

**REGISTER OF  
ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA02/329

**TITLE:** The AWU & Michael Walker Landscaping Pty Limited Civil Construction Enterprise Agreement 2002-2005

**I.R.C. NO:** IRC02/5014

**DATE APPROVED/COMMENCEMENT:** 10 September 2002

**TERM:** 10 September 2005

**NEW AGREEMENT OR VARIATION:** New

**GAZETTAL REFERENCE:** 22 November 2002

**DATE TERMINATED:**

**NUMBER OF PAGES:** 17

**COVERAGE/DESCRIPTION OF EMPLOYEES:** Applies to all employees of Michael Walker Landscaping Pty Limited, except in respect to sites covered by specific project agreements that The Australian Workers' Union, New South Wales, is a party.

**PARTIES:** Michael Walker Landscaping Pty Limited -&- The Australian Workers' Union, New South Wales



30 AUG 2002  
OFFICE OF THE REGISTRAR

**THE AWU & MICHAEL WALKