the Act in accordance with Pacific National Bulk Rail's Parental Leave Policy as amended from time to time. The Pacific National Bulk Rail Parental Leave Policy is not incorporated into the Agreement.
- A25.2** Eligible Employees who are the Primary Caregiver will have access to either up to twelve (12) weeks paid leave at the rate at the time of taking leave (or up to twenty-four (24) weeks on half pay). Eligible Employees who are the Secondary Caregiver will have access to one (1) week paid leave at the rate at the time of taking leave.
- A25.3** Where paid forms of leave, i.e. annual leave, long service leave, are taken in conjunction with parental leave, the total duration of leave cannot exceed fifty two (52) weeks, unless extended in accordance with the NES.
- A25.4 Definitions**
- (a) **Eligible Employee:** is a permanent full-time or permanent part-time Pacific National Employee who has at least 12 months continuous service and who has, or will have responsibility for the care of a child, where that leave is associated with the birth of a child by the Employee or their partner, or the placement of a child for adoption.
 - (b) **Primary Caregiver:** the Parent with the primary responsibility for the care of the child.
 - (c) **Secondary Caregiver:** the Parent who does not have primary responsibility for the care of the child.

A26 LEAVE WITHOUT PAY

A26.1 Pacific National Bulk Rail may approve leave without pay subject to the needs of the business and at the discretion of the Employee's manager. Periods of leave without pay shall not exceed twelve (12) months.

A27 JURY SERVICE

A27.1 Employees called for jury duty will be provided leave for the period of their attendance.

A27.2 Payment for leave for jury service will be made at Total Remuneration.

A28 SPECIAL LEAVE

A28.1 Special leave is paid leave which enables Employees to participate in community activities, deal with public emergencies or be involved in other special situations not covered by other forms of leave provided.

A28.2 Each application for leave under this provision will be assessed on its merits. Approval will be granted subject to the operational requirements of the work unit or team. Pacific National Bulk Rail will not unreasonably withhold such approval.

A28.3 Special leave is paid at the Base Rate.

A29 DEFENCE LEAVE

A29.1 Pacific National Bulk Rail will provide unpaid leave for defence force reservists in accordance with the requirements set out in the Defence Reserve Service (Protection) Act 2001.

A30 FAMILY OR DOMESTIC VIOLENCE LEAVE

A30.1 Employee's will be entitled to Family or Domestic Violence Leave in accordance with the Pacific National Family or Domestic Violence Leave Policy which will operate in place of, and provide at least the same entitlement or better, than the NES terms in relation to Family and Domestic Violence Leave.

A30.2 The Pacific National Family or Domestic Violence Leave Policy is not incorporated into the Agreement.

A31 CONSULTATION AND CHANGE

A31.1 Consultation:

- (a) The Parties are committed to pursue all opportunities to adopt the world's best practices through modern technology and continuous improvement to all aspects of Pacific National Bulk Rail's operations.
- (b) Levels of manning, equipment and methods of operation may be varied from time to time by Pacific National Bulk Rail to reflect the need for safe work practices, improved technology, and new types of machinery or systems, customer service needs or for any other reason.

- (c) Pacific National Bulk Rail having made a definite decision that it intends to proceed with any significant change, or proposes to introduce a change to the regular roster or ordinary hours of work, shall issue a notification, in writing, advising:
 - (i) The affected Employees, or their representatives and their union;
 - (ii) The nature of the change;
 - (iii) The reason for it;
 - (iv) The timing of it; and
 - (v) Any other relevant information.
- (d) Pacific National Bulk Rail shall allow the Employee, their representative and the union, an opportunity to express their view or concerns. In relation to a proposal to introduce a change to the regular roster or ordinary hours of work, Pacific National Bulk Rail will invite the Employees to give their views about the impact of the change (including any impact in relation to their family or carer responsibilities). Pacific National Bulk Rail will allow Employees, their representative and their union to actively participate in the consultative process. That is, allow for the reasonable release and payment of Employees to attend meetings and access to entitlements as provided for in this Agreement.
- (e) Pacific National Bulk Rail shall genuinely consult and consider any views or advice from the Employees, their representative and their union in relation to the proposed change and provide written reasons addressing concerns raised by Employees and/or Employee representatives, including in the case of a proposed change to the regular roster or ordinary hours of work, any impact raised by an Employee in relation to their family or carer responsibilities.
- (f) This consultative process must be completed within a period of 14 days from the date of notification by Pacific National Bulk Rail as set out in clause (c) above, subject to the provisions of (d) being complied with. Failure to comply with the provisions of (d) will delay and or extend the 14 day period accordingly.
- (g) Should Pacific National Bulk Rail fail to provide the notification as required in clause (c) above Pacific National Bulk Rail shall not implement any of the proposed changes until such time that the proper notification of change has been provided and the consultation process set out in sub clause (d) has been complied with.
- (h) Further, where Pacific National Bulk Rail has failed to engage in any consultation whatsoever with the affected Employees, their representative or their Union may issue Pacific National Bulk Rail, within 7 days of the non-compliance, with a notice of dispute, in writing, setting out the reasons for the dispute in the form set out in Schedule 2 of this Agreement. Upon receiving such notice of dispute Pacific National Bulk Rail will not implement the change and/or cease the change should it have been already implemented.
- (i) It is agreed between the Parties that after the above notification and consultation process has satisfactorily taken place, Pacific National Bulk Rail, may implement change after a further fourteen (14) days.

A31.2 Significant Change

- (a) For the purposes of this clause and without limiting the generality thereof, significant change includes changes in the composition, operation or size of the workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of Employees to other work or locations and the restructuring of jobs and significant changes to the Pacific National Bulk Rail Drug and Alcohol, Fatigue Management and Communications and Monitoring policies subject to clauses A44, A45 and A46.

A31.3 Right To Conciliation

- (a) Notwithstanding the above, once the notification has been provided or consultation has commenced in accordance with this clause, a Party may notify FWC of a dispute, in accordance with clause A32, with respect of the proposed change. In such circumstances, clause A32.3(a) to A32.3(d) need not be followed.

A31.4 Right to Arbitration

- (a) A Party shall have the right to request that FWC arbitrate a dispute arising under this clause in circumstance where a Party has failed to follow the notification and or the consultation process outlined in clause A31.1(c) and A31.1(d) above.
- (b) The Employees with their representatives shall have a further right to arbitrate a dispute where Pacific National Bulk Rail have introduced the change and the provisions of clause A31.1(h) have been enacted.

A32 RESOLUTION OF DISPUTES

A32.1 For clarity, a party in the dispute resolution process outlined in this clause can be:

- (a) an Employee;
- (b) Pacific National Bulk Rail; and
- (c) The ARTBIU.

(collectively the '**Parties**')

A32.2 Employees may be represented at any stage of the resolution of disputes process by a representative of their choosing, which may include a union.

A32.3 Where a dispute or grievance arises between the Parties in relation to the application and / or interpretation of this Agreement or other workplace change, the following will occur:

- (a) Where a Party, or their representative, wish to lodge a dispute or grievance it must be done so in writing. For the purpose of lodging a dispute or grievance, the form as set out in Schedule 2 of this Agreement may be used.

- (b) Where the Party, or their representative, who lodges the dispute / grievance elects to commence the dispute settling process with this step, they will discuss the matter with the relevant immediate manager (or their nominee) or the relevant local manager, whichever is applicable.
- (c) The matters raised will be considered and the Party, or representative on the Party's behalf, who lodged the dispute will be given a response within 24 hours (excluding weekends and public holidays). This response will be in writing.
- (d) If the dispute / grievance remains unresolved, it will be escalated to the Regional Manager. This discussion must be concluded within 48 hours.
- (e) If the dispute / grievance still remains unresolved, it will be escalated to the Head of Bulk or Head of Coal (whichever is applicable). The discussions at this step must be concluded within 7 days.
- (f) If the dispute / grievance remains unresolved at the conclusion of discussions with the Head of Bulk or Head of Coal, a "cooling off period" of 7 days (excluding weekends and public holidays) will occur. During this period, the Parties may continue to have discussions at whichever level they regard as most likely to assist in resolving the dispute / grievance, which may include referring the matter to the Pacific National Chief Operations Officer and the ARTBIU Divisional Secretary, if necessary. The Parties may agree, at this point, to utilise mediation to resolve the dispute.
- (g) During, or at the conclusion of the 7-day cooling off period, a Party may decide to file the Matter with the FWC for the purpose of conciliation of the dispute. The Matter must be filed with the FWC no later than 14 days after the completion of the 7-day cooling off period. The conciliation must occur as soon as reasonably practicable. In the event that the matter is not referred to the FWC during the cooling off period, or at the conclusion of the 14 days after the cooling off period, then the matter is considered complete or resolved, unless the Parties mutually agree to extend the period.
- (h) Where a dispute / grievance is escalated to the point of involvement of the FWC in conciliation, the Parties acknowledge the significance of this point being reached. Therefore, any recommendation made by the FWC in an attempt to assist the Parties to resolve the dispute / grievance will be treated as highly influential.
- (i) Where both Parties agree, they may empower the member of the FWC to resolve the Matter by arbitration. This subclause does not detract from a Party's right to refer a Matter to the FWC for arbitration per clause A32.4.

A32.4 Where a Matter is referred to the FWC per the process set out in A32.3(a) – A32.3(i), it is agreed Pacific National Bulk Rail or the ARTBIU, may decide to empower the FWC to arbitrate the dispute. Pacific National Bulk Rail and the ARTBIU's right to refer a Matter to the FWC for arbitration is subject to the following conditions:

- (a) Any application for arbitration must relate only to a single Matter. Applications cannot be made for arbitration which combine disputes about more than one Matter.

- (b) The ability to arbitrate a dispute under this clause is limited to a Matter relating to the interpretation and/or application of this Agreement. Either party reserves the right to appeal the decision by FWC.
- (c) Before a Matter is referred to the FWC for arbitration, a conversation must take place regarding the dispute between an ARTBIU legal or industrial officer and Pacific National's internal legal counsel. These discussions may include the ARTBIU Divisional Secretary and Pacific National Chief Operations Officer. The Parties must participate in this conversation in good faith.
- (d) If either Pacific National Bulk Rail or the ARTBIU elects to have a Matter arbitrated by the FWC, and the FWC dismisses two (2) Matters, brought by that party in a single financial year, that party will no longer be able to rely on the ability to arbitrate a Matter under this clause during the financial year in which the Matter that resulted in the losses were filed. In such circumstances, the process set out in A32.3(a)-A32.3(i) will continue to apply.
- (e) For the purposes of this subclause, where a Matter is appealed the outcome of the appeal will be determinative of whether the Matter has been dismissed.
- (f) Pacific National Bulk Rail and the ARTBIU agree that they will not object to each party being legally represented in Matters that proceed to arbitration under this clause in order to enable the Matter to be dealt with more efficiently by FWC.
- (g) For the avoidance of doubt, this clause does not detract or amend the right to arbitrate under clause A31.4.

A32.5 For the purposes of this clause, "Matter" means a dispute about a particular factual circumstance and how this Agreement is to be applied to that factual circumstance.

A32.6 Any of the steps in the process may be removed where the Parties agree. Likewise, the Parties may agree to extend the timeframes within which each of the steps are to be completed.

A32.7 At all times during this process work shall continue in the matter it was being performed immediately before the dispute or grievance.

A32.8 If the Fair Work Commission arbitrates the Matter under this clause, it may also use the powers that are available to it under the Act.

A33 PERMANENT TRANSFER OF EXISTING EMPLOYEES

A33.1 Pacific National Bulk Rail proposals that may require an Employee to relocate will be subject to the consultative provisions outlined in clause A31 of this Agreement. With any final decision regarding the individual Employee the relocation will be made on assessment of the individual's circumstances with regard to reasonableness.

A33.2 Where a transfer instigated by Pacific National Bulk Rail requires the Employee to relocate their residence, Pacific National Bulk Rail will meet reasonable relocation expenses.

A33.3 Based on individual circumstances, the following expenses will be met:

- (a) Housing expenses
 - (i) Costs associated with selling a residence at the “old” location, including Agent’s commission, legal expenses, stamp duty and Bank charges.
 - (ii) Costs associated with the purchase or construction of a new residence at the “new” location, where that residence will be the usual place of residence, such as legal expenses, stamp duty, bank charges, connection of utilities and mortgage insurance (one-off payment).
- (b) Removal expenses, including removalist’s fees, insurance charges and temporary storage (up to twelve months).
- (c) Travel expenses, including:
 - (i) One familiarisation visit, of up to five days with travel costs, to the limit of economy class airfares for the Employee and spouse to visit the location to examine housing and other services; and
 - (ii) Actual travel costs, to the limit of economy class airfares for the Employee and family during the actual relocation.
- (d) Resettlement Allowance
 - (i) Resettlement Allowance is provided to cover the costs of temporary accommodation for Employees and their families until a permanent residence is available. Resettlement allowance is paid as a reimbursement to cover actual costs incurred for temporary accommodation on the following basis;
 - (ii) Employees with dependants may be reimbursed up to the value of six weeks pay, calculated on their base remuneration, where the dependants accompany them; or
 - (iii) Employees without dependants will be reimbursed up to the value of three weeks pay, calculated on their base remuneration.

A33.4 Employees who transfer at their own request will meet all costs associated with any relocation.

A33.5 New Depots Terminals and Home Base Locations, and Home Base location Closure

- (a) Where Pacific National Bulk Rail introduces new Work Locations more than 10 Kilometres from an Employees existing Home Base, Pacific National Bulk Rail will not forcibly transfer any Employee or make that location a remote sign on. Where a location is closed an Employee will be offered redundancy or he/she may relocate if they so choose. Where this is the case the provisions under clause A33.1 to A33.3(d) above will apply.

- (b) Where Employees who are currently entitled to receive the Coal Bonus (outlined in clause C7.5) and transfer to another Pacific National Bulk Rail Home Base, they will continue to receive this payment.

A34 TEMPORARY TRANSFER TO ANOTHER HOME BASE

- A34.1** Where required by the business, Employees may be temporarily transferred to a different Home Base for a period of time.
- A34.2** Temporary transfers will also be used to support commercial activities affected by variable demand and traffic volumes and/or temporary staff shortages.
- A34.3** In the first instance, volunteers will be called for temporary transfer. In the event that insufficient Employees volunteer, Employees may be selected for temporary transfer. Employees will be temporarily transferred away from their Home Base for a period of not more than six (6) weeks in any twelve (12) month period, unless mutually agreed. Any decision regarding individual Employee temporary transfer will be made on assessment of the individual's circumstances with regard to reasonableness.
- A34.4** Pacific National Bulk Rail will provide the means of travelling to and from the temporary location if required. Reasonable time allowances for travelling to and from all locations where motor vehicles are utilised, will apply. Employees will be paid travelling time on a stand-alone basis, which means that Train Crew will not have the time deducted from their duty Cycle Hours.
- A34.5** Employees who are temporarily transferred may be authorised to use their own vehicles to travel to and from the temporary location.
- A34.6** Reimbursement for use of private motor vehicle will be in accordance with the relevant company policy. When temporarily transferred, the Employee has the option of an expense allowance or reimbursement of reasonable expenses associated with temporary location transfer. Such reimbursement or allowance will be in accordance with the relevant company policy. Employees may elect to receive the allowance in advance upon request subject to sufficient notice to payroll.
- A34.7** Employees who are temporarily transferred to a location which does not permit them to return to their Home Base daily shall be paid expenses at the rate of \$272.85 for each full day away from their Home Base. The payment of expenses is outlined in sub clause A34.8 below.
- A34.8** The daily rate at commencement of this Agreement is made up of \$29.90 for each breakfast, \$33.65 for each lunch, \$57.30 for each dinner and \$152.00 for each bed. No allowance for breakfast, lunch, dinner or bed, as the case may be, shall be granted to an Employee unless they commence travelling from their Home Base earlier than the time specified in the table below and return to their Home Base after the time specified in the table below:

Payment for:	If departure before	If return after
Breakfast	0700 hrs.	0800 hrs.
Lunch	1300 hrs.	1400 hrs.

Dinner	1830 hrs.	1830 hrs.
Bed	0100 hrs.	0100 hrs.

No allowance for a bed shall be paid unless a bed is reasonably required.

- A34.9** Expenses shall be reviewed annually and adjusted in accordance the applicable rates in the “Reasonable Travel and Overtime Meal Expenses” as and when the Australian Taxation Office reviews them.
- A34.10** Where the actual costs of accommodation and / or meals are greater than those outlined above Employees will be reimbursed the difference, subject to the production of receipts which are reasonable in the circumstances. Where Pacific National Bulk Rail provides any meals and /or accommodation, the relevant component(s) of the expenses shall not be payable.
- A34.11** Employees shall have the option of accepting accommodation arranged and paid for by Pacific National Bulk Rail or arranging their own accommodation. Where accommodation is arranged and paid by Pacific National Bulk Rail, such accommodation shall be of no less than three star rating. Barracks will not be utilised as accommodation.
- A34.12** Where Train Crew Employees have been temporarily transferred and would be entitled to meal allowances under this clause and the barracks meal allowance set out in Schedule 4 - Barracks, such Employees will only be entitled to the barracks meal allowance.
- A34.13** Employees will be required to maintain supporting documentation (receipts, transaction records etc) in respect of expenditure incurred while living away from home for greater than 90 days. Pacific National Bulk Rail may require an Employee to complete ATO declarations (e.g. a Living Away From Home Declaration) to comply with ATO requirements for Fringe Benefits Tax reporting while living away from home for greater than 90 days.

A35 EMPLOYEE TRAVEL

- A35.1** Operational Relief Work Arrangements
- (a) On occasion, and upon agreement, it may be necessary to work at another Home Base location for a single day work arrangement.
 - (b) Travel to an alternate location will be limited to 70 km from the Employee’s Home Base.
 - (c) Provisions for required travel are listed in A35.4 below
- A35.2** Training and Conference Attendance Arrangements
- (a) Employees may be required on occasion to attend non- core training, meetings, seminars / conferences & communication sessions away from their Home Base.
 - (b) Provisions for required travel are listed in A35.4 below.
- A35.3** Provisions not covered in this Agreement

- (a) For travel not provided for elsewhere in this Agreement the company travel policy and procedures will apply.

A35.4 Additional Allowances Payments and Conditions

- (a) Employees shall be entitled to the following additional payments for such occasions listed above in A35.1 and A35.2 if travel is outside the 10 kilometre radius of their Home Base;
- (b) Where the Employee has agreed to use their private vehicle, reimbursement will be in accordance with the per kilometre rate for the Employees vehicle size as specified by the Australian Taxation Office and shall include the cost of tolls. For other travel, i.e. public transport, the additional costs which are reasonably incurred by the Employee shall be reimbursed, however pre-approval is to be obtained before the use of taxis as other travel.
- (c) Employees will be paid the time spent travelling to and from their residence to the alternate location less the travelling time that would have been incurred to enable the same shift to be undertaken at the Home Base. All such additional travel time shall be deemed as working time and be included as part of the shift limit. Payment for travel will be paid in 15 minute intervals.
- (d) Where an Employee finishes work at a location that is different to the sign-on location, Pacific National Bulk Rail will provide transport back to the sign-on location, unless otherwise agreed. In these circumstances, actual sign-off will be on the return to the sign-on location and shall be within the shift length.
- (e) Meal allowances are set out in clause A34.8 except in the following instance:
 - (i) Employees shall receive a \$33.25 meal allowance if travelling for operational relief as outlined in sub clause A35.1.
 - (ii) Where overnight accommodation is required, the provisions in clause A34 Temporary Transfer of this Agreement will apply.
 - (iii) Where Pacific National Bulk Rail supplies meals and accommodation at company expense there is no Employee entitlement to claim an allowance for such.

A36 DRIVING COMPANY VEHICLES FOR TRAIN CREW

- A36.1** Employees may be required to drive company vehicles for purposes related to train operations. In such cases fatigue issues shall be taken into account. Where long distance travel is required, Pacific National Bulk Rail will use its best endeavour so as to minimise excessive travel, which will include change over working wherever possible.

A37 HOME BASE AND SIGN ON / OFF PROVISIONS

- A37.1** Upon commencing employment, an Employee shall be allocated to a Home Base. A Home Base is a geographic location, (e.g. a depot, terminal or office) where they commence and finish work, unless otherwise provided for in this

Agreement. Any new or altered Home Base location can only be established through the consultation provisions outlined in clause A31 of this Agreement.

A37.2 For the purposes of this clause the Home Base for Employees at the time of the lodgement of this Agreement shall be that location, depot, terminal or office where they commence and finish work.

A37.3 Sign-on/off points may be established within a 10 kilometre radius of the Home Base, following consultation as outlined in clause A31 of this Agreement. In such cases where, because of genuine hardship, Employees are unable to transport themselves to a sign-on/off point, Pacific National Bulk Rail may provide transport to and from the sign-on/off point at no cost to the Employee. Genuine hardship may include personal commitments such as family responsibilities.

A37.4 As a minimum each Home Base and sign-on/sign-off point must contain the following:

- (a) Secure car parking;
- (b) Air conditioned and heated offices and sign on area; amenities including individual secure lockers (only for Home Base), showers and toilets;
- (c) A meal room that includes at least a refrigerator, toaster, cooker, microwave oven, kettle, and drinkable water. Tea Coffee and Milk will be provided free of charge to Employees;
- (d) Communication equipment such as necessary stationary, telephones, and radios;
- (e) Hard copies of any relevant operational documentation and provisions for accessing those documents;
- (f) A computer with access to Pacific National email and the Pacific National intranet for non office staff;
- (g) Secure Union Notice Boards; and
- (h) Provision for the transport of any safety or maintenance equipment.

A37.5 Established Coal Home Bases at the Commencement Date are:

- a) Hunter Bulk Terminal (Port Waratah)
- b) Gunnedah
- c) Mudgee
- d) Pt. Kembla (Inner Harbour)
- e) Pt. Kembla - South 32
- f) Greta Train Support Facility
- g) Willow Tree

A37.6 Established Coal Sign on/off Locations within a Home Base at Certification are;

- a) For Hunter Bulk Terminal – Kooragang
- b) For BHP Billiton – IBT (Train Crew Only)

c) For IBT – BHP Billiton (Train Crew Only)

A37.7 Established Bulk Home Bases at the Commencement Date are:

- a) Parkes
- b) Enfield
- c) Clyde
- d) Morandoo
- e) Grafton
- f) Moss Vale
- g) Junee
- h) Werris Creek
- i) Narrabri
- j) Cootamundra
- k) Gulgong
- l) Bathurst
- m) Nowra
- n) Menangle Park
- o) Port Kembla (Outer Harbour)

A37.8 Established Bulk Sign on/off Locations within a Home Base at Certification are;

- a) For Parkes – Goobang Junction
- b) For Enfield – Clyde and Sydney Freight Terminal
- c) For Clyde – Enfield and Sydney Freight Terminal
- d) For Morandoo – North End, Port Waratah

A37.9 All Employees (Other than Train Crew ceasing or commencing a shift at a Barracks location) shall commence and finish their shift within their shift limit at their Home Base unless by agreement as outlined in clause A35 Employee Travel.

A37.10 Employees are not entitled to compensation for travel between their Home Base and a sign on/sign off point within a Home Base.

A37.11 All required travel after sign on will be provided by Pacific National Bulk Rail unless the Employee agrees to use their own private vehicle then clause A35.4 will apply.

A37.12 Any closure, relocation or opening of a Home Base shall be consulted as per clause A31 of the Agreement and the transfer provisions of clause A33 - Transfer of Existing Employees shall apply.

A37.13 The Australian Standards AS 1668.2 - 2002 and the NSW Work Cover Code of Practice titled “Managing the Work Environment and Facilities” will be used in determining appropriate offices and amenities, and in turn ensuring welfare for Employees in the workplace when establishing and maintaining a Home Base or sign on/off point.

A37.14 Remote Sign On/Off Provision

- (a) Clause A37.14 is only applicable for Employees covered by clause B1 of this Agreement.
- (b) Remote sign-on/off points may be determined at the discretion of Pacific National Bulk Rail in consultation with the respective depot. Remote sign on/off points will contain the following:

- a) Car Park
- b) Amenities including a meal room with appropriate facilities
- c) Communications as required
- d) Operational documentation
- e) Notice Board

- (c) Where an Employee is required to report at a remote location for sign on/sign off in order to commence and complete a shift, private motor vehicle reimbursement will be paid as prescribed in accordance with clause A35.4 of this Agreement. Below is the list of the existing remote sign on locations in respect of those depots.

Cootamundra, Junee, Temora

Junee, Cootamundra, Temora

Moss Vale, Goulburn

Werris Creek, Tamworth

- (d) For any new remote sign on locations identified during the life of this agreement, consultation will occur with affected Employees.
- (e) There will be no remote sign on points outside of a 50 km radius unless agreed with the affected Employee's except for the sites listed in this agreement.
- (f) It is an Employee's responsibility to transport themselves to their designated remote sign on location. In cases where, an Employee is unable to transport themselves to a sign on point outside of their usual Home Base, due to genuine hardship, Pacific National Bulk Rail may provide transport to the sign on point at no cost to the Employee. Genuine hardship may include personal commitments such as family responsibilities.

A38 **MEAL BREAKS**

- A38.1** All Employees shall have a paid meal break of 30 minutes taken after the third hour and before the completion of the sixth hour (e.g; to start before 5.5-hours on duty) of work at such times as will not interfere with the efficient running of the business including the operation of the network.

A38.2 Where Employees are required to work shifts in excess of ten (10) hours duration, the Employee shall be entitled to an additional twenty (20) minute paid rest break to be taken at a time that will not interfere with the efficient running of the business including the operation of the network.

A38.3 Where an Employee is rostered to perform DOO working, they shall be entitled to a paid break of no less than thirty (30) minutes, taken between the third and the fifth hour as arranged between the driver and the train controller to ensure the efficient operation of the network.

A39 SALARY MAINTENANCE

A39.1 Existing Employees on Salary Maintenance

- (a) Pacific National Bulk Rail Employees who were on salary maintenance pursuant to clause 43 of the Pacific National Enterprise Agreement 2004 will continue to receive salary maintenance on the same grounds as was provided in that clause indefinitely.
- (b) Employees who entered salary maintenance pursuant to clause 40 of the Pacific National Northern Coal Union Collective Agreement 2006 or clause 42 of the Pacific National Southern Coal Union Collective Agreement 2006 or clause 35 of the Pacific National Operation Services Union Collective Agreement 2006, will continue to receive salary maintenance on the same basis as was provided in those respective clauses.

A39.2 Employees engaged prior to 27th January 2007

- (a) Where an existing Employee is redeployed or reclassified to another position with a lower Total Remuneration, that Employee shall receive salary maintenance on the following basis:
 - (i) The Employee will retain the classification they held at the date of lodgement of this Agreement and receive the pay increases applicable under this Agreement.
 - (ii) If the Employee is promoted during the life of this Agreement and their position is made redundant, they will be salary maintained on the Total Remuneration of the position they were promoted to for a period of 12 months and receive the annual remuneration increases prescribed in clause A51 of this Agreement before reverting to being salary maintained at the level in (i) above.

A39.3 New Employees engaged after 27th January 2007

- (a) Where such an Employee is redeployed or reclassified to another position with a lower Total Remuneration, that Employee shall receive salary maintenance on the following basis:
 - (i) The Employee will receive the Total Remuneration applicable to their former position for a period of twelve months and receive the increases prescribed in clause A51 of this Agreement during this period.

- (ii) At the conclusion of the twelve month period, the Employee will revert to and be paid the applicable Total Remuneration for the position they are actually occupying.

A39.4 Reasonable Alternative Offers

- (a) Employees receiving salary maintenance through the application of this clause shall be required to accept a reasonable offer for appointment to a position that has an applicable salary equal to or greater than their maintained salary. Reasonable within this context will have regard to consideration of the skills, knowledge and experience possessed by the Employee and those required for the proposed position. Reasonable will also be considered within the context of the location of the proposed position.
- (b) Where an Employee rejects a reasonable offer for appointment under this, their salary will revert to that for the position that they are actually occupying.

A40 UNIFORMS

A40.1 Pacific National Bulk Rail will provide Employees with uniforms and, where required, protective clothing or equipment.

A40.2 Pacific National Bulk Rail will replace uniforms, protective clothing and equipment on a "fair wear and tear" basis.

A40.3 If Pacific National Bulk Rail intends to make significant changes to uniforms, protective clothing and equipment issued under this clause, it will undertake consultation in accordance with the provisions outlined in clause A31 of this Agreement.

A41 REPRESENTATIVES

A41.1 Pacific National Bulk Rail recognises workplace delegates who are authorised by the Union and will permit such delegates to perform their role without discrimination. This clause is subject to the delegates concerned continuing to act in accordance with their contract of employment and the terms and conditions of this Agreement.

A41.2 It is further recognised that workplace delegates represent union members at the workplace and will be allowed reasonable time to attend to any work related matters, without limitation, on behalf of union members but must advise their supervisor prior to attending to any such matters.

A41.3 Pacific National Bulk Rail will allow workplace delegates reasonable access to telephone, facsimile, photocopying and email services, where available and provided, for the purpose of carrying out their role. The use of resources by workplace delegates will be subject to the delegate complying with the prevailing company policy provisions (which shall not impose unreasonable restriction on the operation of this sub clause) and the specific directions of the site manager.

A41.4 Workplace delegates will be entitled to reasonable unpaid time off to attend union meetings, congresses and conferences, subject to operational constraints. Workplace delegates seeking such leave are required to give fourteen (14) days

notice and Pacific National Bulk Rail will not unreasonably refuse to approve such leave.

- A41.5** Pacific National Bulk Rail will provide a lockable notice case to be used by workplace delegates for posting formal Union notices signed off by the delegates and or Union official. All material posted must be authorised by the relevant Union.
- A41.6** Special paid leave, at base ordinary hours, will be granted to Employees of Pacific National Bulk Rail who are elected through the Australian Electoral Commission as delegates of their Union to attend their Union's National Council; National Executive; Branch Council; Branch Executive and; Divisional Committee meetings, or their equivalent.
- A41.7** To be eligible for special paid leave, the Employee:
- (a) Is required to apply for leave at least four (4) weeks prior to the meeting;
 - (b) Is required to provide documentary evidence, signed by the appropriate authorized Officer of the union, that they are an elected delegate of the union and are required by the union to attend the meeting. This documentation must also include the duration of the meeting.

A42 WORKPLACE RELATIONS TRAINING

- A42.1** Workplace relations training is specifically targeted at maintaining harmonious workplace relations between Pacific National Bulk Rail and its Employees.
- A42.2** Unions will identify training course content and ensure that all training is delivered by appropriately qualified trainers. Unions will fund all costs associated with the development and delivery of workplace relations training programmes.
- A42.3** Pacific National Bulk Rail will allow a maximum of 2000-hours in total per year for such training for Union Delegates and Union Activists.

A43 INDIVIDUAL FLEXIBILITY ARRANGEMENT

- A43.1** Notwithstanding any of the other provisions in this Agreement, Pacific National Bulk Rail and an individual Employee may agree to vary the application of terms of this Agreement to meet the genuine individual needs of Pacific National Bulk Rail and the individual Employee. The terms of the Agreement Pacific National Bulk Rail and the individual Employee may agree to vary are those concerning:
- (a) Arrangements for when work is performed;
 - (b) Overtime rates;
 - (c) Penalty rates; and
 - (d) Annual leave
- A43.2** Pacific National Bulk Rail and the individual Employee must have genuinely made the agreement under clause A43.1 without coercion or duress.

- A43.3** The agreement between Pacific National Bulk Rail and the individual Employee under clause A43.1 must result in the Employee being better off overall than the Employee would have been if no individual flexibility agreement had been agreed to.
- A43.4** The agreement between Pacific National Bulk Rail and the individual Employee pursuant to clause A43.1 must also:
- (a) Be in writing, name the parties to the agreement, be signed by Pacific National Bulk Rail and the individual Employee and, if the Employee is under 18 years of age, the Employee's parent or guardian;
 - (b) State the date the agreement commences to operate;
 - (c) State each term of this Agreement that Pacific National Bulk Rail and the Employee have agreed to vary;
 - (d) Detail how this Agreement has been varied; and
 - (e) Detail how the arrangement meets the Better Off Overall Test (BOOT).
- A43.5** Pacific National Bulk Rail must give the individual Employee a copy of the agreement within 14 days.
- A43.6** Except as provided in clause A43.4(a) the agreement must not require the approval or consent of a person other than Pacific National Bulk Rail and the individual Employee.
- A43.7** Any agreement made pursuant to clause A43 may be terminated:
- (a) By Pacific National Bulk Rail or the individual Employee by giving four weeks' notice of termination, in writing, to the other Party; or
 - (b) At any time, by written agreement between Pacific National Bulk Rail and the individual Employee.
- A43.8** The right to make an agreement pursuant to this clause A43 is in addition to, and is not intended to otherwise affect, any provision for an agreement between Pacific National Bulk Rail and an individual Employee contained in any other term of this Agreement.

A44 HEALTH, SAFETY AND FATIGUE

- A44.1** The Parties to this Agreement share an ongoing commitment to ensure and to promote the health, safety, and welfare of all Employees including the management of fatigue risk via the formation of work health and safety committees and nothing in this Agreement shall be designed or applied in ways that reduce or diminish this objective.
- A44.2** The parties recognise the provision of relevant safety legislation in relation to fatigue.
- A44.3** Pacific National Bulk Rail allows any form of legislative consultation concerning health and safety to occur. In addition, Pacific National Bulk Rail provides a

consultation structure through site SHE committees from which information is communicated to and from the business.

- A44.4** The aim of the SHE committee is to improve safety, health and environment at work by assisting with the development and implementation of risk management systems and processes, through direct Employee/classification based representation on the committee.
- A44.5** Pacific National Bulk Rail will provide relevant training, resources and information to members of the SHE committees to enable them effectively to fulfil their roles and carry out their responsibilities.
- A44.6** Pacific National Bulk Rail must take all practical and reasonable measures to ensure the health, safety and welfare of all Employees, as well as ensuring a safe and healthy work environment. Pacific National Bulk Rail will also monitor and seek to improve systems and processes to ensure that both its statutory obligations and the objectives of this Agreement are met.
- A44.7** Pacific National has a duty to ensure, as far as is reasonably practicable, that Employees are not exposed to health and safety risks arising from Pacific National's operations. This includes:
- (a) The provision and maintenance of a work environment which minimises the risks to health and safety;
 - (b) The provision and maintenance of safety systems at work; and
 - (c) Monitoring health, safety and fatigue for the purpose of preventing workplace illness or injury.
- A44.8** With regards to fatigue management, Pacific National Bulk Rail's obligation will not be removed by an Employee's preference for certain shift patterns for social reasons, their willingness to work extra hours or to not present fit for work.
- A44.9** If an Employee self-discloses fatigue and subsequently cannot perform his or her next shift, the payment shall be deducted from the Employee's available personal/carer's leave entitlement.
- A44.10** Employees must ensure that they perform their jobs safely with a duty of care to themselves and to other Employees.
- A44.11** Employees must attend duty fit and able to safely perform their duties. Employees must comply with company policy and procedures, including those related to drugs and alcohol. Employees must also bring to the notice of their supervisor or manager, any situation where they genuinely believe a risk of injury or damage exists.

A45 DRUG AND ALCOHOL TESTING

- A45.1** All parties are committed to the provision of safe and healthy workplaces. The attainment of this objective can be undermined by the hazardous use of alcohol and other drugs by some individuals.
- A45.2** Pacific National Bulk Rail will review its drug and alcohol policy/procedure, with the view of introducing oral fluid testing (swab testing) if there is a change of

legislation relating to urine/ oral fluid testing in NSW, in consultation with Employees and their representatives.

- A45.3** Any changes to procedure shall be developed via a consultative process using a working party which will include representation from the Union, the Employees and Pacific National Bulk Rail. All Drug and Alcohol testing will be carried out by duly accredited testing practitioners in accordance with the appropriate Australian Standards, and be conducted in a manner and place that preserves the dignity and personal integrity of the Employee.
- A45.4** Employees who record a non-negative result may be removed from duty on full pay for a period of no more than four days while testing is confirmed.
- A45.5** Prescription and Over the Counter Drugs: Where there is any non-negative result that is a result of prescription drugs or over the counter drugs or medication, no disciplinary action shall be taken against the Employee where the Employee self disclosed before the test was taken.

A46 MEDICAL ASSESSMENTS

- A46.1** Where, through the operation of the National Standard for Health Assessment of Rail Safety Workers ("National Standard") an Employee is required to undertake a Health Assessment, Pacific National Bulk Rail will pay the cost of the medical assessment. In cases where additional information or specialist opinion is required, an interim determination may be made while awaiting this further advice. If an interim determination is provided (i.e. fit for duty subject to review), any tests (e.g. a stress ECG test) will be paid for by Pacific National Bulk Rail to finalise the determination as provided for in A46.3 below.
- A46.2** E.g. John goes for his medical assessment and the Doctor issues him with an interim determination of "fit for duty subject to review" and refers him for a stress ECG test to finalise the determination. John does the stress ECG test and there is found to be nothing wrong and therefore the final determination is issued as "fit for duty". Pacific National Bulk Rail pay for the stress ECG test and John continues at work. However, if something was found to be wrong and a final determination was issued as "temporarily unfit for duty subject to review" Pacific National Bulk Rail would pay for the ECG test, but John would be responsible for any further medical treatment or testing until a further determination was issued as "fit for duty".
- A46.3** A qualified health professional, in satisfaction of the National Standard, will issue an Employee a determination which can be either interim or final as outlined below:
- (a) Fit for Duty;
 - (b) Fit for Duty subject to Review;
 - (c) Fit for Duty subject to Job Modification;
 - (d) Temporarily Unfit for Duty Subject to Review; or
 - (e) Permanently Unfit for Duty.

- A46.4** If further tests or medical management is required following the final determination, Pacific National Bulk Rail will only be liable to cover the costs of such tests where it is identified that there was no basis for this referral – i.e., there is no apparent underlying condition that should have prompted such referral.
- A46.5** In order to ensure privacy is maintained in relation to the medical files, where an Employee seeks to claim such costs in these circumstances, the Chief Medical Officer or suitably qualified nominee will review the case file and make a determination as to whether there was no basis for the referral. The decision of the Chief Medical Officer in such matters will be final.
- A46.6** Where it is determined that there was no basis for the referral, Pacific National Bulk Rail will:
- (a) Reimburse the Employee for the medical costs incurred as a result of the referral; and
 - (b) Re-credit any sick leave that has been used as a result of being unable to perform their duties as a result of the referral.
- A46.7** Employees shall be rostered to attend their initial medical assessment and if any further testing is required up to the final determination. Employees shall be rostered to attend also, but where the appointment falls on a RDO, the RDO will be moved to accommodate the appointment.
- A46.8** The above provisions do not exclude any obligations arising under the applicable Worker's Compensation legislation.
- A46.9** Payment for Pathology Blood Testing
- (a) Where an Employee is required to participate in a pathology blood test prior to their medical assessment, this may occur during normal rostered hours or in their own time;
 - (b) If the blood test is to take place during rostered hours, the Employee shall be given sufficient notice to enable them to fast before the commencement of their shift. Following conduct of the test the Employee will be allowed a 20 minute break on return to work before resuming normal employment. There will not be an entitlement to any additional payment and the hours/time taken to participate in the test shall be included within the rostered shift limit;
 - (c) Where an Employee is required to take the blood test outside of their normal rostered time, the Employee shall be entitled to a \$90 allowance and have two hours credited to their cycle hours. Where cycle hours do not apply, an Employee will be entitled to 2 hours of ordinary pay;
 - (d) Employees who are required to attend medical assessments shall be advised at least eight (8) weeks in advance of the date of their medical assessment. Employees shall also be advised at the time they must have their blood test done no more than four weeks prior to the medical assessment. If this notice is not given, the Employee shall be paid an additional allowance of \$90.

A46.10 Transition Arrangement- Victoria

(a) Employees who:

- (i) Immediately prior to the Commencement Date were covered by the *Pacific National Victorian Bulk Rail Enterprise Agreement 2014*; and
- (ii) Remain employed in the same position at the Commencement Date, will, on receipt of the health assessment report, be reimbursed for travel expenses and a payment of \$1187.27 gross, less applicable tax and non-superable.

(b) The periodical medical assessment including blood tests, shall be arranged in the Employee's own time and not as outlined in sub-clause A46.7.

(c) Employees entitled to the payment in sub-clause A46.10(a) will receive this payment to the exclusion of the payment outlined in sub-clauses A46.9.

A47 **EMPLOYEE REPRESENTATIVE COMMITTEE (ERC) MEETING**

A47.1 Pacific National Bulk Rail agrees to facilitate an ERC meeting for the Coal and Bulk operations of up to 8 hours per quarter (timetable to be arranged locally) for union delegates to meet with management. The meeting of union delegates and the ERC meeting will be held consecutively with delegates meeting for two hours prior to meeting with management.

A47.2 The ERC meeting would provide the opportunity to discuss and raise issues of Employee concern or feedback, including but not limited to policy matters, disciplinary trends, opportunities for improving the workplace, or suggestions on improving business operations and/or customer experience.

A47.3 Disciplinary trends, and the utilisation of lift-up and lay-back (including where lift-up or lay-back is used to move an Employee off their confirmed task) as outlined in Sections B and C, will be considered as a standing agenda item of the ERC.

A47.4 The terms of reference underpin the operation of the ERC and any changes to the terms and references will be made with agreement from the union delegates on the ERC. For avoidance of doubt, the terms of reference do not form part of this Agreement.

A48 **COMMUNICATIONS MONITORING**

A48.1 For the avoidance of doubt, this clause does not apply to an in-cab train safety recorders as defined in clause A49 and the RSNL.

A48.2 Pacific National will within six months of the certification of this Agreement consult with Employees and their representatives to formulate a Communication Monitoring policy and procedure.

A48.3 In formulating the policy Pacific National Bulk Rail will:

- (a) Give serious consideration to the proposals submitted by its Employees and their representatives;

- (b) Ensure that Employee's privacy is respected and any recordings are not used for improper purposes; and
- (c) Ensure the Privacy Act and Workplace Surveillance Act 2005 (NSW), as amended from time to time, is complied with.
- (d) Give serious consideration to Pacific National Bulk Rail's obligations under relevant work health and safety laws.

A48.4 Any device used within a current or proposed procedure to record any Employee actions or interactions is only to be accessed for post incident investigations as defined in the RSNL, or where a formal complaint is raised by an Employee against another Employee. Any disciplinary action will be in line with the agreed disciplinary procedure.

A49 AUDIO AND VIDEO IN-CAB TRAIN SAFETY RECORDINGS

A49.1 The use and regulation of audio and visual recording devices in the cab of a locomotive will be governed by the *Rail Safety National Law (NSW) 2012* (RSNL) as amended from time to time.

A49.2 Notwithstanding any other provision of the RSNL, the only device capable of making an audio or visual recording installed in the cab of a locomotive used by Pacific National will be an *in-cab train safety recorder* (as defined by the RSNL).

A49.3 This clause does not apply to:

- (a) Telecommunication and radio recordings; or
- (b) Outward facing audio or visual monitoring

A49.4 Subject to consultation, Pacific National Bulk Rail will install and/or operationalise in-Cab Cameras in its locomotives during the transition period to meet the requirements under the RSNL.

A50 PAYMENT OF WAGES

A50.1 Wage/salary payments will be made by Electronic Funds Transfer (EFT) on a fortnightly basis in arrears.

A50.2 Where stand alone payments are due, these will be made by Electronic Funds Transfer (EFT) on a fortnightly basis in arrears. Overtime incurred in the circumstances outlined in this Agreement will be paid in the following pay period.

A50.3 Fortnightly payments are based on averaging the annual ordinary hours on a fortnightly basis and making payment of one twenty-sixth of annual ordinary time pay each fortnight (notionally seventy-six (76) hours per fortnight), excluding overtime.

A50.4 Where employment is terminated, the final payout for hours worked will be calculated on the basis of reconciling the completed hours worked with the notional hours paid. Pacific National Bulk Rail has the right to deduct any overpayment of monies from the Employee's final payment.

A50.5 Pacific National Bulk Rail will ensure that Employee's pay dockets will be provided in accordance with the Act.

A51 WAGE INCREASE

A51.1 Wage Increases for all classifications effective from the first full pay period on or after the dates listed below:

- (a) 3% - As of Commencement Date;
- (b) 3% - 1 April 2023;
- (c) 4% - On Anniversary of Commencement Date 2024;
- (d) 4% - On Anniversary of Commencement Date 2025; and
- (e) 4% - On Anniversary of Commencement Date 2026: and
- (f) 2% - On nominal expiry date.

A51.2 The wage rates and allowances (where wage indexation is applicable) in this Agreement are inclusive of the first wage increase at clause A51.1(a).

A51.3 It is the intention of both Parties to negotiate in good faith and endeavour to reach agreement as soon as possible. In support of this, the Parties agree to commence bargaining negotiations 12 months prior to the Agreement expiry.

Sunset Clause

A51.4 It is the intention of both parties to negotiate in good faith and endeavour to reach agreement as soon as possible.

A51.5 On the nominal expiry date of the Agreement an increase of 2% (as at A51.1(f)) of the Base Remuneration rate will be made in the first full pay period after the Expiry Date, if the parties to the existing agreement have not reached agreement on a new enterprise agreement by that date. The Base Remuneration increase in this clause will be absorbed into the wage increase in the first year of any enterprise agreement that replaces this Agreement.

A51.6 If a new enterprise agreement to replace this Agreement has been finalised prior to the Expiry Date then this payment will not be made.

A52 INTERNAL TRANSFER OF WORK

A52.1 The Parties acknowledge that a "transfer of work" as described within the Act is not dealt with under this clause.

A52.2 The Parties acknowledge that Pacific National Bulk Rail may, from time to time, reorganise and restructure its business units.

A52.3 If an Employee or group of Employees is permanently transferred to another business unit (including a unit that is created after the commencement of this Agreement) at the sole instigation of Pacific National Bulk Rail following a reorganisation or restructure of business units, the terms and conditions of the

Employee shall be governed by the agreement which is applicable to that business unit subject to the following and subject to law:

- (a) If the Employee's classification or level does not exist in the proposed agreement, then the Employee(s) will transfer to a similar classification within the agreement and salary maintenance shall apply;
- (b) Employees shall retain their superannuation (where possible), long service leave, picnic days and travel pass entitlements (where such existed), but only where such entitlements are more beneficial to the Employee(s).

A52.4 If no agreement covers the new business unit, then this Agreement will prevail (subject to law) until such time as an agreement for the new business unit has been approved by FWC.

A53 PICNIC DAY – FORMER FREIGHTCORP EMPLOYEES ONLY

A53.1 This clause shall only apply to current Employees of Pacific National Bulk Rail who are employed on a full time or part time basis and were employed by FreightCorp (the "Former Employer") as at 21 February 2002 and have had continuous service with Pacific National Bulk Rail from that date.

A53.2 For the purposes of this clause, one Picnic Day shall be organized between 1 December and 31 January in a 12 month cycle.

A53.3 Further to clause A53.2 above, to be eligible to receive the Picnic day, an Employee must purchase a Picnic day ticket from the Picnic Day committee and attend the picnic.

A53.4 An Employee who attends the Picnic Day in accordance with this clause shall have their rostered hours credited to their Duty (roster) Cycle.

A53.5 An Employee who has purchased a Picnic Day ticket but has been rostered to work and is required to work on the same day as the Picnic Day falls due shall have the actual time worked credited towards their Duty (roster) Cycle. In addition, the Employee may choose to either receive payment for 7.6 hours at the single time rate of pay, or, if agreed with their manager/supervisor, take 7.6 hours off in lieu at another time. In this case, the 7.6 hours off must be taken within the Employee's same Duty (roster) Cycle as the picnic day occurred.

A54 TRAVEL PASSES – FORMER FREIGHTCORP EMPLOYEES ONLY

A54.1 Subject to sub-clause A54.3, A54.4 and A54.5 a Pacific National Bulk Rail Employee who at the time of the sale of FreightCorp, (21 February, 2002) had an entitlement to an Employee travel pass will retain that entitlement. For the avoidance of doubt, it is intended that Employees will be entitled to the same travel pass benefits, including holiday and interstate travel passes that were in place for FreightCorp Employees at the time of the sale.

A54.2 An Employee's prior service with FreightCorp will be taken into account in determining entitlements under this provision.

A54.3 The clause does not apply to any Employee who chooses to relinquish their travel pass entitlements in return for a payment at the time of the sale of FreightCorp. However, Employees who "cashed out" and relinquished their travel

pass entitlements in conjunction with the sale of FreightCorp will continue to be eligible for a Gold Pass, subject to the normal length of service requirements.

- A54.4** The clause does not apply to any Employee who has or who may choose to relinquish their travel pass entitlements in return for a payment at any other time. In this circumstance, all travel pass entitlements will be extinguished following the decision to “cash out” the travel pass entitlement, including any future entitlement to a Gold Pass.
- A54.5** The clause does not apply, for the relevant temporary period only, to any Employee who has or who may choose to temporarily relinquish their travel pass entitlements (whether it is a travel pass or Gold Pass) for that relevant year in return for an annual payment. In this circumstance, all travel pass entitlements will be temporarily extinguished for that relevant year following the decision to cash out the travel pass entitlement.
- A54.6** The temporary cash out of the travel pass entitlement outlined in clause A54.5 will not affect an Employee’s future travel pass entitlement (including any future entitlement to a Gold Pass).
- A54.7** For clarification purposes Employee entitlements are detailed in Pacific National Human Resources Policy number ten (010) revision number two (02) Dated August 2003. The position referred to as “FreightCorp Officer Level 3 Division One”, is any position above level 2.4 of the Support Classification Structure detailed elsewhere in this Agreement.

A55 ROSTER COMMITTEES

- A55.1** Roster committees are formed where the majority of Employees from a workgroup wish to establish or monitor any roster they are required to work. The structure of a committee may be classification specific or joint classifications where agreed between Pacific National Bulk Rail and the affected Employees.
- A55.2** Formation and election of the Roster Committee shall be up to the local workgroup. An election may be conducted with the assistance of the Employees’ representative (which may include their Union) should affected Employees so request. Each Roster Committee will consist of;
- (a) an Employee representative (which may include the Local Union delegate); and
 - (b) a number of Employees as determined necessary by the workgroups effected.
- A55.3** The Employee representative shall advise in writing to Pacific National Bulk Rail after any Roster committee is formed or changed, of who the Roster Committee members are.
- A55.4** Pacific National Bulk Rail will consult with the Roster Committee on any rostering matters as described in any part of this Agreement.

A56 TRANSITION COMMITTEE

- A56.1** In line with Pacific National Bulk Rail’s commitment to continuous improvement and transition to a mixed commodity future, the Parties will create a Transition

Committee and engage in good faith discussions regarding the creation of a Mixed Commodity Section of the Agreement to apply to all employees subject to the following terms:

- (a) The Transition Committee must start discussions within 3 months of approval of the Agreement by FWC and will hold discussions for up to 15 months from approval of the Agreement by FWC (**Relevant Period**).
- (b) The Transition Committee will be comprised of the following participants:
 - (i) 3 Pacific National Bulk Rail Management representatives (**'Management Representatives'**);
 - (ii) 1 RTBU Official;
 - (iii) 2 RTBU Bulk Delegates;
 - (iv) 2 RTBU Coal Delegates((ii) – (iv) collectively the **'RTBU Representatives'**);

the composition of which can be changed by mutual agreement between the Management Representatives and RTBU Representatives (collectively referred to as the **'Transition Committee'**). If an appointed member of the Transition Committee is not available for a meeting, they will be able to nominate a suitable alternative Management Representative or RTBU Representative to attend in their place.

- (c) During the Relevant Period 1 RTBU Coal and 1 RTBU Bulk Delegate will spend the majority of their time at work on the Transition Committee and related matters.
- (d) When in-person meetings of the Transition Committee are scheduled, Pacific National Bulk Rail will pay for the cost of:
 - (i) accommodation for RTBU Bulk and Coal Delegates;
 - (ii) meeting rooms;
 - (iii) independent mediator (if appointed in accordance with A56.2(c)); and
 - (iv) release of union delegates on paid Transition Committee Leave at Total remuneration
- (e) Any costs relating to RTBU officials attending Transition Committee meetings will be paid for by the ARTBIU.

A56.2 The Transition Committee will follow the process set out below as guidance:

- (a) formation of Transition Committee (in accordance with clause A56.1);
- (b) once the Transition Committee is formed, a timetable for meetings of the Transition Committee will be agreed upon prior to the first meeting;
- (c) the Transition Committee may appoint an independent mediator in accordance with clause A56.4; and
- (d) during the Relevant Period:

- (i) If an agreement is reached at the Transition Committee about the establishment of a Mixed Commodity Section, the terms of clause A57 will apply.
- (ii) If an agreement is not reached at the Transition Committee about the establishment of a Mixed Commodity Section, the terms of clause A58 will apply.

- A56.3** All decisions of the Transition Committee must be made by the unanimous agreement of all members of the Transition Committee.
- A56.4** After 3 months of discussions with the Transition Committee during the Relevant Period, the Transition Committee can appoint a mediator (at the cost of Pacific National Bulk Rail) to further facilitate discussions where agreement has not been reached.
- A56.5** Both Parties agree that the matters in clause A56-58 are not subject of arbitration by the FWC.
- A56.6** Where agreement is reached by the Transition Committee about the creation of a Mixed Commodity Section to form part of the Agreement, the Voting Process set out at clause A57 will be enacted.
- A56.7** If at the expiry of the Relevant Period any of the below time triggers are reached, the Transition Committee will cease to exist, and notwithstanding any other provision in this Agreement, the Trigger Transition Process at clause A58 will apply:
- (a) **Expiry of the Relevant Period** - No agreement is reached by the Transition Committee on a Mixed Commodity Section to be inserted into the Agreement; or
 - (b) **2 months after the expiry of the Relevant Period** - The 'unanimous no section' applies in relation to the Internal Sectional Vote of the Mixed Commodity Section as per clause A57.4(b); or
 - (c) **3 months after the expiry of the Relevant Period** - The Formal Combined Vote has either not occurred or is not approved by a majority of Employees covered by the Agreement as per section 209 of the FW Act.
- A56.8** The Parties agree that in the event that the Formal Combined Vote is approved by the majority of employees, both Parties will submit the required documentation within 2 weeks of the vote outcome to FWC.
- A56.9** In the event that FWC does not approve the Formal Variation outcome as per section 211 of the FW Act, then the Trigger Transition Process at clause A58 will automatically apply.

A57 VOTING PROCESS

- A57.1** Clause A57 is subject to the right to a variation of this Agreement in accordance with Part 2-4 of the *Fair Work Act 2009*. Nothing in clause A57 will be interpreted as degrading or constraining the right of a party to seek a variation of the Agreement in accordance with the Fair Work Act.

A57.2 Where the Transition Committee agrees on a Proposed Variation to insert a Mixed Commodity Section into the Agreement, Employees covered by the Agreement will be asked to voice their approval or disapproval through a vote on that Proposed Variation. This will take place in a 2-phase voting process as follows:

- (a) Internal Sectional Vote;
- and
- (b) Formal Combined Vote (under section 208 of the FW Act)

The processes for both the Internal Sectional Vote and the Formal Combined Vote, and the various possible outcomes, are set out in detail below.

Internal Sectional Vote

A57.3 The purpose of the Internal Sectional Vote is to give the Employees an opportunity to voice their approval or disapproval for the Proposed Variation before it is put to a Formal Combined Vote that, if approved by the majority of Employees covered by the Agreement, will be submitted to FWC for approval as required by the FW Act.

A57.4 Both Section B – ‘Bulk Train Crew and Terminal Operators’ Employees and Section C – ‘Coal Train Crew’ Employees (collectively the ‘Sections’) will be asked to vote on the Proposed Variation internally and separately by Section with following outcomes available:

- (a) **Unanimous ‘yes’ vote:** where the majority of Section B Employees and the majority of Section C Employees vote to approve the Mixed Commodity Section, a Formal Combined Vote to approve the Mixed Commodity Section will be held in accordance with section 208 of the FW Act.
- (b) **Unanimous ‘no’ vote:** where no vote has occurred at all or where the majority of Section B Employees and the majority of Section C Employees vote to **not** approve the Mixed Commodity Section, the Trigger Transition Process will apply as set out at clause A58 and no further voting process will take place and Clause A56 – Transition Committee ceases to exist.
- (c) **Split Result:** a ‘Split Result’ is where the majority of one Section votes to approve the Mixed Commodity Section while a majority of the other Section votes to not approve the Mixed Commodity Section in the Internal Sectional Vote. If a Split Result occurs, the wishes of both Sections will be respected. This will mean that:
 - (i) The decision by a majority of Employees of the relevant Section to be part of the Mixed Commodity Section will be honoured (**Yes Vote Pool**); and
 - (ii) the Section that voted not to approve the Proposed Variation will remain on the same terms and conditions subject to each Employee under the section being able to opt into the Mixed Commodity Section (**No Vote Pool**).

Note: For the purposes clause A57.4, in order to obtain a majority ‘yes’ vote that approves the Mixed Commodity Section, at least 50% + 1 of relevant employees of the Section must participate in the Internal Sectional Vote and at least 50% +

1 of those that participated in the Internal Sectional Vote for that Section must vote to approve the Mixed Commodity Section.

A57.5 The process to be followed where there is a Split Result will be as follows:

- (a) Pacific National Bulk Rail will amend the Mixed Commodity Section proposal so it applies to:
 - (i) 'Yes Vote Pool' Employees; and
 - (ii) Any Employee from the 'No Vote Pool' who has opted into the Mixed Commodity Section which must be no later than 14 days prior to the commencement of the Formal Combined Vote date.

*(collectively referred to as the "**Amended Mixed Commodity Section**").*

- (b) **Formal Combined Vote means:** the Amended Mixed Commodity Section, or the Mixed Commodity Section (depending on the Internal Sectional Vote outcome) will be put to all Employees covered by the Agreement for a vote that will take place in accordance with section 208 of the FW Act.

A58 TRIGGER TRANSITION PROCESS

A58.1 If any of the events outlined in A56.7 occur, then the following trigger points will be enacted:

- (a) **18 months after the Commencement Date:** any new hire of a Pacific National Bulk Rail Employee under this Agreement hired to replace attrition with a Bulk or Coal Home Base will fall under the Section B - Bulk conditions; and
- (b) **21 Months after the Commencement Date:** any new Employee (whether engaged by way of replacing attrition, new business or recruitment) with a Bulk or Coal Home Base will fall under the Section B - Bulk conditions.

A58.2 From the Commencement Date, any labour hire worker who has been placed on assignment at Pacific National Bulk Rail (Labour Hire Worker) and is subsequently employed as a Pacific National Bulk Rail Employee under this Agreement with a Bulk or Coal Home Base will fall under the Section B - Bulk conditions.

A58.3 Pacific National Bulk Rail commits to converting a minimum of 50 labour hire workers to Pacific National Bulk Rail Employees under this Agreement within 12 months of the Commencement Date. Pacific National Bulk Rail will not be in breach of this clause if has made best endeavours to reach the conversion target but nonetheless fails to convert 50 labour hire workers to Pacific National Bulk Rail Employees within 12 months of the commencement date

A59 CROSS SECTIONAL WORKING

A59.1 Depots are aligned with either the Coal Business or the Bulk Business Units. Depots locations are as outlined in clause A37 – Home Base and Sign On / Off Provisions.

- A59.2** Employees are appointed to their respective business unit and will predominantly perform work for that business unit with the following exceptions listed below.
- A59.3** Coal Train Crew Employees (Section C) may be required to perform work performed by Bulk Train Crew Employees (Section B). Likewise, Bulk Employees (Section B) may be required to perform work predominantly performed by Coal Employees (Section C). The following outlines the requirements for this work:
- (a) Work performed must be from the Employee's normal Home Base and all conditions including shift lengths will be governed by the Employee's normal Section. I.e. if an Employee is a Coal Employee, then Section C applies (excluding when an Employee is on loan under the terms below).
 - (b) Where any work is performed for the other Business unit, the Employee must first hold current and demonstrated competencies for the work required. This includes route qualifications and locomotive and wagon qualifications.
 - (c) Employees may be required to rest at a Barracks location utilised by the other Business Unit where the requirements set out in Schedule 4 - Barracks are complied with, including the requirements in clause S4.9(d) relating to the establishment of barracks locations.
 - (d) Employees may be offered to go on loan to another location. When this happens by agreement, the Employee's conditions will be governed by the Part of the Agreement they are transferring to. I.e. if a Section C - Coal Employee is transferred by agreement to a Bulk Depot, the Section B – Bulk section terms and conditions applies to that Employee for the duration of that transfer.
 - (e) Where an Employee is required for a temporary transfer, the terms of clause A34 applies.
- A59.4** An individual flexibility arrangement may be offered by Pacific National for a loan arrangement as per clause A43.
- A59.5** In the event that there is an inconsistency between the Amended Mixed Commodity Section and this clause, the Amended Mixed Commodity Section will apply

SECTION B BULK TRAIN CREW AND TERMINAL OPERATORS

B1 SCOPE

- B1.1** Subject to clause A58.1 and A58.2, this Section B shall be read in conjunction with Section A and shall only apply to the Employees engaged in the classifications and performing the functions as described as outlined in sub clause B3.4.

B2 CONTRACTS OF EMPLOYMENT

- B2.1** In addition and in conjunction with the Contracts of Employment as outlined in Part A, Train Crew will be provided with the opportunity to enter in to a Flying Crew Contract of Employment as per the following conditions:

- B2.2** Flying Crew are Train Crew who are deemed a flexible and mobile workforce;

- (a) Pacific National Bulk Rail may deploy Flying Crew to cover various operational requirements. For the avoidance of doubt, various operational requirements are those which are required to cover the satisfaction of commercial requirements, unpaid leave, annual leave, long service leave coverage, long term sick coverage, training and safe work training. It is intended that commercial requirements is defined as when new contracts are obtained or changes are made to existing contracts that impact on the labour resources required
- (b) In the event that a Flying Crew Employee is working from their Home Base, they will operate under their own separate Master Roster and be used in the following situations:
 - (i) All Leave Types
 - (ii) Training
 - (iii) Workers Compensation
 - (iv) Special Duties
 - (v) Relief of Employees on-loan
- (c) At any given time, a maximum of 5% of permanent full time Train Crew that fall under clause B1.1 of this Agreement may be employed as Flying Crew;
- (d) Flying Crew would be restricted to those Employees that fall under clause B1.1 of this Agreement; and
- (e) The following employment conditions apply to Flying Crew:
 - (i) Flying Crew Employees will be required to travel and work from various locations as specified by the company.
 - (ii) The company, with a minimum of one weeks' notice in writing, may at any stage change the work location of the Flying Crew Employee.
 - (iii) Flying Crew Employees will receive an annual allowance of \$7,500 gross. This will be paid in equal fortnightly instalments.

- (iv) The anticipated timeframe of relocation will be advised in writing to the Employee and be subject to business and operational requirements a minimum of two (2) weeks will be given in any event of an extension of the advised timeframe and this extension will be confirmed in writing.
- (v) Temporary Transfer Allowances will apply in accordance with the relevant provision within this Industrial Agreement.
- (vi) Flying Crew will be employed under the terms of this Agreement.
- (vii) Flying Crew may be employed as either Full Time, Part Time, Casual or Fixed Term Employees.
- (viii) In the event that the Flying Crew Employee is not required, the Employee will be offered another suitable position within Bulk Rail or Pacific National Bulk Rail, subject to provision clause A17.
- (ix) Notwithstanding the above conditions which shall be outlined / included within the Flying Crews contract of employment and signed by both Pacific National Bulk Rail and the Employee upon their commencement, all other conditions of employment within this Agreement will continue to apply to Flying Crew.

B3 CLASSIFICATIONS PRINCIPLES

B3.1 The classification structure will operate in accordance with the following principles:

- (a) Positions will be defined in terms of their primary accountabilities or main functions.
- (b) Classification of a position will be made on the basis of matching the primary accountabilities or main functions with the appropriate level of the classification structure.
- (c) On this basis, Employees will be classified at a level within the classification structure that is commensurate with the primary accountabilities or main functions of the position undertaken.
- (d) Employees will remain in their classification unless there is a major and substantial change in the work undertaken and/or accountabilities.
- (e) As directed by Pacific National, an Employee will be required to perform any skill they are competent and qualified to perform within their current classification or lower classification levels.
- (f) Classifications are based on primary accountabilities or main functions used in the position rather than skills possessed by the Employee.
- (g) To allow for the design of positions and the performance of activities and tasks based on assessment of what is safe, efficient and logical, and for which the Employee has been trained and has current and demonstrated competency.
- (h) Flexibility that allows Pacific National, or a section of Pacific National, to change the way work is organised and/or the way positions are designed, as required by business or commercial demands.

- (i) The Australian Qualifications Framework (AQF) package and the associated competency standards will form the basis of Pacific National's training and development system. In addition, specific route and locomotive knowledge and skills will also be included. Certificates or other relevant qualifications will be issued to Employees upon satisfying the requirements of the specified competency standards. Upon receiving the qualifications, Employees will be aligned to the commensurate level within the classification structure.

B3.2 Recognition of Current Competency

- (a) Employees who are engaged and have had previous experience and knowledge in the position which they are engaged in will be assessed to determine the appropriate level to which the Employee should be appointed to within the classification structure. Internal transfers from within Pacific National will be appointed to the same classification level that they currently hold competency for while they receive the appropriate training, instruction or skills development to enable qualification at that level.
- (b) Where an Employee is assessed not to be competent at the level to which they have been aligned within the classification structure, they shall receive the appropriate training, instruction or other skills development to enable qualification or acquisition of the identified competencies. During such time they shall retain their classification and pay level.
- (c) Any existing employees aligned to the new classification structures shall be salary maintained per clause A39 and have their wages and conditions adjusted in accordance with this Agreement.

B3.3 Train Crew Classification Structure

Pacific National Employees covered by this Agreement shall be employed in any of the classifications as set out below which operates in accordance with the following principles:

- (a) The primary function of employees employed under this structure is to operate trains and perform associated rail safety tasks.
- (b) Consistent with clause 44.10, Employees will be expected to display team based behaviours, including open sharing of information and knowledge to ensure the employee and their colleagues can safely and effectively complete operational tasks.
- (c) An Employee will commence under the classification of Driver Level 1, and progress through the classification levels based on attainment of qualifications and competencies. There may be extenuating individual circumstances that prohibit an Employee from progressing to higher classification levels.
- (d) Qualifications will be aligned with the Australian Qualification Framework (AQF) and the Pacific National RTO Training and Assessment Strategy, as amended from time to time (PN TAS). All costs associated with employees' training and qualifications required by Pacific National Bulk Rail will be paid for by Pacific National Bulk Rail.

- (e) Multiple Mainline Routes means 75% of mainline routes at an Employee's Home Base.

B3.4 Classification Structure

Classification Pay Levels	Description	Bulk
Driver Level 1	<p>A Driver at this level is an entry level Employee who is completing training required to perform as an Assistant Driver.</p> <p>Progression to Driver Level 2.</p> <ul style="list-style-type: none"> • Verification of training and competency in units 1 – 13 inclusive from the Certificate 4 in Train Driving from the PN TAS as aligned with the AQF Certificate 4; and • Required enterprise training. 	
Driver Level 2 (Assistant Driver)	<p>A Driver at this level has completed required enterprise training and demonstrated competency to perform the position of Assistant Driver during train operations.</p> <p>The Employee will be competent to carry out shunting operations, marshalling and roll-by, as required.</p> <p>Qualification and Competency</p> <ul style="list-style-type: none"> • Trained and competent in units 1 – 13 inclusive from the Certificate 4 in Train Driving from the PN TAS as aligned with the AQF. <p>Progression to Driver Level 3</p> <ul style="list-style-type: none"> • On confirmation of completion of training and competency in units 14 – 22 inclusive from the Certificate 4 in Train Driving from the PN TAS as aligned with the AQF Certificate including all Group 2A B Freight Units (Engine and Air). 	
Driver Level 3 (Driver in Training)	<p>An Employee at this level is an experienced Driver's Assistant or Second Person.</p> <p>At this level, the Employee develops competency in Train Operation and Handling and Route Knowledge through practical experience and informal skills transfer from other more senior Drivers.</p> <p>Qualification and Competency</p> <ul style="list-style-type: none"> • Trained and competent in units 14 – 22 inclusive from the Certificate 4 in Train Driving from the PN TAS as aligned with the AQF Certificate 4. 	

	<p>Progression to Driver Level 4</p> <ul style="list-style-type: none"> • On confirmation of completion of Certificate 4 in Train Driving from the PN TAS as aligned with the AQF Certificate 4; • Obtaining competency for a mainline route; and • The Employee's progression will be supported by a training plan. <p>Employees will be given a reasonable opportunity to progress to Driver Level 4, subject to operational requirements. If an Employee believes that they are not being provided sufficient opportunity to progress, this matter should be raised, in writing, with the Pacific National Bulk Rail Training Manager who will review the Employee's training plan and progression with the Employee, and their appointed representative if they so choose, to ensure they have reasonable opportunity for progress subject to operational requirements.</p>	
Driver Level 4	<p>A Driver at this level is qualified to operate a train on a mainline route and perform the following tasks:</p> <ul style="list-style-type: none"> • A two (2) person crew on the mainline; • 4 Person Push/Pull functions; and • Terminal DOO Operation. <p>Qualification and Competency</p> <ul style="list-style-type: none"> • On confirmation of completion of certificate 4 in Train Driving from the PN TAS as aligned with the AQF Certificate 4; and • Qualification on 1 mainline route. <p>Progression to Driver Level 5 – either:</p> <ul style="list-style-type: none"> • Automatic progression 18 months after being appointed to Driver Level 4; or • Trained and competent in Multiple Mainline Routes, whichever comes first. 	
Driver Level 5 (Advanced Locomotive Driver)	<p>A Driver at this level is qualified to perform tasks on mainline operations and can:</p> <ul style="list-style-type: none"> • Operate as part of a two (2) person crew on the mainline; and • Perform 3 Person Push/Pull functions. <p>Qualification and Competency</p> <ul style="list-style-type: none"> • Certificate 4 in Train Driving from the PN TAS as aligned with the AQF Certificate 4; and • Multiple Mainline Routes. 	

	<p>Progression to Driver Level 6 or 7</p> <ul style="list-style-type: none"> • By merit selection to higher positions. 	
Driver Level 6 (Mentor Driver)	<p>A Driver at this level is a driver selected by Pacific National Bulk Rail to perform duties in accordance with the company's Mentor Program.</p> <p>The Employee will have a superior road knowledge base and be willing to engage in special duties associated with operations. This role may be by either permanent appointment or secondment for a minimum of 3 months. When seconded this level will be paid at Driver level 6 for the duration of the secondment period. .</p> <p>In this role, the Employee will mentor second persons and other drivers with respect to various aspects of a driver's duties in readiness for assessment of competency.</p> <p>Qualifications and Competency</p> <ul style="list-style-type: none"> • Completion of Pacific National Bulk Rail training and assessment units: <ul style="list-style-type: none"> ○ Mentoring in the workplace; ○ Plan, organise and facilitate learning in the workplace; and ○ Provide work skill instruction. • Certificate IV in Train Driving from the PN TAS as aligned with the AQF Certificate 4; and • Competency on Multiple Mainline Routes. <p>To be employed at this level, an Employee must be appointed from the Driver Level 5 classification.</p> <p>Note: An Employee may commence as a Level 6 Driver prior to obtaining all of the competencies listed in this clause.</p> <p>Progression to Driver Level 7</p> <ul style="list-style-type: none"> • By merit selection to higher positions. 	

Driver Level 7 (Driver Trainer/Assessor)	<p>A Driver Trainer/Assessor occupies an important leadership position in the organisation. They will have already demonstrated, and continue to demonstrate, superior competence and performance in all aspects of operations covered in Levels 1 to 6 above.</p> <p>In addition to any other operational duties as required, the Driver Trainer/Assessor is required to undertake training, competency assessments, Employee communication, mentoring and motivation, performance reviews and feedback, investigations, audits, procedural and business improvement reviews, customer presentations and other special duties and tasks as required.</p> <p>Qualifications and Competency</p> <ul style="list-style-type: none"> • Certificate IV in Train Driving the PN TAS as aligned with the AQF Certificate 4; • Certificate IV in AQF Training & Assessment; • Demonstrated competence at Level 5; and • Competency in Multiple Mainline Routes. 	
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Terminal Operator Classification

Classification Pay Levels	Description	Bulk
Terminal Operator Level 1	<p>An Employee at this level is an entry level Employee engaged in a Terminal Operator position who is completing classroom- based training.</p> <p>Progression to Terminal Operator Level 2</p> <ul style="list-style-type: none"> • Verification of training and competency in units 1 – 13 inclusive from the Certificate 4 in Train Driving from the PN TAS as aligned with the AQF Certificate 4; and • Required enterprise training. 	
Terminal Operator Level 2	<p>An Employee at this level, will have been deemed to be competent within the work tasks as outlined within the Terminal Operator Level 1 and will perform duties without direct supervision and will perform some or all of the below tasks daily:</p> <ul style="list-style-type: none"> • Shunting and Marshalling Rolling Stock; • Radio Communications; • Providing Operational assistance for Train movements; • Conducting Train Examination; and • Perform Basic Wagon Maintenance. 	

	<p>Qualification and Competency</p> <ul style="list-style-type: none"> On confirmation of completion of training and competency in units 1 – 13 inclusive from the Certificate 4 in Train Driving from the PN TAS as aligned with the AQF Certificate 4. <p>Progression to Terminal Operator Level 3</p> <ul style="list-style-type: none"> Minimum 18 months at this level and verified as competent. 	
Terminal Operator Level 3	<p>An Employee at this level having deemed to be competent, is expected to display leadership and coach/mentor level 1 and 2 Terminal Operators and is required to perform all of the work tasks unsupervised and on a daily basis:</p> <ul style="list-style-type: none"> Shunting and Marshalling Rolling Stock; Radio Communications; Providing Operational assistance for Train movements; Conducting Train Examination; and Perform Basic Wagon Maintenance. <p>Qualification and Competency</p> <ul style="list-style-type: none"> Completion of Pacific National Bulk Rail training and assessment units: <ul style="list-style-type: none"> Mentoring in the workplace; Plan, organise and facilitate learning in the workplace; and Provide work skill instruction. <p>Progression</p> <ul style="list-style-type: none"> A Terminal Operator Level 3 can elect to transfer to the Train Crew Classification Structure (starting at Driver Level 2) when a suitable position becomes available. 	

B3.5 Additional Duties and Applicable Payments

Pay for Specific Duties

- (a) Three (3) person push pull duties - 10% of the Employee's Base Rate
- (b) Two (2) person push pull duties - 10% of the Employee's Base Rate
- (c) Protection Officer – 18% of the Employee's Base Rate. An Employee must hold the competencies and agree to perform this task. For the purposes of this clause, a Protection Officer is an Employee engaged under the classifications of Section B (Bulk) that is trained in the network owner's protection officer training packages and responsible for managing the rail

safety component of worksite protection for Pacific National operations. Worksite protection is the means used to prevent traffic from entering a worksite or other portion of a rail line.

- (d) DOO Mainline Duties - 18% of the Employee's Base Rate.
- (e) In addition to clauses B3.5(d), in the event that an Employee undertakes 75% mainline DOO in their Duty Cycle, they will be paid this allowance for all hours worked until the start of the next Duty Cycle.

B3.6 Mixed Functions/Higher Duties for Train Crew and Terminal Operator Only

- (a) Where an Employee is required to perform tasks that are not covered by the classification in Section B of Pacific National Bulk Rail Enterprise Agreement they shall be paid at the rate of \$115,275.79 pa (indexed as per the increases under this Agreement). Employees who perform higher duties in these positions will be entitled to RDO overtime at the higher rate. APM will be adjusted in line with the relevant roster, for periods of two weeks or greater of higher duties.

B3.7 Where Employees are permanently employed outside of the classification structure of this Section B Agreement and circumstances require them to maintain their skills, competence and qualifications and to meet the needs of the business, such Employees may from time to time be required to conduct tasks and duties detailed in the classifications above and whilst performing these duties the relevant conditions of Part B of the Agreement will apply.

- (a) This sub-clause does not apply to Employees covered by Section C – Coal Crew - of this Agreement.

B3.8 Where a Terminal Operator agrees to perform train crew duties, then all allowances and conditions applicable to train crew will apply to the Employee.

B4 HOURS OF WORK

B4.1 Management of Hours

- (a) An Employee's ordinary hours will be managed over four (4) week Duty Cycles of 152 ordinary hours.

B4.2 Overtime

- (a) All hours worked in excess of the four (4) week Duty Cycle (152 ordinary hours) shall be paid at a multiplier of 1.8.
- (b) Where hours are worked on a RDO they will be paid in the current pay period. Payment will be made at 1.8.
- (c) All RDO overtime hours stand alone and apart from all other hours worked. This means that overtime hours worked on RDO's are not counted toward the Duty Cycle.
- (d) All overtime penalties are applied to Base Remuneration.

- (e) Where Train Crew are ahead of the cycle hours target Pacific National Bulk Rail will provide as much notice as possible when giving multiple days off as reasonably practicable. If this advice occurs and Pacific National Bulk Rail requests the Employee to work it will be at the Employees discretion.
- (f) Pacific National Bulk Rail may request or require an Employee to work reasonable additional overtime hours. However, Pacific National Bulk Rail will only make such a request or issue such a requirement in compliance with the requirements imposed by section 62 of the Fair Work Act 2009 (Cth). In the event that an Employee proposes to refuse such a request, Pacific National Bulk Rail requires the Employee to provide 72 hours notice.

B5 REMUNERATION

B5.1 Employees covered by this Agreement shall be entitled to:

- (a) The Base Rate as set out in Schedule 1 of this Agreement for the applicable classification;
- (b) The Aggregate Allowance as set out in clause B5.3; and
- (c) The Shift Penalties as set out in clause B5.4.

B5.2 Remuneration Increase

- (a) The Remuneration increases are set out in clause A51.

B5.3 Aggregate Allowance

- (a) An Aggregate Allowance will be paid in lieu of all industry and award allowances the rate of \$7628.02, which will be indexed by the wage increases in this Agreement. The Aggregate Allowance will be paid fortnightly and applied to all levels.

B5.4 Shift/Aggregate Penalties (Aggregate Penalty Multiplier – APM)

- (a) Shift Penalties are calculated for a whole Master Roster, Employees rotate through lines on a Master Roster without altering APM.
- (b) Employees shall be entitled to multiples of the Shift/ Aggregate Penalties (the Aggregate Penalty Multiplier - APM) as follows:

Data required to Calculate an Aggregate Penalty Multiplier			
Base Data	Column A Actual number of hours in Roster Cycle	Shift Multipliers	Column B Hour Equivalents
Day Shift Hours See Note 1	Insert No. of Hours	1.00	Multiply No. of Hours by Shift Multiplier

Data required to Calculate an Aggregate Penalty Multiplier			
Base Data	Column A Actual number of hours in Roster Cycle	Shift Multipliers	Column B Hour Equivalents
Afternoon/Night Shift Hours See Note 2	Insert No. of Hours	1.18	Multiply No. of Hours by Shift Multiplier
Saturday Shift Hours	Insert No. of Hours	1.50	Multiply No. of Hours by Shift Multiplier
Sunday Shift Hours	Insert No. of Hours	2.00	Multiply No. of Hours by Shift Multiplier

Note 1: Day shift hours fall within the span 0600 hours to 1800 hours.

Note 2: Afternoon and Night Shifts fall within the hours of 1800 hours to 0600 hours.

To calculate the APM use the following:

Part A

- Step 1 Take the total in Column A away from the total in Column B.
- Step 2 Divide the number calculated in Step 1 by the total in Column A.
- Step 3 Multiply the number calculated in Step 2 by 0.9.

Part B

- Step 4 For annual leave loading, add 0.019 for a Shiftworker or 0.013 for a Dayworker.

The resultant APM factor will be applied to the Base Remuneration for each Employee resulting in an annual quantum of APM. The resultant quantum of APM will be paid in equal instalments each pay period, irrespective of the actual hours worked by the Employee in the pay period. The APM is not applied to payments for overtime.

Where an APM is calculated and applied across a whole roster, based on the planned or Forecast Working, and the planned or Forecast Working on the roster changes to the extent that the calculated APM is no longer relevant, a revised APM will be calculated and applied based on the revised work plan or roster arrangements.

In depots that utilise Blank Line and combinations of Forecast and Blank Line Rosters, APM will be calculated by using 8.44 hours as a base for blank working days. For blank days that fall between Monday to Friday APM will be calculated by applying 1/3 of the hours to day shift and 2/3 of the hours to Afternoon/Night shift.

B6 ROSTERING GUIDELINES

B6.1 Master Rosters

- (a) A Master Roster shall be exhibited primarily for the purpose of indicating rostered days off (RDO's) and any known work and to meet the operational requirements of the business having regard to fatigue principles.
- (b) Pacific National Bulk Rail in consultation with the local rostering committee where formed, will develop and modify Master Rosters consistent with operational and business requirement.
- (c) The number of Pacific National Bulk Rail initiated Master Roster changes shall not exceed four (4) in any twelve (12) month period, unless there is a specific business requirement. Where there is a business requirement to exceed 4 changes formal consultation will occur with the depot.
- (d) Where a change to a Master Roster is proposed, formal consultation will commence at least twenty-eight (28) days prior to the intended implementation date of the new Master Roster.
- (e) Following the consultation, the final Master Roster is to be posted fourteen (14) days in advance of its introduction.
- (f) Any changes to the Master Roster which do not impact on an Employee's RDO will not constitute a Master Roster change.
- (g) Blankline Master Rosters will indicate timezones where the shifts will commence upon returning from an RDO only. The timezones will be as follows:
 - i. Time Zone One: 0600-1500
 - ii. Time Zone Two: 1500-2359
 - iii. Both parties agreed that that the Employee may not be required to work, after an RDO.
- (h) Rosters shall be arranged to provide the maximum number of complete weekends rostered off duty which shall be at least one weekend off in four unless altered by way of agreement:
 - i. For Blankline Rostering, a Golden Weekend will comprise of a minimum fifty-eight (58) hours commencing 2000 hours Friday to 0600 hours Monday. Where late running service impacts beyond 2000, the Employee is expected to complete assigned tasks up to 2400 and the Employee will be entitled to an additional 0.8 stand alone allowance for hours worked beyond 2000 and all actual hours worked will be credited to duty cycle.
 - ii. For Forecast Rostering, a weekend will comprise of a minimum fifty six (56) hours commencing 2200 hours Friday to 0600 hours Monday.
- (i) The following will apply for Annual Leave Relief Lines (Forecast Working only)
 - i. There will be a minimum of nine (9) days notice for advice regarding holiday relief unless otherwise agreed with the affected Employee.

- ii. RDO's will be displayed for annual leave relief lines on the Master Roster and will be adhered to if no annual leave relief coverage is required.
- iii. In the event that there is no Employee on annual leave, all working for the fortnight must be posted.
- (j) There may be more than one roster developed at a location for a similar or the same positions.

B6.2 Working Rosters

- (a) Where variations to any Master Roster, not impacting on RDO's is required, a Working Roster is developed.
- (b) Working Rosters must be posted weekly at least nine (9) days in advance of the Sunday on which the roster is to commence.

B6.3 Daily Work Plan

- (a) A Daily Work Plan may also be used to provide specific details of sign on times, barracks working and return and any other relevant information requirements.
- (b) All Employees will be allocated to a Permanent Line, rotate through lines in their roster and as far as practicable, hours are to be equalised out over Duty Cycle

B6.4 Rostered Days Off (RDOs) Train Crew

- (a) There will be a minimum of 104 designated RDOs per annum for forecast rosters and a minimum of 130 designated RDOs for blank line averaged over the annual hours of the work cycle inclusive of periods of leave. If an Employee works a combination of forecast and blank line rosters, they will receive an extra one (1) RDO per fortnight when on blank line. Rostered days off can only be altered via a Master Roster change, unless by agreement with the Employee concerned. Some of the RDO's for Blankline and Combinations rosters will be allocated as Available days as per Clause B13 Available Days.
- (b) Single rostered days off should be avoided wherever possible in favour of grouping of such days off.
- (c) Defining the dimensions of RDO's
 - (i) RDO's will commence from 0001 and conclude at 0600 the following day, each additional day will be in blocks of twenty-four (24) hours duration following the duration of the initial RDO at 0600 hours.
 - (i) This may be altered during the development of the roster or in consultation and agreement of the Employees working the roster, but shall not be less than thirty (30) hours.
- (d) From time to time train running may infringe an RDO, where this occurs consultation and agreement with the individual must be sought and any infringement of an RDO will attract an additional payment at the rate of point eight (0.8) of the Employee's Base Rate.

B6.5 Roster Changes

- (a) Pacific National Bulk Rail acknowledges that it will use its best endeavours to construct Master Rosters to reflect the real and likely work, so to minimise any changes that may be subsequently required to rosters.

B6.6 Forecast Rosters

- (a) For changes to Forecast working that do not impact on RDO's Employees will be contacted of the changes either:
 - (i) at least nine (9) days prior to the Working Roster; or
 - (ii) Changes with less than nine (9) days' notice can only be made within lift up and lay back limits.
- (b) For specific reasons Employees can request for their manager to consider retaining the Master Roster sign on time. Notwithstanding this changes are permitted within lift up/lay back guidelines. Employees should advise their immediate supervisor of their requirements at least two weeks prior to the posting of the Working Roster.
- (c) In the event that there is a self drive shift in rest working in the master roster, at least 24 hours' notice will be provided to alter the task, unless the shift is being used to avoid a shift limit breach.

B6.7 Blankline Rosters

- (a) For changes to confirmed sign on times Employees will be given a minimum of twelve hours' notice for their next turn of duty within the advice period. The agreement of the Employee concerned is required where less than twelve (12) hours' notice is provided.

B6.8 Exception

- (a) With the exception of the circumstances within clause B6.6 Forecast Rosters and clause B6.7 Blankline Rosters when a subsequent change is required the following will apply:
- (b) The sign-on for any new or altered work must be within the lift-up and lay-back thresholds, when applied to the original shift; and
- (c) Alternative or new work may be provided, where possible (subject to the Lift-Up or Lay-Back Penalty being paid pursuant to clause B11.6, where applicable);
- (d) Pacific National Bulk Rail has the right to deploy a driver from one form of work to another so long as the work falls within their skills and competencies. In cases where rest working is involved the Train Crew must be returned to their home sign off point in the same shift unless agreed with the Employee;
- (e) If no alternative or new work is available within the lift up and lay back threshold, the Employee is to drop into the next advice period to receive advice for their next turn of duty. Only by agreement with the Employee can this provision be negated;

- (f) If no new or alternative work is available, i.e. the shift is cancelled, and at least three (3) hours notice is not provided, the Employee will have 7.6 hours credited against their Duty Cycle.
- (g) Train Crew will receive wake up calls for all shifts where the sign on time is between 2000-0759, protection of lift-up and lay back will still apply. If a shift cancels during this period and the Employee is not required to attend work the Employee will be given a not required and no additional payment will be made. The Employee will fall into the next available advice period. However, in the event that the shift that cancels is an overtime shift, clause B6.1(e) will apply.
- (h) Subject to relevant OH&S, fatigue management and operational issues, Employees may mutually exchange rostered working shifts, with the approval of the relevant manager or rostering staff. Pacific National Bulk Rail will not unreasonably withhold approval where such requests are cost neutral.
- (i) In the case of a one person operation, there is to be a minimum break of not less than thirty (30) minutes taken at some time between the third and fifth hour of each shift.

B6.9 In the situation where a Train Crew (Part B Employees) have requested annual leave in blocks of one week or more, the following will apply:

- (a) For Blankline Rostering, annual leave will commence at 2000 hours. Where late running service impacts beyond 2000, the Employee is expected to complete assigned tasks up to 2400.
- (b) For Forecast Rostering, annual leave will commence no later than 2200 hours. Where late running service impacts beyond 2200, the Employee is expected to complete assigned tasks up to 2400.
- (c) In the event that an Employee agrees to work past 2400 hours, then the Employee is entitled to an additional 0.8 stand alone allowance for all hours worked beyond 2400 and all actual hours worked will be credited to the duty cycle.

B7 SHIFT LENGTHS

B7.1 Maximum Shift Lengths

- (a) The maximum Shift Length shall be twelve (12) hours, subject to the limits prescribed below:

Crew Arrangement	Maximum Shift Length
Driver Only Mainline/Terminal	As prescribed by legislation relevant to each state Current eight (8) hours in Victoria, nine (9) hours all other states territories.
Depot Shift (for the avoidance of doubt, a Depot Shift can be defined as	10 hours

a shift that is rostered as a local and the Employee must work this shift as directed) completion of assigned tasks does not apply to depot shifts.	Depot shifts will be planned for up to ten (10) hours however maximum shift limits could be worked to in the event that relief is required for long hour shifts or emergency working
Two Person Operation Driver with qualified second person	11 Hours
Driver/Driver (Minimum Classification of Level 4 who is competent in at minimum of at least one route) - refer to Attachment Two- Bulk Rail Principal Roads. Notwithstanding the above, for the Nowra Depot- Driver/Driver (Minimum Classification of Level 3) can be utilised for the 12 hour shift limit for trains worked from Nowra to Orange and return. A qualified driver who is learning the route or being assessed for route knowledge or competency is considered a qualified driver for the purposes of shift length	12 hours

- (b) For the purposes of this clause, a shift that exceeds 11 hours but is less than twelve (12) hours is taken to be a twelve (12) hour shift. A maximum of six (6) shifts of twelve (12) hours is to be worked in any fourteen (14) day period.
- (c) If rostered or working on a NON depot shift that cancels, and an Employee is moved to depot shift work, the shorter shift length will apply.

B7.2 Rostered Working Time and Actual Working Time

- (a) Employees may be required to work hours additional to those in the Master/Working Roster (up to the maximum shift length) to complete the assigned task(s).
- (b) Employees may be required to work up to the rostered sign off time when the task(s) are completed early. In the event the Employee is required to work beyond their rostered sign off time, it will be by agreement with the Employees concerned.

B7.3 Minimum Shift Lengths

- (a) Subject to types of shifts below, the actual working time credited to the Duty Cycle for shifts worked will be the greater of the actual hours worked or 7.6 hours.
- (b) Shifts of a minimum four (4) hours may be used for:

- (i) Training (where training shifts are proposed, as far as practicable, the content should provide a training shift of eight (8) hours);
- (ii) Medical examination, trauma counselling, incident statements
- (iii) Team meetings;
- (iv) Transporting other Employees by means of motor vehicle.

B7.4 Exception

- (a) Crew may be rostered to travel back to their original sign-on location within a 16 hour maximum shift limit from a Pacific National Depot and within twelve (12) hours for all other rest locations, regardless of the crew configuration. Crew will not be required to undertake any work, including driving a motor car, where the travelling time and the original working time exceeds twelve (12) hours. For arrangements in accordance with this clause, one (1) meal allowance will only be paid for shifts that exceed twelve (12) hours.
- (b) When travelling back to the Home Base, public transport shall not be used between 2000 hours and 0400 hours. Hire cars, XPT, taxis or crew vehicles will be utilised between these hours.

B7.5 Maximum hours on Duty in Emergency Situations

- (a) The requirements of this clause do not apply in the event of:
 - (i) An accident or emergency; or
 - (ii) Any urgent circumstances approved by the ONRSR; or
 - (iii) Any other unforeseeable circumstances, that make it necessary to contravene this clause to avoid a serious dislocation of train services if there is no reasonably practicable alternative, if the driver or drivers concerned indicate their fitness to work the extended hours.
- (b) In this clause Emergency means an emergency arising out of an actual or imminent event, such as fire, flood, storm, earthquake or explosion, that:
 - (i) Endangers, or may endanger, the safety of persons, or
 - (ii) Destroys or damages, or may destroy or damage, property.

B8 **INTERVAL BETWEEN SHIFTS**

B8.1 At Home Base the interval between shifts will be twelve (12) hours.

B8.2 At a Rest Location, the interval between shifts is a minimum eight (8) hours or ten (10) hours if the previous shift length worked was greater than eleven (11) hours.

B9 **MANDATORY REST PERIOD**

B9.1 A Mandatory Rest Periods will be provided after having worked eleven (11) consecutive shifts.

B9.2 Mandatory Rest Periods shall conform to the same conditions as an RDO, as outlined above.

B9.3 Forecast

- (a) Where an Employee works an overtime shift, at Pacific National Bulk Rail's request, and this results in the Employee not being able to work a previously rostered shift due to the taking of the Mandatory Rest Period, the company will credit 7.6 hours (minimum Shift) to the Employee's Duty Cycle.

B9.4 Blankline

- (a) Where an Employee works an overtime shift, at Pacific National Bulk Rail's request, and this results in the Employee not being able to work a previously rostered shift that is confirmed due to the taking of the Mandatory Rest Period, the company will credit 7.6 hours (minimum Shift) to the Employee's Duty Cycle.

B10 **CONFIRMING NEXT TURN OF DUTY**

B10.1 Next turn of duty will be in accordance with the starting time shown on the Master Roster, the Working Roster, the Daily Work Plan or advice period, subject to any lift-up or lay-back adjustment.

B10.2 Confirmation of an Employee's next turn of duty, sign-on time, sign off time and details of any Barracks Working will normally be provided upon signing off duty on the previous shift. If an Employee has been advised for a job in which they are not qualified to do, the Employee must advise rostering staff and be given an alternative job before signing off.

B10.3 The Daily Work Plan will be available and posted to confirm the allocation of work, sign-on time, and details of any Barracks working by 1730 hours on each day. The work plan will contain advice for at least the following shift/s up to 0600 hours the subsequent day, i.e. thirty (30) hours of advice subject to changes due to operational requirements.

B10.4 The advice for the return shift, sign-on time, sign-off time, fatigue score and other relevant information will be provided at the same time if available.

B10.5 Where an Employee is not on duty or advice was not available and work is required to commence between 0000 – 0600 hours the following day advice will be provided between 0930 – 1100 hours.

B10.6 Where an Employee is not on duty or advice was not available and work is required to commence after 0600 hours the following day, advice will be provided between 1600 – 1730 hours.

B10.7 When an Employee signs off duty before the morning advice period and no advice is available for their next turn of duty, the Employee will fall back into the afternoon advice period. Where an Employee does not want to be contacted during the advice period (sleep or personal reasons) the Employee is to notify Pacific National Bulk Rail upon signing off. The responsibility to receive advice for the next turn of duty then becomes the Employee's.

B10.8 It is the intention of the Pacific National Bulk Rail to call Train Crew however an Employee who has not received advice during the pm call period shall make contact with Pacific National Bulk Rail not later than 1800 hours to obtain their

next turn of duty. If the Employee has left a message on the rostering telephone and has not been contacted by 2000 hours on the day by Pacific National Bulk Rail, the Employee will be deemed to be rostered off.

B10.9 Barracks Working Advice - Blank Line Only

- (a) Where not included on either the Master or Working Rosters, Train Crew will be notified of any barracks working upon signing off duty on the previous shift or where possible twelve (12) hours in advance.
- (b) Whereupon Train Crew sign off at rest locations the confirmed return advice will include sign on and sign off times and assigned tasks.
- (c) Rostering officers may provide advice for Employees next turn of duty via SMS, advice on answering machines, message banks or a nominated responsible person, where such has been provided by the Employee as an alternative. Where such advice has been provided it will be logged by the company to avoid doubt.

B10.10 Call Time Advice

- (a) Employees will be called via their nominated phone number to be advised of their start time for shifts relating to train operations.
- (b) It is the responsibility of the Employee to advise the appropriate telephone number to facilitate a call to sign on duty during the Employee's nominated call period (or default call period of 1-hour if the Employee does not nominate a call period).
- (c) For home base sign on, Employees shall nominate a set time limit (**call time**) within each of the following periods;
 - (i) Day Period 0800 to 1959
 - (ii) Night Period 2000 to 0759
- (d) The call time is a specified number of minutes until the Employee is required to present for work. For clarity, the call time may be different for the Day Period and Night Period.
- (e) For barracks location sign on, Employees will nominate a call time which may vary shift by shift.
- (f) The period of time nominated by the Employee in (d) must be reasonable taking into account where they reside, family responsibilities and normal travel time and reflect the amount of time actually required by the employee before the commencement of their next shift to prepare and present for their shift at the required time. The Employee must exercise their discretion honestly and reasonably.
- (g) If the Employee's shift is altered by way of lift-up or lay-back, the Employee's call time will be based on:
 - (i) In the case of Lift-Up: the Employee's amended start time (Lift-Up clause B11).

- (ii) In the case of Lay-Back: In the Day Period, the Employee's original start time; and in the Night Period, the Employee's amended start time (Lay-Back Clause B11).
- (h) An Employee's start time cannot be altered once the advice call has been made.
- (i) The call will be by contact from the planning team, via an automated device or another Pacific National representative.
- (j) An Employee must be available to take such calls and confirm the advice.

B11 LIFT-UP AND LAY-BACK

B11.1 At home location, Train Crew must be contactable to allow for a two (2) hour lift-up and a four (4) hour lay-back.

B11.2 It is expected that crews will be called to sign on duty as required at resting locations. Lift-up and lay-back thresholds will apply from the confirmed sign on time at the rest location.

B11.3 Blankline Rosters

- (a) Pacific National Bulk Rail may make changes subject to lift-up and lay-back parameters which will be next advised at the Employee's call time.

B11.4 Forecast Rosters

- (a) In accordance with clause B6.2, for the purposes of this clause the confirmed sign-on time for a Forecast Roster is the time listed on the Working Roster posted (9) days in advance of the Sunday on which the roster is to commence.
- (b) Pacific National Bulk Rail may make the following changes after the publication of the Working Roster as per clause B6.2, subject to lift-up and lay-back parameters from the Employee's confirmed sign-on time, as follows:
 - (i) a first change may happen before the next turn of duty is advised at sign-off of the Employee's previous shift; and
 - (ii) a second change may be advised at the Employee's call time.

B11.5 If an Employee's confirmed task is not running (i.e. the train or job they were originally tasked to work is cancelled), the following may apply:

- (a) Alternative or new work may be provided, where possible.
- (b) If no alternative or new work is available within the lift-up and lay-back threshold, the Employee is to drop into the next advice period to receive advice for their next turn of duty.
- (c) If no new or alternative work is available, ie. the shift is cancelled, and at least three (3) hours notice is not provided, the Employee will have 7.6 hours credited against the hours of work cycle.

B11.6 Lift-Up and Lay-Back Penalty

Where an Employee's confirmed task is changed, then either the following terms apply:

- (a) If the Employee is lifted-up then:
 - (i) The Employee's worked hours are credited to the duty cycle; and
 - (ii) For the lift-up hours, the Employee will be paid a stand-alone penalty at single time at the base rate of pay; and
 - (iii) The Employee will be paid a stand-alone penalty at single time at the base rate of pay for any time worked past the original planned sign-off time.
- (b) If the Employee is laid-back and that lay-back results in any hours worked exceeding the originally planned sign-off time then:
 - (i) The Employee's worked hours are credited to the duty cycle; and
 - (ii) The Employee will be paid a stand-alone penalty at single time at the base rate of pay for the hours worked past the original planned sign-off time.
- (c) For the avoidance of doubt;
 - (i) For forecast rosters, the Employee's confirmed task is the job posted on the working roster (9) days in advance of the Sunday on which the roster is to commence;
 - (ii) For blankline rosters, the confirmed task is the job advised at the end of an employee's previous shift or in the advice period;
 - (iii) This sub-clause does not alter the lift-up or lay-back parameters in B11.1; and
 - (iv) Only applies where an Employee's original confirmed task is still running (i.e the train or job that the Employee was originally tasked to work is not cancelled).

B11.7 In the event of an Emergency or Significant Network Disruption, clause B11.6 will not apply to Employees performing work in the particular area of the network substantially affected by the Emergency or Significant Network Disruption.

B11.8 Emergency and Significant Network Disruption means:

- (a) Significant Network Disruption means an urgent circumstance approved by the regulator in accordance with clause 6(1)(b) of Schedule 2 of the Rail Safety National Regulations, or any other unforeseeable circumstance that means Pacific National cannot access the rail network; or
- (b) Emergency means a significant disruption that impacts Pacific National Bulk Rail's operations arising out of an actual or imminent event, such as fire, flood, storm, earthquake or explosion.

B11.9 Where Pacific National will not pay the Lift-Up and Lay-Back Penalty pursuant to clause B11.7, it must provide affected Employees with notice at the time the alteration is made that the penalty will not be paid and advise of the relevant Emergency or Significant Network Disruption.

B11.10 Clause B11.6 does not commence application until 3 months after the Commencement Date of the Agreement, or earlier if reasonably practicable.

B12 ROSTER SUSPENSION – FORECAST ROSTERS

B12.1 In situations where a major derailment, washaway, customer maintenance programs or other unplanned circumstance causes major service disruption, all rosters affected may be suspended until normal operations can resume. Roster suspension may apply up to seven (7) days beyond which an interim roster will apply until normal operations resume.

B12.2 Where practicable, a minimum of seven (7) days notice will be provided and consultation with the respective depot will occur.

B13 AVAILABLE DAYS

B13.1 Available Days will be limited to Friday, Saturday, Sunday and Monday. Available Days will be used to cover absenteeism only. Absenteeism in this context means an Employee's absence from work in accordance with an entitlement to personal/carer's leave as outlined in clause A21

B13.2 Furthermore, Available Days will not be used to cover:

- (a) Absenteeism to work services at other depots (exception: Available Days can be used to replace absenteeism ex-rest from an Employee's Home Base).
- (b) Long term absenteeism. Long term absenteeism is defined as a situation where an Employee is on personal/carers leave in excess of four (4) consecutive days.

B13.3 The following amount of Available Days will apply:

- (a) Blankline Rosters: The Available Day will fall on one of the additional RDO's on Blank Line Rosters. Only a maximum of four (4) available days will be allocated to a Master Roster for every ten (10) lines.
- (b) Combination Rosters: Combination Rosters will receive a pro-rata amount of Available Days equal to blank line to forecast lines.

B13.4 Available Days will be allocated a time zone which must be indicated on the Master Roster. The Employee must make themselves available to work for this specified time frame. The timeframes will be as follows:

- (a) 0000-0600
- (b) 0601-1200
- (c) 1201-1600
- (d) 1601-2000
- (e) 2001-2400

- B13.5** The Absenteeism that an Employee will be covering, may not occur within the specified time frame allocated to that Employee.
- B13.6** In the event that that an Employee is not called upon to perform duty within the time frames (iii) 1201-1600, (iv) 1601-2000 or (v) 2001-2400, the Employee will receive two (2) hours to their Duty Cycle
- B13.7** In the event that the timeframe lapses, then the Employee will no longer be required to make themselves available on this day and they will continue to receive their RDO. If an Employee is asked to work outside of the zone on the Master Roster it will require agreement with the Employee and payment will be made as a stand alone overtime payment.
- B13.8** In the event that the Employee is not called in, they will continue to receive their RDO.
- B13.9** In the event that an Employee works on an Available Day, all hours worked will not be added to the duty cycle. In this instance, all hours worked will be banked and these hours will be known as an Additional Day Off (ADO). Through consultation with depot management, these ADO's must be taken by the end of the calendar year following the year that they fall on. Any ADO/s not taken before this time will be paid out at the base rate as soon as practicable at the end of the aforementioned calendar year. The weekly validation tool will be provided to the Employee and depot management to assist in determining which day can be chosen. Employees will be provided a response within 7 days of submitting their request and at least seventy-two (72) hours will be provided to the Employee. In addition, clause A18.8 can apply to ADO's. However, in the event that there are significant operational changes such as drought, the company through consultation may direct and roster the Employee to take their ADO/s.
- B13.10** If an additional ADO cannot be provided by Pacific National Bulk Rail an additional 0.8 stand alone allowance will be paid for the actual hours worked.
- B13.11** Available Days cannot impact on any Golden Weekend requirements of an Employee.
- B13.12** Available Days cannot impact on any RDO protection guidelines required in the Agreement. I.e. if an available day falls on the Master Roster after multiple RDO's the timezone for the available day must be after 0600
- B13.13** In the event that that an Employee has a group three (3) or more consecutive RDO's, an Available Day can only fall on the first or last RDO's, and only one Available Day to be allocated per Group of RDO's unless agreed.
- B13.14** An Employee may be permitted to swap Available Days with another Employee subject to the approval by the relevant Depot/Regional Manager.
- B13.15** In the event that an Employee is required to work the rest job on an available day and the sign on for the return shift occurs prior to 0600 the following day, the return shift will be paid at standalone 1.8.
- B13.16** In the event that an Employee is on any leave on an Available Day, the Available Day will revert to an RDO. Leave, will therefore will not be deducted and the Employee will not receive the on-call allowance.

B14 ROSTERING GUIDELINES FOR TERMINAL OPERATORS

B14.1 Existing Terminal Operators rosters, conditions and rostering guidelines will remain in place at the time of lodgement of this Agreement and will not change or be varied until transition into the new classification structure is completed. Any changes to rosters during the transition period will be in accordance with the roster consultation process provided for in this Agreement.

B14.2 Consultation

- (a) Employees may elect to form a rostering committee. Where formed, Pacific National Bulk Rail will consult with the committee as part of the consultative process. Where no rostering committee is formed, consultation will occur in accordance with the provisions outlined in clause A31 of this Agreement.
- (b) Pacific National Bulk Rail, in consultation with the local rostering committee (where formed), will develop and modify rosters consistent with operational requirements.

B14.3 Roster Development

- (a) The Master Roster shall be exhibited primarily for the purpose of indicating all rostered days off (RDOs) and all known work. Additional RDOs may be inserted into the Master Roster.
- (b) Where a change to a Master Roster is proposed, consultation, as outlined in clause 31 of this Agreement, will commence at least twenty-eight (28) days prior to the intended implementation date of the new roster.
- (c) Following consultation, the final Master Roster is to be posted at least fourteen (14) days in advance of its implementation.
- (d) The Master Roster will include sign-on and sign-off times.
- (e) Changes to a Master Roster will be made mindful of balancing the business demands and the needs of Employees.
- (f) Rosters should be arranged to provide the maximum number of complete weekends rostered off duty. Employees will not be required to work more than three (3) weekends in a row.
- (g) There may be more than one roster developed at a location for a similar or the same position.
- (h) Rosters in place at the time of certification of this Agreement will only be changed or varied in accordance with the roster consultation process provided for in this Agreement.
- (i) The commencement time of a shift of ordinary hours will be as per the posted Master Roster or Working Roster.

B14.4 Shift Lengths

- (a) The maximum rostered shift length shall be twelve (12) hours.

- (b) The rostering and management of twelve (12) hour shifts is to be limited to no more than four consecutive twelve (12) hour shifts in any seven (7) day period.
- (c) It would be normal to roster to a minimum of eight (8) hours in the Master Roster. However, subject to specific business needs and operational requirements, shifts of a minimum of four (4) hours may be utilised to cater for:
 - (i) An extra overtime shift;
 - (ii) Training - Where training shifts are proposed, as far as practicable, the content should provide a training shift of eight (8) hours;
 - (iii) Medical examination/trauma counselling.
- (d) No Employee shall be required to work more than seven (7) consecutive shifts without a day off.

B14.5 Interval Between Shifts

- (a) The minimum interval between shifts shall be eleven (11) hours off duty between ordinary shifts, except when changing shifts, ie from night shift to afternoon, in which case a minimum of twenty four (24) hours will apply subject to fatigue management principles.
- (b) Shift cycles will be designed to ensure the maximum number of similar shifts, eg. afternoon shifts, before a change to a different shift pattern, eg. night shift.

B14.6 Working Rostering Changes

- (a) Where the Working Roster is developed, a period of seven (7) days notice of the introduction of such rosters shall occur.
- (b) Where a Working Roster is adjusted such that an Employee is required to change from one shift to another, a period of twenty four (24) hours notice will apply, unless an RDO is affected where seven (7) days notice will apply, unless the Employee agrees to a shorter period or it is a mutual shift exchange. The twenty-four (24) hour notice provision will only be used to cover circumstances such as, absenteeism or exceptional operational requirements.
- (c) Subject to relevant WHS, fatigue management and operational issues, Employees may mutually exchange shifts (including Duty Free Periods), with the approval of the relevant manager or rostering staff. Pacific National Bulk Rail will not unreasonably withhold approval where such requests are cost neutral.

B14.7 Management of Hours Shift Workers

- (a) Ordinary hours will be allocated to average thirty-eight (38) per week over the Roster Cycle. Pacific National Bulk Rail in consultation with affected Employees and upon agreement, may also develop rosters where average hours exceed 38 per week. Where this is the case, overtime payments will be made in accordance with provisions outlined in clause B14.9 below.

B14.8 Overtime

- (a) Overtime is defined as:
- (b) Total hours worked in excess of the average of thirty-eight (38) per week over the Roster Cycle or Hours worked in excess of those in the ordinary rostered Shift Length; or

B14.9 Hours worked on a RDO

- (a) The penalty multiplier for overtime hours is 1.5 for the first three (3) hours and then 2 thereafter, except for overtime worked on a Sunday where the penalty multiplier is two (2) for all hours worked.

B14.10 Composition of Total Remuneration

- (a) Total Remuneration is made up of Base Remuneration as per Terminal Operators classification structure plus Shift Penalties.
- (b) Shift/ Aggregate Penalties (APM)
 - (i) Shift penalties are provided to compensate Employees for:
 - (a) working shiftwork and weekends;
 - (b) annual leave loading.
 - (ii) Shift penalties are calculated for a whole Master Roster. Employees rotate through lines on a Master Roster without altering the APM. Where an Employee works under a Master Roster that contains only one line, APM is calculated on the individual's Master Roster.
 - (iii) Shift penalties are determined by calculating an Aggregate Penalty Multiplier (APM) from the available shift and rostering information, i.e. the time worked on weekends and/or night/afternoon shifts.
 - (iv) Application of APM (Aggregate Penalty Multiplier)
 - (a) APM will be calculated on the basis of all the planned working shown on the Master Roster, in accordance with the provisions contained within Sub-Clause (v) below.
 - (b) The resultant APM factor will be applied to Base Remuneration for each Employee resulting in an annual quantum of APM. The resultant quantum of APM will be paid in equal instalments each pay period, irrespective of the actual Hours Worked by the Employee in the pay period. The APM is not applied to payments for Overtime.
 - (v) Calculating APM

The following formula is used to calculate the applicable APM based on the roster:

Data required to Calculate an Aggregate Penalty Multiplier			
Base Data	Column A Actual number of	Shift Multipliers	Column B Hour Equivalents

Data required to Calculate an Aggregate Penalty Multiplier			
	hours in Roster Cycle		
Day Shift Hours See Note 1	Insert No. of Hours	1.00	Multiply No. of Hours by Shift Multiplier
Afternoon/Night Shift Hours See Note 2	Insert No. of Hours	1.18	Multiply No. of Hours by Shift Multiplier
Saturday Shift Hours	Insert No. of Hours	1.50	Multiply No. of Hours by Shift Multiplier
Sunday Shift Hours	Insert No. of Hours	2.00	Multiply No. of Hours by Shift Multiplier

Note 1: Day shift hours fall within the span 0600 hours to 1800 hours.

Note 2: Afternoon and Night Shifts fall within the hours of 1800 hours to 0600 hours.

To calculate the APM use the following:

Part A

- Step 1 Take the total in Column A away from the total in Column B.
- Step 2 Divide the number calculated in Step 1 by the total in Column A.
- Step 3 Multiply the number calculated in Step 2 by 0.9.

Part B

- Step 4 For annual leave loading, add 0.019 for a Shiftworker or 0.013 for a Dayworker.

Where an APM is calculated and applied across a whole roster, based on the planned or Forecast Working, and the planned or Forecast Working on the roster changes to the extent that the calculated APM is no longer relevant, a revised APM will be calculated and applied based on the revised work plan or roster arrangements.

In depots that utilise Blank Line and combinations of Forecast and Blank Line Rosters, APM will be calculated by using 7.6 hours as a base for blank working days. For blank days that fall between Monday to Friday APM will be calculated by applying 1/3 of the hours to day shift and 2/3 of the hours to Afternoon/Night shift.

B15 TRANSITIONAL PROVISIONS- VICTORIA

B15.1 Scope

- (a) This clause applies to Employees who:
- (i) prior to 11 May 2018 was covered by the *Pacific National Victorian Bulk Rail Enterprise Agreement 2014*; and
 - (ii) Remain employed in the same position at the Commencement Date.

B15.2 Top-up Allowance

- (a) In addition to the amounts set out in Schedule 1, an Employee to whom this clause applies will receive an allowance equal to the difference between:
 - (i) The Total Remuneration under clause B5.1; and
 - (ii) The rate applicable to the Employee's position immediately prior to 11 May 2018.
- (b) The Top-up Allowance will be calculated fortnightly and paid in accordance with clause A49.
- (c) The Top-up Allowance will form part of the Employee's Total Remuneration.
- (d) The Top-up Allowance will cease to be paid on the Transition Date.

B15.3 Payments for Long Service Leave

- (a) For an Employee to whom this clause applies, long service leave under clause A20 will be paid at the Total Remuneration for the term of the Agreement.

B15.4 Transition Bonus

- (a) An Employee to whom this clause applies will be paid a Transition Bonus in accordance with the following:

Date	Percentage of the annual rate applicable to the Employee's position immediately prior to the Commencement Date
Commencement Date	3%
1 April 2023	3%
Commencement Date Anniversary 2024	4%
Commencement Date Anniversary 2025	4%
Commencement Date Anniversary 2026	4%
Upon Expiry Date	2%

- (b) The Transition Bonus will be paid in full on the first pay day following the dates set out in clause B16.5(a) above.
- (c) The Transition Bonus does not form part of the Base Remuneration or Total Remuneration.
- (d) The Transition Bonus will cease to be paid on the Transition Date.

B15.5 Wage Increases

- (a) For the abundance of clarity, the wage increases in clause A50 do not apply to the rate applicable to the Employee's position immediately prior to the Commencement Date.

B15.6 Transition Date

- (a) For the purposes of clause B15, Transition Date means when the Total Remuneration for the Employee set out in clause B5.1 exceeds the rate applicable to the Employee's position immediately prior to the Commencement Date.

B15.7 Total Remuneration

- (a) Until the Transition Date, Total Remuneration will mean
 - (i) the rate applicable to the Employee's position immediately prior to the Commencement Date; and
 - (ii) The Top Up Allowance.

B15.8 Travel Passes

- (a) Pacific National will preserve the entitlement under clause 41, travel Passes, of the *Pacific National Victorian Bulk Rail Enterprise Agreement 2017* for Eligible Employees for the term of this Agreement.

SECTION C COAL TRAIN CREW

C1 SCOPE

- C1.1** Subject to clause A58.1 and 2, this Section C shall be read in conjunction with Section A and shall only apply to the Employees engaged in the classifications and perform the functions as described in clauses C4.2.

C2 CLASSIFICATION PRINCIPLES

- C2.1** The classification structure will operate in accordance with the following principles:
- (a) Positions will be defined in terms of their primary accountabilities or main functions.
 - (b) Classification of a position will be made on the basis of matching the primary accountabilities or main functions with the appropriate level of the classification structure.
 - (c) On this basis, Employees will be classified at a level within the classification structure that is commensurate with the primary accountabilities or main functions of the position undertaken.
 - (d) Employees will remain in their classification unless there is a major and substantial change in the work undertaken and/or accountabilities.
 - (e) As directed by Pacific National Bulk Rail, an Employee will be required to perform any skill they are competent and qualified to perform within their current classification or lower classification levels.
 - (f) Classifications are based on primary accountabilities or main functions used in the position rather than skills possessed by the Employee.
 - (g) To allow for the design of positions and the performance of activities and tasks based on assessment of what is safe, efficient and logical, and for which the Employee has been trained and has current and demonstrated competency.
 - (h) Flexibility that allows Pacific National Bulk Rail, or a section of Pacific National Bulk Rail, to change the way work is organised and/or the way positions are designed, as required by business or commercial demands.
 - (i) The Transport and Logistics Industry Training package and the associated competency standards will form the basis of Pacific National Bulk Rail's training and development system. In addition specific route and locomotive knowledge and skills will also be included. Certificates or other relevant qualifications will be issued to Employees upon satisfying the requirements of the specified competency standards. Upon receiving the qualifications, Employees will be aligned to the commensurate level within the classification structure.

C3 RECOGNITION OF CURRENT COMPETENCY

- C3.1** Employees who are engaged and have had previous experience and knowledge in the position which they are engaged in will be assessed to determine the appropriate level to which the Employee should be appointed to within the classification structure. Internal transfers from within Pacific National Bulk Rail will be appointed to the same classification level that they currently hold competency for while they receive the appropriate training, instruction or skills development to enable qualification at that level.
- C3.2** Where an Employee is assessed not to be competent at the level to which they have been aligned within the classification structure, they shall receive the appropriate training, instruction or other skills development to enable qualification or acquisition of the identified competencies. During such time they shall retain their current classification and pay level.
- C3.3** Any existing Employees aligned to the new classification structure shall be salary maintained, and have their wages and conditions adjusted in accordance with this Agreement.

C4 TRAIN CREW CLASSIFICATION STRUCTURE

- C4.1** Pacific National Bulk Rail Employees covered by this Agreement shall be employed in any of the classifications as set out below which operates in accordance with the following principles:
- (a) A trainee will commence under the classification of Trainee Level 1, and progress through to Assistant Driver Level 5 within a nominal 2 year period or as assessed as competent within the relevant qualifications at each level. On satisfactory completion of the competency requirements or at the end of the nominal 2 year period the Employee will be a qualified mainline driver and will be undertaking all driver accountabilities on the mainline operation and in the terminal. There may be extenuating individual circumstances that prohibit an Employee from progressing to a higher classification level.
 - (b) Employees may also apply, based on merit, for positions in other classification structures e.g. Support Classification Structure outlined in Schedule 1.

C4.2 Driver Classification Structure

Classification Pay Level	Description
Trainee Level 1	An entry level Employee engaged in a locomotive trainee driver position who is completing classroom based training and can perform various duties as required. Automatic progression to Level 2 – on Assessment.
Second Person Level 2	An Employee engaged to perform the position of 2nd person during train operations. This Employee will also be competent to carry out shunting operations, marshalling and roll-by, as required. At this level an Employee undertakes Engine and Air training (Block School) to gain the knowledge required for driving trains.

Classification Pay Level	Description
	Automatic progression to Level 4 – on Assessment. Automatic progression to Level 3 – on Assessment of Terminal Operator tasks at Inner Harbour only.
Second Person Level 3	This level is applicable to Inner Harbour trainee locomotive drivers only who are employed during the life of this Agreement. Tasks include that of a Terminal Operator Level 1 as outlined in the Terminal Operator classification structure below in addition to the tasks outlined at Level 2 above. Tasks will also include that of Driver Under Instruction as outlined in the following Classification Pay Level 4. Automatic progression to level 5 - on assessment of one (1) mainline route as a driver
Terminal Driver Level 4	A Driver who is qualified and required to perform driver duties, including DOO, FX1s and marshalling duties within a Terminal/Yard environment. In this classification, the Employee will also operate as a 2nd Person as part of a Train Crew on the main line. Within their level of competency, in this position, the Terminal Driver may also be required to assist other Employees in skills transfer.
Driver Under Instruction Level 4	While learning a mainline route, the driver will transfer to the mainline roster. On successful completion of assessment of one (1) mainline route they will transfer permanently to that roster. Automatic progression to Level 5 – on Assessment of one (1) mainline route as a driver.
Driver Level 5	A driver qualified to perform tasks on mainline operations and can operate as part of a two (2) person crew on the mainline, and perform 4 Person Push/Pull functions and Terminal DOO operation. Within their level of competency, in this position, the driver may also be required to assist other Employees in skills transfer. Automatic progression to Level 6 –12 months after being appointed to Level 5
Driver Level 6	A driver qualified to perform tasks on mainline operations and can operate as part of a two (2) person crew on the mainline and perform 3 Person Push/Pull functions. Within their level of competency, in this position, the driver may also be required to assist other Employees in skills transfer. Merit selection to higher positions.
Mentor Driver Level 7	A driver required to perform such tasks shall be selected by Pacific National Bulk Rail to perform duties in accordance with the company's Mentor Program. In this role, the driver will mentor second persons and other drivers with respect to various aspects of a driver's duties in readiness for assessment. The driver will have a superior road knowledge base and be willing to engage in special duties associated with depot operations. This level will be paid as higher duties for shifts when drivers are performing the tasks of a Mentor Driver. Merit selection to higher positions. Permanently appointed Mentor Drivers located at Pt Kembla and Lithgow as at 1 April 2013 will maintain their current position and remuneration at this level.

Classification Pay Level	Description
Team Leader Level 8 Driver Only Mainline Level 8	<p>As a Team Leader this position is accountable for planning and organizing activities, usually on a shift basis.</p> <p>This level will be paid as higher class duties for shifts when qualified drivers are undertaking driver accountabilities on mainline operations. In the event that an Employee undertakes 75% mainline DOO they will be paid at this classification level on a permanent basis.</p> <p>In the event that 75% of working at a depot is mainline DOO, Employees at that depot will be paid at this classification level on a permanent basis.</p>
Driver Trainer Level 9	<p>The primary objective of the Driver Trainer is to consistently implement learning and development policies, procedures and competency based training and assessment strategies to Pacific National Bulk Rail clients on behalf of the RTO within the site or region for which they are responsible.</p> <p>Specifically, Driver Trainers are accountable for the consistent and equitable implementation of approved competency based training and assessments, utilising approved learning and development policies, procedures and competency based training and assessment strategies, in accordance with the level of personal training and / or assessment qualification held.</p>

C5 TRAINING

C5.1 All training will be scheduled based on training facility and resource availability and the needs of the business at designated locations on the following basis:

- (a) Employees will work shifts based on group and individual training plans. It is recognised that training should generally take place on day and afternoon shift.
- (b) Where required by the business, Employees may be temporarily transferred to a different Home Base to complete training under the provisions outlined in Temporary Transfer clause A34.
- (c) For clarity, Employees undertaking training are entitled to overtime where required.

C6 MANAGEMENT OF HOURS OF WORK

C6.1 Duty Cycles

- (a) The ordinary hours of work for Train Crew, as described in clause 9, will be managed in thirteen (13) cycles each of which will be four (4) weeks in duration (the "Duty Cycle").
- (b) Each Employee will be required to work 152 hours in each Duty Cycle.

C7 REMUNERATION

C7.1 Entitlement

- (a) Employees covered by this Agreement shall be entitled to:

- (i) The Base Rate as set out in Schedule 1 of this Agreement for the applicable classification;
- (ii) The Aggregate Allowance as set out in sub clause C7.2; and
- (iii) The Aggregate Penalties as set out in sub clause C7.3.

C7.2 Aggregate Allowance

- (a) Aggregate Allowances are intended to cover all allowances applicable to positions covered in this Section C, unless specifically provided for elsewhere in this Agreement.
- (b) The following allowance percentages will apply:
 - (i) Locomotive Driver Stream - 9.5%
- (c) Aggregate Allowances are in accordance with the following table.

	Upon Commencement Date	1 April 2023	1 st Anniversary of Commencement Date 2024	2 nd Anniversary of Commencement Date 2025	3 rd Anniversary of Commencement Date 2026	Upon Expiry Date
Rate for Annual Aggregate Allowance	\$68,729.35	\$70,791.23	\$73,622.88	\$76,567.79	\$79,630.50	\$81,223.11

C7.3 Aggregate Penalty Multiplier

- (a) The Aggregate Penalties are paid in lieu of the following:
 - (i) shift work; weekend work; annual leave loading; monetary allowances for expenses incurred in the course of employment; monetary allowances for responsibilities or skills; monetary allowances for disabilities associated with the performance of particular tasks; monetary allowances for work in particular conditions or locations; loadings for working shift work; and any other penalty rates, including weekend penalties.
 - (ii) Employees shall be entitled to multiples of the Aggregate Penalties (the Aggregate Penalty Multiplier - APM) as follows:

Data required to calculate an Aggregate Penalty Multiplier			
Base Data	Column A	Shift Multipliers	Column B
	Actual number of hours in Roster Cycle		Hour Equivalents

Data required to calculate an Aggregate Penalty Multiplier			
↓	↓	↓	↓
Day Shift Hours See Note 1	Insert No. of Hours	1.00	Multiply No. of Hours by Shift Multiplier
Afternoon/Night Shift Hours See Note 2	Insert No. of Hours	1.18	Multiply No. of Hours by Shift Multiplier
Saturday Shift Hours	Insert No. of Hours	1.50	Multiply No. of Hours by Shift Multiplier
Sunday Shift Hours	Insert No. of Hours	2.00	Multiply No. of Hours by Shift Multiplier
Sub Totals			

Note 1: Day shift hours fall within the span 0600 hrs to 1800 hrs.

Note 2 : Afternoon and Night Shifts fall within the span 1800 hrs to 0600 hrs.

(b) To calculate the APM use the following:

Part A

Step 1 Take the total in Column A away from the total in Column B.

Step 2 Divide the number calculated in Step 1 by the total in Column A.

Step 3 Multiply the number calculated in Step 2 by 0.9.

Part B

Step 4 For annual leave loading, add 0.019 for a Shiftworker or 0.013 for a Dayworker.

- (c) The resultant APM factor will be applied to the Base Remuneration, for actual hours worked, for each Employee resulting in an annual quantum of APM. The resultant quantum of APM will be paid in equal instalments each pay period, irrespective of the actual hours worked by the Employee in the pay period. The APM is not applied to payments for overtime.
- (d) Where an APM is calculated and applied across a whole roster, based on the planned or Forecast Working, and the planned or Forecast Working on the roster changes to the extent that the calculated APM is no longer relevant, a

revised APM will be calculated and applied based on the revised work plan or roster arrangements.

C7.4 Overtime (Train Crew only)

- (a) All hours worked on an RDO will attract a penalty rate of 1.7.
- (b) All overtime payments shall stand alone and not be calculated in Duty Cycle Hours.
- (c) Where hours are worked in excess of the Duty Cycle hours of 152. Where the total is less than 168 hours the penalty rate multiplier for all overtime hours shall be 1.7.
- (d) Notwithstanding (a) above, where the total hours exceed 168 hours the penalty rate multiplier shall be 2.0 for overtime hours beyond 168.
- (e) All overtime penalties are applied to Base Remuneration.

C7.5 Coal Bonus

- (a) Employees who were permanent full-time Train Crew and attached to the crew depots at Hunter Valley and at Mudgee as at 27 February 2004 and who were, as at 26 February 2004, receiving an aggregate payment for Train Crew, as detailed in the Freight Rail Corporation Enterprise Agreement 3 2001, will receive in addition to the payments outlined above an allowance of \$10,500 pa and \$5,000 pa respectively. This allowance will be paid in fortnightly instalments.

C8 **ROSTERING PRINCIPLES (TRAIN CREW)**

C8.1 Master Rosters

- (a) A Master Roster shall be exhibited primarily for the purpose of indicating rostered days off (RDOs), all known and Forecast Work in the depot, the required number of lines to be filled by the depot and to meet the operational requirements of the business having regard to fatigue principles. The actual work performed by an Employee shall be as that set out in the Working Roster described in clause C8.2.
- (b) Pacific National Bulk Rail will maximise the amount of Forecast Working, where business and operational requirements make it practical to do so.
- (c) At Greta and Port Waratah, flexible zones can be included in the development of the Master Roster.
- (d) For the purposes of this clause a flexible zone means when two (2) rostering zones are consecutive (back to back) on either the Master Roster or the Working Roster, Pacific National has the ability to use either zone.

C8.2 Working Roster

- (a) All Employees will be allocated to a Permanent Line and will rotate through lines in their roster.

- (b) As far as practicable, hours are to be equalised out over the hours of Duty Cycle.
- (c) Pacific National Bulk Rail, in consultation with the local Roster Committee (where formed), will develop and modify rosters consistent with operational requirements.
- (d) For Forecast Working the completed Working Roster will be posted no later than 16:00 at the normal sign on location, showing allocation of work, sign on times and shift length at least nine (9) days in advance of the Sunday on which the roster is to commence.
- (e) For Blank Line Working the completed Working Roster will be available and posted to confirm the allocation of work, sign on time and details of any Barracks Working by no later than 1600 hours each day. The Working Roster will contain advice for at least the following shift/s up to 0600 hours the subsequent day i.e. 30 hours of advice.
- (f) Fatigue scores the equivalent of 80 or greater will be exhibited next to the Working Roster each day. This will show the Employee's name, the score that will be reached after the completion of the next shift and how that score will be mitigated.
- (g) The working arrangements for blank line rosters shall be defined by the relevant shift limit for each crew configuration and a requirement that the crew report for further duties should they complete their assigned task before they are eight (8) hours on duty. To avoid confusion this eight hour time frame is to include travel and sign-off times.
- (h) As a fatigue management principle, the Parties agree that the sign on times for the travel portion of a travel Passenger for rest shifts will be, where practical, limited to occur between the hours of 14:00 and 23:00.
- (i) As far as possible, rostering will be done on a "first off - first on" basis keeping in mind fatigue and qualification principles.
- (j) Where flexible zones are included in the Master Roster, the sign on time will be limited to the first half of the later zone where an Employee is not utilised in the first of the two available zones.
- (k) The Working Roster for depots with forecast work may be suspended for specific situations, including but not limited to, scheduled ARTC shutdowns and customer maintenance outages. Where Pacific National Bulk Rail is aware of a shutdown at least 6 months in advance of the shutdown occurring, then Employees will be provided with 6 months' notice of the shutdown. Where Pacific National Bulk Rail is aware of a shutdown less than 6 months in advance of the shutdown occurring, then Employees will be notified of the shutdown as soon as reasonably practicable after Pacific National Bulk Rail becomes aware of the shutdown.
- (l) For the Period of the Shutdown, the Working Roster with alternative working will be posted with at least 9 days' notice.
- (m) For the purposes of training and communications at zonal roster depots, the zonal roster may be suspended during network shutdowns to allow

group training and/or communication sessions to be undertaken. Where Pacific National Bulk Rail is aware of a shutdown at least 6 months in advance of the shutdown occurring, then Employees will be provided with 6 months' notice of suspension of the roster. Where Pacific National Bulk Rail is aware of a shutdown less than 6 months in advance of the shutdown occurring, then Employees will be notified of the suspension as soon as reasonably practicable after Pacific National Bulk Rail becomes aware of the shutdown.

C8.3 Leave Relief Lines

- (a) Pacific National Bulk Rail will determine for each Master Roster the number of additional people that are required for leave relief purposes. For each additional leave relief position an additional line will be formed in the Master Roster and designated as Leave Relief. Leave Relief lines will be spread evenly through the Master Roster.
- (b) There will be a minimum of 4 weeks notice for advice to Employees about to enter a Leave Relief line regarding the leave relief line and associated RDOs and Zones, unless otherwise agreed with the affected Employee.
- (c) RDO's and Zones will be displayed for Leave Relief lines on the Master Roster and will be adhered to if no leave relief coverage is required.

C8.4 Roster Development

- (a) Pacific National Bulk Rail will develop and modify rosters consistent with operational requirements.
- (b) In developing rosters, Pacific National Bulk Rail must take into account the following:
 - (i) Family, social and work commitments;
 - (ii) Occupational Health and Safety and specifically fatigue management principles;
 - (iii) Maintenance of qualifications;
 - (iv) Quality of work;
 - (v) Relevant conditions of employment;
 - (vi) Duty of care obligations;
 - (vii) Optimal staff productivity; and
 - (viii) Fair working for the Employees.
- (c) Rosters may be developed to include Forecast Working, Blank Line Working or both. Depot specific roster arrangements are detailed in clause C16 of this Agreement.

C8.5 Master Roster Changes

- (a) Where a change to a Master Roster is proposed, consultation will commence at least twenty eight (28) days prior to the intended implementation date of the new Roster. Following consultation, the final Master Roster is to be posted 14 days in advance of its introduction.

- (b) From time to time because of operational requirements there may arise a need to change the current roster. When this occurs Pacific National Bulk Rail in consultation with the Local Rostering Committee will develop the roster. There will be only three (3) such changes to the roster per calendar year. This can be extended to no more than four (4) with the agreement of the affected Employees.

C8.6 Working Roster Changes

- (a) With the exception of lay back adjustments, where a Working Roster is posted and a subsequent change is required, both of the following will apply:
 - (i) The sign on for any new or altered work must be within the lay back thresholds, when applied to the original shift; and
 - (ii) Alternative or new work may be provided, where possible (subject to the Lay-Back Penalty being paid pursuant to clause C13.5, where applicable).
- (b) If no new or alternative work is available, (i.e. the shift is cancelled), and at least 4 hours notice is not provided, the Employee will have;
 - (i) six (6) hours credited against their hours of work for shifts lengths up to a maximum of 9 hours
 - (ii) Eight (8) hours credited against their hours of work for shifts lengths up to a maximum of 11 hours.

C8.7 Roster Suspension (Forecast working only)

- (i) In situations where a major derailment, washaway or other unplanned circumstance causes track closure, all rosters affected may be suspended until normal operations can resume. In these circumstances, time actually worked will be used to determine overtime.
- (ii) Roster suspension may apply up to seven (7) days beyond which an interim roster will apply until normal operations resume.
- (iii) During a period of roster suspension, allocation of crew rostering will be determined by the local Roster Committee (if formed), local management and corporate management in line with shift limits and rostering principles contained in this Agreement. The suspension of a roster will not impact on the placement of RDO's. Where RDO's are worked the overtime provisions for work on an RDO will apply.

C8.8 Rostered Days Off (RDOs) (Train Crew)

- (a) RDO Principles
 - (i) There will be a minimum of 104 per year designated RDOs averaged over the Duty Cycle inclusive of periods of leave.
 - (ii) Rostered days off can only be altered via a Master Roster change, or by agreement of the Employee concerned.
 - (iii) Single rostered days off will be avoided wherever possible in favour of grouping of such days off.

- (iv) Where flexible zones are placed in Master or Working Roster, they will not be positioned in the roster immediately prior to an RDO.
- (b) Defining the dimensions of RDOs
 - (i) All single RDOs shall be either a minimum of thirty-five (35) hours in duration (from sign off time of the previous shift) or a minimum of thirty (30) hours in duration from midnight on one day to 0600 hours the next day.
 - (ii) For Forecast rosters this may be altered during the development of the roster in consultation and agreement with the affected Employees, but shall not be less than 30 hours.
 - (iii) Notwithstanding clause (c)(iii), multiple RDOs will commence from 0001 and conclude at 0600 the following day. Each additional day will be in blocks of 24 hours duration following the conclusion of the initial RDO at 0600 hours.
 - (iv) Employees will not be rostered or allocated shifts or tasks that are likely to infringe an RDO.
 - (v) If an RDO is infringed by 1 minute or more an Employee shall be provided an additional RDO following the completion of the RDO block.
- (c) Weekends Off Duty
 - (i) In managing rosters, Pacific National Bulk Rail will provide as many whole weekends free from work as is possible.
 - (ii) Pacific National Bulk Rail will roster a minimum of 1 weekend off in every 3 weekends.
 - (iii) A weekend will comprise a minimum fifty-eight (58) hours commencing 2000 hours Friday to 0600 hours Monday.
 - (iv) An employee will not be rostered or allocated shifts or tasks that are likely to infringe a weekend off duty.
 - (v) If the first RDO of the weekend is infringed by 1 minute or more (i.e. an Employee works past 2001 on the Friday before a weekend off duty) (an Employee shall be provided an additional RDO following the completion of the RDO block.

C9 SHIFT LENGTHS (TRAIN CREW)

C9.1 Maximum Shift Lengths

- (a) The maximum shift length shall be eleven (11) hours, subject to the limits prescribed below and depot specific arrangements:
 - (i) Driver only (Mainline/Terminal) – 9 hours as prescribed in legislation.
 - (ii) 3 Person Push Pull – 9 hours.
 - (iii) Route Qualified Level 5 or 6 driver and Second Person/Level 4 are not to be rostered together for more than two consecutive shifts. Following the second consecutive shift the shift limit will be 9 hours.
 - (iv) Any shift over eleven (11) hours will be treated as a twelve (12) hour shift for fatigue management purposes.

C9.2 Minimum Shift Lengths

- (a) Subject to clause C9.3(b) below, the actual working time credited to the Duty Cycle for shifts worked will be the greater of the actual hours worked or six (6) hours.
- (b) Where a shift can be worked up to a maximum of eleven (11) hours, the minimum credit to the Duty Cycle will be the greater of the actual hours worked or eight (8) hours.

C9.3 Maximum Hours of Duty – Emergencies and accidents

- (a) Crew may be rostered to travel back to their original sign on location within a 16 hour maximum span, regardless of the crew configuration. Crew will not be required to undertake any work, including driving a motor car, where the travelling time and the original working time exceeds 12 hours.
- (b) The requirements of Schedule 2 of the Rail Safety Act – Fatigue Management do not apply in the event of:
 - (i) An accident or emergency; or
 - (ii) Any urgent circumstances approved by the ONRSR; or
 - (iii) Any other unforeseeable circumstances that make it necessary to contravene this Section to avoid a serious dislocation of train services if there is no reasonably practicable alternative, if the Safe Working Employee or Safe Working Employees concerned indicate their fitness to work the extended hours.
- (c) In this clause "emergency" means an emergency arising out of an actual or imminent event, such as fire, flood, storm, earthquake or explosion, that:
 - (i) Endangers, or may endanger, the safety of persons, or
 - (ii) Destroys or damages, or may destroy or damage, property

C10 INTERVAL BETWEEN SHIFTS (TRAIN CREW)

C10.1 At Home Base

- (a) A minimum of twelve (12) hours.

C10.2 At a Rest Location

- (a) A minimum of eight (8) hours.

C10.3 Driver Only (Mainline) – a minimum of twelve (12) hours

C11 MANDATORY REST PERIOD (TRAIN CREW)

C11.1 Mandatory rest periods will be provided after having worked twelve (12) consecutive shifts in fourteen (14) days, inclusive of single sick days.

C11.2 This will include the counting of shifts when working from one fortnight, or one week, into the next fortnight or week.

- C11.3** Mandatory rest periods shall conform to the same conditions as an RDO, as outlined in clause C8.8(b)(iii).
- C11.4** Where an Employee works an overtime shift, at Pacific National Bulk Rail's request, and results in the Employee not being able to work a previously rostered shift due to the taking of the mandatory rest period, Pacific National Bulk Rail will credit the rostered hours of the shift not able to be worked to the Employee's Duty Cycle.

C12 CONFIRMING NEXT TURN OF DUTY (TRAIN CREW)

- C12.1** Next turn of duty will be in accordance with the starting time shown on the Working Roster for Forecast Working or advice period or on sign off for Blank Line working.
- C12.2** The Working Roster for Forecast Working will be available and posted at the normal sign on location, showing allocation of work, sign on times and shift length at least nine (9) days in advance of the Sunday on which the roster is to commence.
- C12.3** The Working Roster for Blank Line Working will be available and posted to confirm the allocation of work, sign on time, details of any Barracks Working by no later than 1600 hours. The Working Roster will contain advice for at least the following shift/s up to 0600 hours the subsequent day i.e. 30 hours of advice subject to lay back due to operational requirements.
- C12.4** Confirmation of an Employee's next turn of duty, sign on time and details of any Barracks Working will be provided by any of the following:
- (a) the posting of the Working Roster; or
 - (b) upon signing off duty of the previous shift; or
 - (c) if the Employee is not on duty or advice was not available when the Employee was on duty, advice will be provided between 1600 and 1730 for jobs after 0600 the following day.
- C12.5** Where an Employee does not want to be contacted during the advice period (sleep or personal reasons) the Employee is to notify the company upon signing off. The responsibility to receive advice for the next turn of duty then becomes the Employee's.
- C12.6** Rostering officers may provide advice for Employees next turn of duty via SMS, advice on answering machines, message banks or a nominated responsible person, where such has been provided by the Employee as an alternative. When such an alternative is provided Pacific National Bulk Rail will provide such advice between the hours of 1530 and 1600. Where such advice has been provided it will be logged by Pacific National Bulk Rail to avoid doubt.
- C12.7** Barracks Working Advice
- (a) Train Crew will be notified of any Barracks Working upon signing off duty on the previous shift or during the advice periods.

- (b) In the event that a barracks job is cancelled every attempt will be made to contact the crew as soon as possible.

C13 LAY-BACK (TRAIN CREW)

C13.1 As part of their duties, Train Crew may expect to be contacted for lay back purposes. Pacific National Bulk Rail will contact crew directly for lay back purposes and crew are expected to be available to receive lay back advice.

C13.2 Subject to sub-clause C13.4 below, Employees may be laid back a maximum of three (3) hours.

C13.3 Pacific National Bulk Rail will make no more than one (1) alteration to the confirmed sign-on time under lay back provisions.

C13.4 Prior to laying back Train Crew, Pacific National Bulk Rail will perform a fatigue analysis from the original sign on time to the forecasted sign off time to ensure all fatigue standards can be met. Copies of that analysis will be provided to the affected Train Crew.

C13.5 Lay Back Penalty

- (a) Subject to C13.7, where an Employee is laid-back and their confirmed task is changed, and that lay-back results in any hours worked exceeding the originally planned sign-off time:

- (i) The Employee's hours worked are credited to the duty cycle; and
- (ii) The Employee will be paid a stand-alone penalty at single time the base rate of pay for the hours worked past the original planned sign-off time.

- (b) For the avoidance of doubt;

- (i) For forecast rosters, the Employee's confirmed task is the job posted on the Working Roster at least nine (9) days in advance of the Sunday on which the roster is to commence;
- (ii) For blankline rosters, the confirmed task is the job advised at the end of an employee's previous shift or in the advice period;
- (iii) This sub-clause does not amend the lay-back parameters in clause C13.2; and
- (iv) Only applies where an Employee's original confirmed task is still running (i.e the train or job that the employee was originally tasked to work is not cancelled).

C13.6 In the event of an Emergency Working or Significant Network Disruption, clause C13.5 will not apply to Employees performing work in the particular area of the network substantially affected by the Emergency or Significant Network Disruption.

C13.7 Emergency and Significant Network Disruption means:

- (a) Significant Network Disruption means an urgent circumstance approved by the regulator in accordance with clause 6(1)(b) of Schedule 2 of the Rail Safety National Regulations, or any other unforeseeable circumstance that means Pacific National cannot access the rail network; or
- (b) Emergency means a significant disruption that impacts Pacific National Bulk Rail's operations arising out of an actual or imminent event, such as fire, flood, storm, earthquake or explosion.

C13.8 Where Pacific National will not pay the Lay-Back Penalty pursuant to clause C13.7, it must provide affected Employees with notice at the time the alteration is made that they penalty will not be paid and advise of the relevant Emergency or Significant Network Disruption.

C13.9 Clause C13.5 does not commence application until 3 months after the Commencement Date of the Agreement, or earlier if reasonably practicable.

C14 COMMENCING AND RETURNING FROM LEAVE (TRAIN CREW)

C14.1 Commencing Annual Leave: No work is to be rostered for a sign-on or a likely sign-off on the calendar day on which annual leave is to commence. i.e. There will be no shifts to sign on after 1200 on the day prior to the commencement of annual or long service leave.

C14.2 Returning from Annual Leave: No work is to be rostered on the calendar day on which annual leave is to conclude. Train Crew Employees are to be rostered after the hours of 0600 on the first available shift upon their return from leave.

C14.3 Returning from Other Leave: When an Employee is on leave, other than annual leave, and a resumption date is not known the Employee will be required to provide at least twelve (12) hours' notice of their availability for inclusion into the roster or the advice period. In Pacific National Bulk Rail advice is to be received prior to 1500 hours on the day prior to returning to duty.

C14.4 Upon returning from a period of leave of 4 weeks or more, an Employee will be provided with a period of time rostered prior to their first sign on to read all updated Network, Pacific National Bulk Rail and other related safety information as follows:

- (a) 4 weeks - an additional 10 minutes
- (b) For each additional week – an additional 5 minutes

C14.5 Upon returning from leave of 3 months or more, an Employee will be rostered with a Mentor Driver for their first shift.

C15 CALL TIME ADVICE

C15.1 Employees will be called via their nominated phone number to be advised of their start time for shifts relating to train operations.

C15.2 For home base sign on, employees shall nominate a set time limit (**call time**) within each of the following periods;

- (a) Day Period 0800 to 1959

(b) Night Period 2000 to 0759

C15.3 The call time is a specified number of minutes until the employee is required to present for work. For clarity, the call time may be different for the Day Period and Night Period.

C15.4 For barracks location sign on, employees will nominate a call time which may vary shift by shift.

C15.5 The period of time nominated by the employee in C15.2 must be reasonable taking into account where they reside, family responsibilities and normal travel time and reflect the amount of time actually required by the employee before the commencement of their next shift to prepare and present for their shift at the required time. The employee must exercise their discretion honestly and not unreasonably.

C15.6 If the Employee's shift is altered by way of lay back the set call time will be based on:

(a) In the Day Period, the employee's original start time.

(b) In the Night Period, the employee's amended start time (Lay-Back clause C13).

C15.7 An Employee's sign on time cannot be altered once the advice call has been made.

C15.8 The call will be by contact from the planning team, via an automated device or another Pacific National representative.

C15.9 An employee must be available to take such calls and confirm the advice.

C16 DEPOT SPECIFIC

C16.1 Hunter Valley, Greta, Gunnedah and Mudgee

(a) Confirming next turn of duty

(i) An Employee who has not received advice during the call periods shall make contact with Pacific National Bulk Rail not later than 1800 hours to obtain their next turn of duty.

(ii) An Employee has complied with clause C16.1(a)(i) if they:

A. Ring the Coal Planning Team;

B. If IPS is not available, leave a message with the Coal Planning Team and then ring their immediate supervisor (and if not available, leave a message); and

C. If the Employee has left a message with both the Coal Planning Team and their immediate supervisor and has not been contacted by 2000 hours on the day by Pacific National Bulk Rail, the Employee will be deemed to be rostered off.

(b) Barracks working

- (i) Where available, the advice for the return shift and sign-on time will be provided at the same time.
- (ii) Where not available, the advice for the return shift will be supplied on request, 8 hours before the outward leg's commencement.
- (iii) The indicative time of the return leg may be provided when the outward job is advised and confirmation will be provided as per sub-clause (ii).
- (c) Current Barracks Locations are as follows:
 - (i) Hunter Valley – Mudgee, , Inner Harbour, Gunnedah,
 - (ii) Mudgee – Branxton, Newcastle
 - (iii) Gunnedah - Branxton, Newcastle

C16.2

- (iv) Greta - Mudgee; Gunnedah; Hunter Valley Mainline Drivers Roster
 - (a) Zones aid drivers to organise their rest/leisure time, as well as, serving as a guide for the purposes of fatigue management. Drivers will be rostered in their appropriate zones.
 - (b) Hunter Valley Mainline roster is a full Blank Line roster with the inclusion of a minimum of six "Zones" of sign-on times, with each zone duration being a maximum of 4 hours.
 - (c) During the rostering development process there may be the inclusion of further zones which may overlap the current zone times.
 - (d) The current zones are:
 - Zone 1: 0000-0359
 - Zone 2: 0400-0759
 - Zone 3: 0800-1159
 - Zone 4: 1200-1559
 - Zone 5: 1600-1959
 - Zone 6: 2000-2359
 - (e) Confirming next turn of duty
 - (i) The following clause is to be used where the provisional program from 0000-0600 increases and will only cover Employees in zone 2:
 - (ii) Where an Employee is not on duty or advice was not available and work is required to commence between 0000 – 0600 hours the following day advice will be provided between 0930 – 1100 hours.
 - (iii) Where an Employee is not on duty or advice was not available and work is required to commence after 0600 hours the following day, advice will be provided between 1600 – 1730 hours.

C16.3

Terminal Roster

- (a) Terminal crews work to a full Forecast roster and shall work nine (9) hour shifts.

C16.4 Mudgee and Gunnedah Mainline Drivers Roster

- (a) Mudgee and Gunnedah work to a Blank Line roster.
- (b) Pacific National Bulk Rail in conjunction with the roster committee will evaluate the introduction of zones to support the roster.

C16.5 Greta Mainline Drivers Roster

- (a) Greta Mainline roster is a full Blank Line roster with the inclusion of a minimum of three “Zones” of sign-on times, with each zone duration being a maximum of 8 hours.
- (b) As the crew numbers at Greta increase, Pacific National Bulk Rail in conjunction with the Roster Committee will evaluate the increase in the number of zones supporting the roster.
- (c) During the rostering development process there may be the inclusion of further zones which may overlap the current zone times.
- (d) The current zones are:
 - (i) Zone 1: 0000-0759
 - (ii) Zone 2: 0800-1559
 - (iii) Zone 3: 1600-2359

C16.6 Port Kembla / South 32 Depot Specific Clauses

- (a) South 32 work to a full Forecast roster.
- (b) Port Kembla work to a Blank Line roster with provisions outlined below.
- (c) The following work will have a nine (9) hour shift limit sign on to sign off:
 - (i) Shed, Provisioning, Shunt and Relief Shifts
 - (ii) Round trips to the following mine sites and return –, Metrop, , and Airly.
- (d) Current Barracks Locations are as follows:
 - (i) Port Kembla – Lithgow, Newcastle
- (e) Drivers will not be rostered to travel as a passenger to or from Barracks Locations to do local working. This may happen on the day of operation due to unforeseen changes in requirements. This will be limited to a maximum of an additional four (4) hours of local work (only when necessary).

C16.7 Special Crew Configurations - Push-Pull Operations on Tahmoor Services

- (a) Train Crew on lead locomotive must be:
 - (i) Two (2) level 6 qualified mainline Drivers, only one must be Tahmoor route qualified.

(b) Special Crew Configurations - Trailing Locomotive on Tahmoor Services

- (i) One (1) fully route qualified mainline Driver with either a Driver or Second person; or
- (ii) Driver Mentor with either a Driver or Second Person; or
- (iii) Driver Trainer with either a Driver or Second Person.

C16.8 Cycle Hours –Pt Kembla and South 32

- (a) If an Employee declines to work after reaching the Duty Cycle hours (152 or hours shown on Master Roster) all days not worked will be treated the same as an RDO for the purposes of rostering their next turn of duty in the current Duty Cycle.

SECTION D SUPPORT

D1 SCOPE

D1.1 This Section D shall be read in conjunction with Section A. This Agreement shall:

- a) Only apply to Employees engaged in the classifications, who report to the Head of Operations – Coal or Head of Operations – Bulk and who perform the functions as described in clause D3 below; and
- b) Also apply to support Employees previously covered by the Pacific National Operation Services Collective Agreement 2006 and who report to the Head of Operations – Coal or Head of Operations – Bulk.

D1.2 This Section D shall not apply to any Employee:

- a) Whose position is classified in the Support classification structure; and
- b) Who is offered and commences employment following the commencement of this Agreement and whose Base Remuneration exceeds that payable to the highest classification in the Support classification structure (namely, Level 3 classification, Pay point (3)); or
- c) Who is offered and commences employment following the commencement of this Agreement and whose substantive and major part of their work is to supervise other Employees and whose Base Remuneration exceeds the rate applicable to the Level 2 classification, Pay point (4); or
- d) Who continues to be employed under an individual Appointment Agreement and whose Base Remuneration exceeds that payable to the highest classification in the Support classification structure (namely, Level 3 classification, Pay point (3)); or
- e) Who continues to be employed under an individual Appointment Agreement and whose substantive and major part of their work is to supervise other Employees and whose Base Remuneration exceeds the rate applicable to the Level 2 classification, Pay point (4).

D2 CLASSIFICATIONS PRINCIPLES

D2.1 The Support career path provides a structured career path for administrative, technical and professional positions within NSW Bulk Rail. For clarification this structure also covers Motor Car Drivers and Barracks Attendants.

D2.2 Principles

- (a) The classification structure for this Section D operates in accordance the following principles:
 - (i) Positions will be defined in terms of their primary accountabilities or main functions;

- (ii) Classification will be made on the basis of matching the primary accountabilities or main functions with the appropriate level of the classification structure;
- (iii) On this basis, Employees will be classified at a level within the classification structure that is commensurate with the major and substantial requirements of the position undertaken;
- (iv) The classification structure will allow for the design of positions and the performance of activities and tasks based on assessment of what is safe, efficient and logical, and for which the Employee has been trained and has current and demonstrated competency;
- (v) Flexibility that allows Pacific National Bulk Rail, to change the way work is organised and/or the way positions are designed, as required by business or commercial demands.

D2.3 Employees will remain in their classification unless there is a major and substantial change in the work undertaken and/or accountabilities.

D2.4 In relation to an organisational restructure that has a direct impact on support staff, this clause provides a process for employees and their union to raise any concerns arising out of the restructuring process. If the affected support staff member fulfils the criteria as set out in the position description they will be directly appointed into the new position. In the event that an employee is made redundant as a result of not meeting the criteria, as per above, the Redundancy clause will be activated. An Employee will, subject to the redundancy clause provisions accept a suitable alternate role if they fulfil the criteria and will be directly appointed to that role.

D2.5 Where positions are adjusted or redesigned, the Employee will be entitled to be paid at a classification level that equates to the work or activities being undertaken in the new position subject to the provisions of the Salary Maintenance clause (clause A39) of this Agreement.

D2.6 Where Pacific National Bulk Rail proposes changes to relative remuneration levels they will be set using the Hay principles or equivalent process.

D2.7 In the event that Pacific National Bulk Rail changes a classification and pay point level for any existing role or creates a new role covered by this Agreement and the classification or pay-point level is disputed by an affected Employee or their union, then Pacific National Bulk Rail must provide the details of how the determination was arrived at.

D3 SUPPORT STAFF CLASSIFICATION STRUCTURE

Classification Pay Level	Description
Frontline Support Level 1 Pay points 1.1 to 1.5	This classification level applies to positions which have accountability for delivering administrative, technical or operational support. At this level the range of tasks and activities to be carried out are usually well defined. As a result, routine methods and procedures are employed that may require some judgement in the selection of resources, sequencing of tasks, or the selection of appropriate work methods or involvement of other Employees.

Classification Pay Level	Description
Specialist Level 2 Pay points 2.1 to 2.4	<p>This classification level applies to positions which have accountability for delivering a range of specialist services. These could include those related to a specific engineering, technical or administrative discipline. At this level Employees, would be expected to operate autonomously in line with specific skills or qualifications they possess. There may also be some coordination of activities being performed by other Employees.</p> <p>While focused on specific functional or discipline based activities, these activities are usually based on the application of defined precedent. As a result, routine methods and procedures are employed that may require some judgement in the selection of resources, sequencing of tasks, or the selection of appropriate work methods or involvement of other Employees, within the context of the specific function or discipline.</p>
Seasoned Specialist Level 3 Pay points 3.1 to 3.3	<p>This classification level applies to positions that have accountability for delivering high level specialist services. These could include those related to engineering, financial, technical or support disciplines.</p> <p>This classification level has no application to any Employee in supervisory positions, i.e Employees whose substantive and major accountability is the supervision of other Employees.</p> <p>At this level, Employees are expected to deliver seasoned or senior level specialist support within their specific functional specialty or discipline. While focused on specific functional or discipline based activities, these activities can be based on the application of their professional principles to resolve unusual problems and/or oversee the development and implementation of new programmes or projects. Problem resolution is a frequent requirement at this level, and the outcomes of their resolution process may break new ground for the organisation.</p>

D4 MANAGEMENT OF HOURS OF WORK

D4.1 Management of Ordinary Hours – Shift Workers

- (a) Rosters and Roster Cycles shall not exceed a 16 week period unless agreed to by the majority of Employees concerned at that location.
- (b) Over the Roster Cycle, ordinary hours will be allocated to average thirty-eight (38) per week. Pacific National Bulk Rail may also develop rosters where average hours exceed 38 per week. Where through consultation, the number of hours an Employee is required to perform exceeds an average of thirty eight (38) ordinary hours per week, overtime payments will be made in accordance with provisions outlined in sub-clause (c) below.
- (c) Overtime is defined as:
 - (i) Total hours worked in excess of the average of 38 hours per week over the Roster Cycle, referred to in (b) above; or
 - (ii) Hours worked in excess of those in the ordinary rostered shift length; or
 - (iii) Hours worked on a RDO.

- (d) The penalty multiplier for overtime hours is 1.5 for the first three (3) hours of overtime and then 2 thereafter, except for overtime worked on a Sunday where the penalty multiplier is 2 for all overtime hours worked.

D4.2 Management of Annual Ordinary Hours - Dayworkers

- (a) The ordinary hours of duty for a Dayworker shall be thirty-eight (38) hours per week, worked on any day, Monday to Friday between 0600 hours and 1800 hours.
- (b) The ordinary hours may be worked as a
 - (i) 7.6 hour day; or
 - (ii) a 19 day month, where such arrangements already apply and may be extended by mutual agreement.
- (c) Pacific National Bulk Rail will not unreasonably withhold agreement where an Employee seeks to alter their pattern of work/hours.
- (d) The ordinary hours may be worked within a 152 hour, four week cycle, subject to the consultative provisions in this Agreement.
- (e) The maximum number of rostered hours per shift for Day workers shall be no more than 12 hours.
- (f) Overtime for Day workers is calculated as time worked above the rostered hours, which includes any time worked outside 0600 hours to 1800 hours, Monday to Friday. Overtime payments will be as per clause (c) above.

D5 REMUNERATION

D5.1 Base Remuneration for each level of the Support classification structure is detailed in the tables provided at Schedule 1 to this Agreement.

D5.2 Composition of Total Remuneration

- (a) Total Remuneration is made up of Base Remuneration as outlined in Schedule 1 to this Agreement plus Aggregate Penalties.
- (b) Aggregate Penalties
 - (i) Aggregate Penalties are provided to compensate Employees for:
 - A. Working shiftwork and weekends;
 - B. Annual leave loading.
 - (ii) Aggregate Penalties are calculated for a whole Master Roster. Employees rotate through lines on a Master Roster without altering the APM. Where an Employee works under a Master Roster that contains only one line, APM is calculated on the individual's Master Roster.
 - (iii) Aggregate penalties are determined by calculating an Aggregate Penalty Multiplier (APM) from the available shift and rostering information, i.e. the time worked on weekends and/or night/afternoon shifts.

D5.3 Application of APM

- (a) APM will be calculated on the basis of all the planned working shown on the Master Roster, in accordance with the provisions contained within sub-clause D5.4 below.
- (b) The resultant APM factor will be applied to Base Remuneration resulting in an annual quantum of APM. The resultant quantum of APM will be paid in equal instalments each pay period, irrespective of the actual hours worked by the Employee in the pay period. The APM is not applied to payments for overtime.

D5.4 Calculating the APM

- (a) The following formula is used to calculate the APM based on the roster;

Data required to calculate an Aggregate Penalty Multiplier			
Base Data ↓	Column A Actual number of hours in Roster Cycle ↓	Shift Multipliers ↓	Column B Hour Equivalents ↓
Day Shift Hours See Note 1	Insert No. of Hours	1.00	Multiply No. of Hours by Shift Multiplier
Afternoon/Night Shift Hours See Note 2	Insert No. of Hours	1.18	Multiply No. of Hours by Shift Multiplier
Saturday Shift Hours	Insert No. of Hours	1.50	Multiply No. of Hours by Shift Multiplier
Sunday Shift Hours	Insert No. of Hours	2.00	Multiply No. of Hours by Shift Multiplier
Sub Totals			

Note 1: Day shift hours fall within the span 0600 hrs to 1800hrs.

Note 2: Afternoon and Night Shifts fall within the span 1800 hrs to 0600 hrs.

- (b) To calculate the APM use the following:

Part A

Step 1 Take the total in Column A away from the total in Column B.

Step 2 Divide the number calculated in Step 1 by the total in Column A.

Step 3 Multiply the number calculated in Step 2 by 0.9.

Part B

Step 4 For annual leave loading, add 0.019 for a Shiftworker or 0.013 for a Dayworker.

- (c) Where an APM is calculated and applied across a whole roster, based on the planned or Forecast Working, and the planned or Forecast Working on the roster changes to the extent that the calculated APM is no longer relevant, a revised APM will be calculated and applied based on the revised work plan or roster arrangements.

D5.5 Wage / salary payments

- (a) Total Remuneration will be paid fortnightly by electronic funds transfer (EFT).
- (b) Where payment for overtime is due, it will be paid in the current pay period.
- (c) Fortnightly payments are based on averaging the annual ordinary hours on a fortnightly basis and making payment of (one twenty sixth) 1/26th of Base Remuneration each fortnight (Notionally 76 hours per fortnight) excluding overtime.
- (d) Where employment is terminated the final payout for hours worked will be calculated on the basis of reconciling the completed hours worked with the notional hours paid. Pacific National Bulk Rail has the right to deduct any over payment of monies.

D6 ROSTERING GUIDELINES

D6.1 Pacific National Bulk Rail will develop and modify rosters consistent with operational requirements.

D6.2 Rosters may be developed to include Forecast (Permanent) Working, Blank Line (Relief) Working or both.

D6.3 Rostering arrangements at a location may include a Master and Working Roster.

D6.4 Roster Development:

- (a) Rosters in place at the time of lodgement of this Agreement will only be changed or varied in accordance with the roster consultation process provided for in this Agreement;
- (b) Where a change to a Master Roster is proposed, consultation, as outlined in clause A31 Consultation and Change of this Agreement, will commence at least twenty eight (28) days prior to the intended implementation date of the new roster. Any change will be made mindful of balancing the business demands and the needs of Employees;
- (c) Employees may elect to form a Roster Committee. Pacific National Bulk Rail will consult with the committee. Where no Roster Committee is formed, consultation will take place with all affected Employees. Consultation will be in a manner of inclusion and involvement;

- (d) Pacific National Bulk Rail, in consultation with the local Roster Committee (where formed), will develop and modify rosters consistent with operational requirements;
- (e) In developing Rosters, Pacific National Bulk Rail must take into account the following:
 - (i) Family, social and work commitments;
 - (ii) Occupational Health and Safety and specifically fatigue management principles;
 - (iii) Maintenance of qualifications;
 - (iv) Quality of work;
 - (v) Relevant conditions of employment;
 - (vi) Duty of care obligations;
 - (vii) Optimal staff productivity; and
 - (viii) Fair working for the Employees.
- (f) In roles where shifts follow on, reasonable handover time will be included in the roster.
- (g) Rosters should be arranged to provide the maximum number of complete weekends rostered off duty.
- (h) The Master Roster shall display:
 - (i) Sign on and sign off times;
 - (ii) All Roster Days Off (RDO);
 - (iii) All known work.
- (i) Following consultation, the final Master Roster is to be posted at least fourteen (14) days in advance of its implementation.
- (j) Employees will not be required to work more than three (3) weekends in a row.
- (k) The number of changes to Master Rosters, where such a change impacts on a RDO, shall not exceed four (4) per annum, unless by agreement at each affected worksite
- (l) The commencement time of a shift of ordinary hours will be as per the posted Master Roster, or Working Roster where used.

D7 SHIFT LENGTHS

- D7.1** Maximum rostered hours shall be 12 hours and 30 minutes. (12.5 hours).
- D7.2** The rostering and management of 12 hour shifts is to be limited to no more than four consecutive 12 hour shifts in any seven (7) day period.
- D7.3** It would be normal to roster to a minimum of eight (8) hours in the Master Roster. However, subject to specific business needs and operational requirements, shifts of a minimum of six (6) hours may be utilised to cater for:

- (a) An extra overtime shift;
- (b) Training;
- (c) Medical examination/trauma counselling;
- (d) Meetings; or
- (e) Undertaking approved duties as an authorised Health and Safety Representative or SHE Committee member.

D7.4 No Employee shall be required to work more than seven (7) consecutive shifts without a day off.

D8 INTERVAL BETWEEN SHIFTS

D8.1 The minimum interval between shifts shall be eleven (11) hours off duty between ordinary shifts, except when changing shifts, (i.e. from night shift to afternoon), in which case a minimum of eight (8) hours may apply.

D8.2 Shift cycles will be designed to ensure the maximum number of similar shifts, (e.g. afternoon shifts), before a change to a different shift pattern, (e.g. night shift).

D9 WORKING ROSTERING CHANGES

D9.1 Where the Working Roster is developed, a period of seven (7) days notice of the introduction of such rosters shall occur.

D9.2 Where a Working Roster is adjusted such that an Employee is required to change from one shift to another, a period of twenty four (24) hours notice will apply, unless an RDO is affected where seven (7) days notice will apply, unless the Employee agrees to a shorter period or it is a mutual shift exchange. The twenty four (24) hour notice provision will only be used to cover circumstances such as, absenteeism or exceptional operational requirements.

D9.3 Subject to relevant OH&S, fatigue management and operational issues, Employees may mutually exchange shifts, with the approval of the relevant manager. Pacific National Bulk Rail will not unreasonably withhold approval where such requests are cost neutral.

DECLARATION AND SIGNATORIES

This Agreement has been developed through extensive consultation.

All parties are entering into this Agreement with full knowledge as to the content and effect of the document.

This Agreement was made at Sydney on this the 16th day of February 2023

Signed for and on behalf of

PACIFIC NATIONAL BULK RAIL

Paul Scurrah

Managing Director & CEO

(name)

(title)



(signature)

of the following address

Level 16, 15 Blue Street

North Sydney NSW 2060

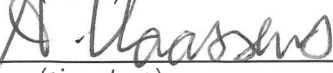
Being an authorised signatory for Pacific National Bulk Rail

Signed for and on behalf of the

**AUSTRALIAN RAIL, TRAM and BUS INDUSTRY
UNION**

Alex Claassen's.

(name)



(signature)

Branch Secretary

(title)

of the following address

4/321 Pitt st

Sydney NSW 2000

Being members of the National Executive of the Union and authorised to sign an Agreement on behalf of the ARTBIU under the union's registered rules.

SCHEDULES

SCHEDULE 1: ANNUAL BASE PAY RATES

Section B - Bulk

TRAIN CREW CLASSIFICATION PAY RATES – Bulk

Level	Commencement Date	1 April 2023	1st Anniversary of Commencement Date 2024	2nd Anniversary of Commencement Date 2025	3rd Anniversary of Commencement Date 2026	Upon Expiry of Agreement
1	67,368.46	69,389.51	72,165.09	75,051.70	78,053.76	79,614.84
2	78,249.15	80,596.63	83,820.49	87,173.31	90,660.24	92,473.45
3	85,740.70	88,312.92	91,845.44	95,519.26	99,340.03	101,326.83
4	89,142.15	91,816.42	95,489.07	99,308.64	103,280.98	105,346.60
5	92,535.95	95,312.03	99,124.51	103,089.49	107,213.07	109,357.33
6	95,588.16	98,455.81	102,394.04	106,489.80	110,749.39	112,964.38
7	103,408.22	\$106,510.47	110,770.89	115,201.72	119,809.79	122,205.99

TERMINAL OPERATORS CLASSIFICATION PAY RATES – Bulk

Level	Commencement Date	1 April 2023	1st Anniversary of Commencement Date 2024	2nd Anniversary of Commencement Date 2025	3rd Anniversary of Commencement Date 2026	Upon Expiry Date of Agreement
1	67,348.07	69,368.52	72,143.26	75,028.99	78,030.15	79,590.75
2	78,231.29	80,578.23	83,801.36	87,153.41	90,639.55	92,452.34
3	80,727.41	83,149.24	86,475.21	89,934.21	93,531.58	95,402.21

Section C - Coal

TRAIN CREW CLASSIFICATION PAY RATES – Coal

Level	Commencement Date	1 April 2023	1st Anniversary of Commencement Date 2024	2nd Anniversary of Commencement Date 2025	3rd Anniversary of Commencement Date 2026	Upon Expiry Date of Agreement
1	69,296.41	71,375.30	74,230.32	77,199.53	80,287.51	81,893.26
2	74,900.45	77,147.46	80,233.36	83,442.69	86,780.40	88,516.01
3	88,190.61	90,836.33	94,469.78	98,248.57	102,178.51	104,222.08
4	88,190.61	90,836.33	94,469.78	98,248.57	102,178.51	104,222.08
5	88,477.11	91,131.43	94,776.68	98,567.75	102,510.46	104,560.67
6	91,845.72	94,601.09	98,385.13	102,320.54	106,413.36	108,541.63
7	95,588.16	98,455.81	102,394.04	106,489.80	110,749.39	112,964.38
8	99,430.97	102,413.90	106,510.45	110,770.87	115,201.71	117,505.74
9	103,408.22	106,510.47	110,770.89	115,201.72	119,809.79	122,205.99

Section D - Support

SUPPORT CLASSIFICATION PAY RATES

Level	Commencement Date	1 April 2023	1st Anniversary of Commencement Date 2024	2nd Anniversary of Commencement Date 2025	3rd Anniversary of Commencement Date 2026	Upon Expiry Date of Agreement
1.1	69,421.00	71,503.63	74,363.78	77,338.33	80,431.86	82,040.50
1.2	74,227.85	76,454.68	79,512.87	82,693.38	86,001.12	87,721.14
1.3	78,353.55	80,704.16	83,932.33	87,289.62	90,781.20	92,596.83
1.4	83,164.41	85,659.35	89,085.72	92,649.15	96,355.12	98,282.22
1.5	90,234.95	92,942.00	96,659.68	100,526.07	104,547.11	106,638.05
2.1	97,935.56	\$100,873.63	104,908.57	109,104.92	113,469.11	115,738.50
2.2	111,343.10	\$114,683.40	119,270.73	124,041.56	129,003.22	131,583.29
2.3	120,103.70	\$123,706.81	128,655.08	133,801.28	139,153.33	141,936.40
2.4	133,648.27	\$137,657.72	143,164.02	148,890.59	154,846.21	157,943.13
3.1	145,897.77	\$150,274.70	156,285.69	162,537.12	169,038.60	172,419.38
3.2	155,464.42	\$160,128.35	166,533.49	173,194.83	180,122.62	183,725.07
3.3	164,747.60	\$169,690.03	176,477.63	183,536.74	190,878.21	194,695.77

SCHEDULE 2: NOTIFICATION OF DISPUTE OR GRIEVANCE

To:

Date:

Insert name of manager to whom notice is
given

I hereby give notice that I wish to invoke the dispute settlement process in clause A32 of the Pacific National Bulk Rail NSW 2022 Enterprise Agreement. The details of this dispute are as follows:

The Decision I wish to dispute is:

The person who made the
decision is:

The date the decision was made
is (if known):

The reasons I wish to dispute the decision are:

Your
name:

Position:

Signed:

Contact
No:

SCHEDULE 3: DRIVER ONLY OPERATIONS

- S3.1** Pacific National Bulk Rail shall not require or request any driver to operate a locomotive DOO except in accordance with this section.
- S3.2** Procedures for tests and trials of driver only operated trains
- (a) Pacific National Bulk Rail shall establish a Driver Only Operations (DOO) committee consisting of three drivers elected from the drivers attached to the depots concerned and three employer representatives appointed by Pacific National Bulk Rail.
 - I. DOO tests shall be conducted by operating a normal train, with its full crew, and determining a location and time where a fault is simulated in order to test a specific procedure. For the test the train operates in DOO mode, and one crew member carries out the procedure being tested. When concluded the train reverts to normal operation.
 - II. Corridor DOO Tests shall be conducted by operating a normal train under DOO conditions through a corridor or nominated section(s). Pacific National Bulk Rail and the local DOO committee shall determine that, when the test is conducted, the second person accompanies the test driver in the leading cab, trailing cab or following the test train in a motor vehicle. Should any operational incident arise the trial shall be cancelled and the working reverts to (normal) two crew operation.
 - (b) At all times during the test and trials, the train driver must have full [i.e. 100%] access to communication with Train Control, whether the driver is on or off the train.
 - (c) Prior to any test or trial, Pacific National Bulk Rail shall obtain the appropriate written authorisation or relevant circular / Special Train Notice from either the track owner and/or regulator.
 - (d) Tests and trials shall only be carried out using locomotives which have been deemed safe to operate in driver only operations following engagement with the local DOO committee and consistent with the Cab Standards outlined in clause S3.7.
 - (e) The test of trial parameters should be designed to reflect genuine operating conditions. Prior to the commencement of any test or trial, agreement shall be reached between the Employee and employer representatives who are on the relevant local DOO committee, on relief points, the locations and sections of track for the purpose of testing and/ or trialling. Agreement on relief points, the locations and sections of track for the purpose of testing will not be unreasonably refused or delayed.
 - (f) Prior to the commencement of any test or trial, Pacific National Bulk Rail shall ensure all relevant urban and / or regional emergency services personnel (e.g. State Emergency Services, Police, etc.) are made aware of the test and trial to be conducted.

- (g) There shall also be established at each relevant depot, a signal sighting committee consisting of the Employee representatives on the local DOO committee (or their nominees from other depot Employees) and employer representatives. The terms of reference for each such committee are as follows;
 - I. To ensure all signals can be clearly seen from the driving seat at the appropriate location and speed.
 - II. To ensure all speed limits can be clearly seen from the driving seat at the appropriate location and speed.
 - III. To ensure all level crossings can be clearly seen from the driving seat at the appropriate location and speed.
 - IV. To ensure no obstructions (such as branches, awnings, cuttings, curves etc.) restrict the view of the driver at the appropriate location and speed.
- (h) For the purposes of this review front facing camera footage can be utilised as an additional tool to assist in establishing areas for review.

S3.3 Procedure / equipment tests and operational trials

- (a) The trialling for Driver Only Operation (DOO) shall take into account the following:
 - I. overall safety requirements and safe working procedures;
 - II. Employee relations and industrial issues;
 - III. constraints imposed by engineering production associated with modification to locomotives, rolling stock and / or infrastructure;
 - IV. risk mitigation requirements;
- (b) The general concept of DOO shall involve the following:
 - I. Trialling of DOO will be scheduled on the basis of comparatively lower risk categories of operation (Category 1) being conducted first (subject to satisfying risk mitigation strategies), followed by comparatively higher risk categories. This does not exclude the possibility of trials running concurrently in various categories of DOO;
 - II. On completion of successful trials within a category (e.g. Category 1), the progressive roll out across that category of operations will be done after consultation between the employer and the affected Employees, subject to satisfying safety and required risk mitigation requirements;
 - III. The roll out of DOO may involve the progressive implementation within regions, specific corridors and / or train services based on commercial priorities and pre-requisites as identified in the risk mitigation requirements;
- (c) The time involved in the trialling of DOO is to be sufficient to:

- I. Provide the appropriate time to validate the trial objectives which is anticipated not to exceed 3 months;
 - II. Validate safety requirements and train operating systems;
 - III. Validate operational protocols and procedures, particularly with reference to operations on private sidings and/or non-track circuited track where higher risk profiles may exist;
 - IV. Provide a data base and experience to make informed judgments on the trial outcomes.
- (d) The DOO trial program will be conducted and commenced as follows:
- (e) Category 1 Operation
- I. Priority shall be to ensure locomotives for these services and associated operational protocols are prepared to support an on-time commencement of the trials.
 - II. A review and validation of trial results shall be conducted by Pacific National Bulk Rail and the relevant local DOO committee;
 - III. Adjustment to the schedule may be necessary to enable engineering production timeframes for locomotive risk mitigation and other co-ordination issues to be met.
- (f) Pacific National Bulk Rail shall ensure that any technical modifications required to be made to locomotives are completed.

S3.4 The trialling of DOO will be subject to the following four (4) Phases:

Phase 1 – Preliminary Trial Preparation

- (a) Pacific National Bulk Rail, in consultation with the affected parties shall:
- I. Identify the aim, scope, objectives and performance criteria of the trial.
 - II. Confirm the priority and timing for the completion of the trial.
 - III. Confirm the services to be trialled.
 - IV. Validate all pre-requisites for the trial, including the following;
 - V. Risk mitigations plans are completed and equipment for the trial available.
 - VI. Paths are confirmed by the relevant track access provider and circulars issued to affected Employees.
 - VII. Relevant Employees are briefed and rostered and trains are tasked for the trials.
 - VIII. Customer liaison, business group liaison and other stakeholders are advised and/or involved or invited to participate (where appropriate).

- (b) Pacific National Bulk Rail and the local DOO committee shall validate the success of the trial. The validation shall include assessing the performance criteria, feedback and evaluation of information.
- (c) The trial instruction shall be issued not less than two (2) weeks prior to the trial date.

Phase 2 – Conduct Procedure and Equipment Tests

- I. The trial tests shall be based on a methodology discussed with the local DOO committee.
- II. Trial tests may require retesting to occur, as necessary.
- III. Pacific National Bulk Rail and the local DOO committee shall review outcomes, as required.
- IV. Additional testing of safe working procedures, etc. may be required.

Phase 3 – Formal Testing Validation and Evaluation

- I. Pacific National Bulk Rail and the local DOO committee shall develop a post-test report.
- II. Pacific National Bulk Rail shall confirm concurrence of all relevant parties to the trials.
- III. Pacific National Bulk Rail shall provide the local DOO committee with details of the formal approval to vary rail safety accreditation.

Phase 4 – Operational Trials

- I. DOO trials shall be conducted over a timeframe in consultation with the local DOO committee.
- II. Pacific National Bulk Rail and the local DOO committee shall review and validate the trials.
- III. The local DOO committee shall be consulted on the confirmation of the trial results.
- IV. Implementation of DOO trains shall be conducted on a timetable after consultation between Pacific National Bulk Rail and all interested parties.

S3.5 Consultation

- (a) Pacific National Bulk Rail shall consult with Employees and their representatives at a National, State and depot level where Pacific National Bulk Rail proposes to introduce Driver Only Operations. Pacific National Bulk Rail shall report back to Employees and their representatives at depots affected by Mainline DOO outcomes of such consultation.

S3.6 Mainline Work

- (a) The minimum amount of time spent in Barracks (or rest away from home) for DOO mainline shifts should be 10 hours (or 8 hours as specified in the Rail Safety Act).
- (b) Start times for shifts shall be held constant over a run of consecutive shifts during a week where possible. Where this is not possible shift start times shall move in a forward direction. Local work, relief, available and shunt shifts, where practical, are to be rostered to intervene with DOO shifts (fatigue guidelines are to be utilised to prevent high fatigue outcomes).
- (c) Any one-week containing mainline DOO shifts shall not exceed 48 hours.
- (d) A maximum rostered shift limit of 9 hours from sign on to sign off will apply to mainline DOO. In the event of train delays, a driver may elect to cease DOO 9 hours from sign on and shall be relieved. The driver shall be entitled to a 30 minute paid personal needs break between the third and fifth hour as arranged in consultation with the Track Access Provider on the day of operation (in Emergencies the Rail Safety Act will take precedence).

S3.7 DOO Implementation

- (a) Pacific National Bulk Rail and the local DOO and/or Roster Committees will monitor and review the fatigue management issues.
- (b) Where a decision to implement DOO is taken, Pacific National Bulk Rail shall do so by a staged implementation of DOO mainline on the network. Employees at local driver depots shall be involved in all aspects of the implementation.
- (c) DOO shunting shall be implemented at all sites in accordance with this Agreement.
- (d) DOO mainline relief shall be implemented on all corridors.
- (e) Further implementation of DOO mainline on all other sectors will only be introduced, subject to the same criteria as the first stage of DOO implementation.
- (f) Fatigue management is recognised as a critical factor with DOO. All depot rosters and DOO shifts shall be examined for incidents and levels of fatigue by Pacific National Bulk Rail and the local Roster Committee.
- (g) Pacific National Bulk Rail and the local DOO and/or Roster Committees will monitor and review the fatigue management issues.
- (h) DOO may be employed for both rostered and Blank Line duties such as shunting, local and trip working, stabling and preparing locomotives, mainline relief of late running trains and any other operational circumstances that meets DOO conditions.

S3.8 DOO Cab Standards

- (a) The following minimum standards shall apply to all locomotive cabs operating in DOO mode, whether in tests and trials or in full implementation:
- (b) Vision – the locomotive must have a lower profile nose with at least 180 degrees visibility.
- (c) Windscreens / Side Windows – The windscreens shall comply with the latest U.S Standard for high impact windscreens with respect to the large objects impact test and ballistic test. They shall also be fitted with an in built demister. All side windows shall comply with the latest US Standard for high impact windscreens. All side windows shall be tinted with a minimum light/heat transmission of 35%.
- (d) All DOO locomotives will comply with a defined noise exposure of an LAeq, 8h of 85 dB(A) or an LC, peak of 140 dB(C). The definitions are as follows:
 - I. dB – is the unit for measuring sound levels
 - II. LAeq, 8h means the eight (8) hour equivalent continuous A-weighted sound pressure level in decibels, referenced to twenty (20) micropascals.
 - III. LC, peak means the C-weighted peak sound pressure level in decibels, referenced to twenty (20) micropascals.
- (e) All locomotive cabs shall be fitted with:
 - I. Coupler lights which shall be fitted on both the 'A' and 'B' ends of the locomotive with a switch mounted on either corner of the locomotive;
 - II. New seating of the type: – Bremshy Grammer FA 416 AW or approved equivalent LSA;
 - III. Rear vision mirrors;
 - IV. Cab temperature control –
 - a) Cooling - Air conditioning. The air conditioner controls shall be located adjacent to the driver;
 - b) Heating - Cab heaters fitted.
 - V. A refrigerator;
 - VI. Fluorescent cab lighting;
 - VII. Positive notching type blinds fitted to all windows and silver backing;
 - VIII. A shadow board or tool box and DOO equipment box is to be provided;
 - IX. Ditch lights (low visibility lights);
 - X. AM and FM radio and CD Player;

- XI. Hot plate or convection microwave;
 - XII. LED type headlight/ditch light failure indicator lights;
 - XIII. Dynamic brake cut out switch;
 - XIV. A circuit breaker for the Dynamic Brake Rheostat;
 - XV. Toggle joystick type train whistle;
 - XVI. 350 watt headlights;
 - XVII. Windscreen wipers controls so that all forward wipers / washers can be operated simultaneously by the driver;
 - XVIII. Internal and external door locking, which allow all locomotive cabs to be locked when left unattended;
 - XIX. Fuel level indicator (or external tank indication);
 - XX. Electronic train line Park Brake;
 - XXI. Handrails on the catwalks of all narrow car body type locomotives;
 - XXII. Train countdown device set at 10 meter increments for the length of the train;
 - XXIII. A dash panel located in front of the driver so as to ensure the driver can maintain 180 degrees visibility;
 - XXIV. A kettle, to be located in a secure location;
 - XXV. Timetable clip and light;
 - XXVI. Hands free radio operations; Foot toggle switch;
 - XXVII. Quick response throttles (on DOO shunt locomotives); and
 - XXVIII. A sonar alert.
- (f) All locomotive cabs shall have the vigilance control timing cycle which will have either a set or random cycle of between 25 and 60 seconds before a penalty brake application occurs. The vigilance control shall only be cancelled through the vigilance button, operation of the throttle or dynamic brake or operation of the air brakes.
 - (g) If the penalty brake is applied and is not reset in two (2) minutes, an automatic emergency call shall be programmed on the radio to be made to Train Control.
 - (h) Jumper cables are to be semi permanently mounted at each end of the locomotive.
 - (i) End of train monitoring is to be provided.
 - (j) A traction motor cut-out switch is to be provided on main line locomotives.

- (k) It is recognised that there may be changes in technology, work practices and/or safety standards items. Where this is the case, items equivalent whose safety/comfort meets or exceeds those described in this clause will be provided.

SCHEDULE 4 – BARRACKS WORKING / RESTING AWAY

- S4.1** This Schedule sets out the terms as they relate to the location and standards of Barracks for Section B and Section C Train Crew Employees covered by this Agreement.
- S4.2** Rosters for Train Crew may include tasks or positions that involve a rest period away from the Employee's initial Home Base.
- S4.3** To avoid doubt, Train Crew are rostered to work to a rest location, rest, and then are rostered back to their Home Base. I.e. the next turn of duty is to be one that provides for the Employee to sign off at their initial Home Base.
- S4.4** Barracks work should be scheduled to ensure the least amount of time away from the Home Base within fatigue management and Agreement guidelines and, where possible, Train Crew will be relieved on arrival at their Home Base if there is a crew already on duty and available to provide relief.
- S4.5** The advice for the return shift and sign on time will be provided at the same time, subject to depot specific clauses contained in the Agreement.
- S4.6** Consecutive shifts that start and finish at the Home Base will not have barracks rest between those 2 consecutive shifts.
- S4.7 Barracks locations**
- (a) Current Part C - Coal Depot Barracks Locations are as follows;
- (i) **Hunter Bulk Terminal** – Mudgee, Inner Harbour, Gunnedah,
 - (ii) **Greta** – Mudgee, Gunnedah
 - (iii) **Mudgee** – Branxton, Newcastle
 - (iv) **Gunnedah** – Branxton, Newcastle
 - (v) **Willow Tree** – Branxton, Newcastle
 - (vi) **Inner Harbour** – Lithgow, Newcastle
- (b) Current Part B - Bulk Depot Barracks Locations are as follows:
- (i) **Parkes** – Nyngan, Dubbo, Gilgandra, Coonamble, Bathurst, Cootamundra (Junee as backup), Temora, West Wyalong, Hillstone, Ivanhoe, Broken Hill, Sydney, Gulgong, Junee, Narromine, Warren, Quirindi, Moss Vale, Lithgow.
 - (ii) **Enfield / Clyde** – Nowra, Orange, Bathurst, Goulburn, Moss Vale, Cootamundra (Junee as backup), Crisp Creek, Quirindi, Lithgow, Newcastle.
 - (iii) **Morandoo** – Narrabri, Gulgong, Grafton, Quirindi, Sydney.
 - (iv) **Grafton** – Newcastle.
 - (v) **Moss Vale** – Parkes, Cootamundra (Junee as backup), Nowra, Sydney, Newcastle.

- (vi) **Outer Harbour / Nowra** – Sydney, Cootamundra (Junee as backup), Newcastle.
- (vii) **Werris Creek** – Newcastle, Narrabri, Moree, Lightning Ridge, Dubbo.
- (viii) **Narrabri** – Lightning Ridge, Quirindi, Gilgandra, Coonamble, Moree.
- (ix) **Cootamundra/Junee Depot** – Parkes, Moss Vale, West Wyalong, Griffith / Hillston, Benalla, Narrandera, Sydney Albury, Melbourne, Yarrowong.

***Note: Junee barracks is a backup for Cootamundra where suitable accommodation in Cootamundra is not available.*

S4.8 Barracks locations in Sydney will be booked for Train Crew in the following order of priority:

1. Mercure (Travelodge) Bankstown;
2. Mercure (Travelodge) Blacktown;
3. Mantra Parramatta;
4. Rydges Camperdown; and
5. Rydges Bankstown.

(Note: for clarity, Pacific National Bulk Rail will always attempt to book crews into option 1. If option 1 is not available, Pacific National Bulk Rail will work down the list in order and attempt to book the Train Crew into option 2 and so on).

S4.9 Establishment and Standards

- (a) Barracks locations will be altered or introduced through consultation as outlined in clause A31. Before any new location is established it must be first examined by a relevant HSR and the Union delegate / representative from the depot that will use the facility. It must meet WHS legislative requirements and the following core standards:
 - i. Be at least 3.5 star standard;
 - ii. Rooms will be secure and allocated for individual use;
 - iii. Rooms must be reasonably soundproofed to external noise;
 - iv. Rooms must be cleaned after each use;
 - v. They must contain individual bathroom facilities and split system or ducted air conditioning with individual controls; and
 - vi. Where the facility is wholly owned and or operated by Pacific National, separate meal rooms and common rooms will be provided and maintained.
- (b) Barracks locations are to be as close as possible to the destination, within the constraints of the standards outlined above. Use of Pacific National vehicles, or transport, will be allowed for the purposes of commuting and obtaining meals and necessary supplies. Pacific National vehicles may be used for other purposes where permission is requested and granted. Where Pacific National vehicles are not provided or available, reasonable alternative transport will be made available which may include taxi.

- (c) In addition to the above core standards, Pacific National Bulk Rail will comply with the 'Accommodation Standards Checklist' as amended from time to time through consultation with the ERC. The Accommodation Standards Checklist is not incorporated into this Agreement.
- (d) Where, due to commercial or operational requirements or pursuant to clause A59 (Cross Sectional Working) of this Agreement, the Bulk business unit needs to utilise a barracks accommodation already utilised by the Coal business unit, or vice versa, the establishment process and standards set out in clause S4.9(a) will apply.

S4.10 Time in Barracks and Barracks Detention

- (a) The minimum period of rest at a Barracks location is eight (8) hours. If the outwards journey was in excess of eleven hours (11) hours then the minimum rest period will be ten (10) hours.
- (b) Where a Barracks location is a hotel or private facility, Pacific National will make best endeavours to ensure a room has been booked for the Employee.

S4.11 Section B – Bulk Crews

- (c) Rest Detention shall commence 12 hours after Train Crew have signed off at a rest location. Train Crew will receive a payment at the penalty rate of 1.8 times their Base Rate, for all time in excess of twelve (12) hours until sign-on of the next shift. The shift limit starts from the sign on of that shift. Train Crew must be signed off at their home location within a 40 hour pattern span from their sign on time at Home Base.

S4.12 Section C – Coal Crews

- (a) After eleven (11) hours at a Barracks or resting away location "Barracks detention" will commence. Barracks detention is that period of time from the 11th hour at a resting away or Barracks Location, i.e. 11 hours after the sign off at the Barracks or resting away location, with the shift limit commencing from the fifteenth (15th) hour. For the period of Barracks detention, Employees will receive a stand-alone payment at the penalty rate of 1.7 times their Base Rate. Crew will not be required to undertake any work, including driving a motor car, where the travelling time and the original working time exceed 11 hours.
- (b) Where not included on the Working Roster, Train Crew will be notified of any Barracks Working at the earliest possible time or upon signing off duty on the previous shift but where possible at least 16 hours in advance.
- (c) The advice for the return shift and sign on time will be provided at the same time.
- (d) Rostering staff may decide to return crews to their Home Base without a rest period at a barracks or resting away location subject to the following:
 - i. Crew can self-drive up to the maximum shift length eleven (11) hours Driver/Driver or nine (9) hours DOO; and
 - ii. The maximum shift length when originally rostered for rest will be sixteen (16) hours for purpose of travelling home.

- iii. Employees shall receive a \$33.25 meal allowance when rostered to a Barracks location, do not rest but instead return home as a passenger in a road car.

S4.13 Meal Allowance For Barracks Working / Resting Away

(a) Bulk and Coal Employees

- (i) Employees will be paid a meal allowance for each completed eight (8) hour period or part thereof, calculated from the Home Base sign on to the Home Base sign off. The meal rate is the ATO overtime meal expense rate currently \$33.25 and will increase in line with ATO guidelines.

(b) Coal Employees Only: In addition to the Meal allowance in clause S4.13(a)(i), Coal Employees will be credited the entitlement in sub-clause (i) or (ii) in the following circumstances

- (i) Be paid two (2) meal allowances if:
 - 1) The outward leg (i.e. the job from Home Base to barracks) cancels; and
 - 2) The rostered Barracks job is altered to local work; and
 - 3) The Employee is not notified by the company prior to departing their personal residence for the outward leg.

Or

- (ii) Be paid one (1) meal allowance if:
 - 1) The return leg (i.e. the job from barracks to Home Base) cancels; and
 - 2) There is no return travel available; and
 - 3) The Employee is not notified by the company prior to departing their personal residence for the outward leg that the return leg has cancelled.

(c) Coal Employees Only: If the length in barracks is extended by more than 2 hours and the Employee is not informed prior to departing their personal residence they will be credited and paid one additional meal allowance. For the avoidance of doubt, this meal allowance is paid in addition to the allowances provided under subclauses S4.13(a)(i) and S4.13(b).

IN THE FAIR WORK COMMISSION

FWC Matter No.:

AG2023 / 225

Applicant:

Pacific National Services Pty Ltd (ABN 48 052 134 362)

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Paul Scurrah, Managing Director and CEO of Pacific National Services Pty Ltd (ABN 48 052 134 362) give the following undertakings with respect to the Pacific National Bulk Rail NSW Enterprise Agreement 2022 ("the Agreement"):

1. I have the authority given to me by Pacific National Services Pty Ltd to provide this undertaking in relation to the application before the Fair Work Commission.
2. Pacific National Services Pty Ltd undertakes that clause 'A4.1 – Term' of the Agreement shall be amended to be read as:

"This Agreement shall commence operation from the Commencement Date and shall have a nominal expiry date of 4 years from the date that the Agreement is approved by the Fair Work Commission".

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



Signature

17/02/23

Date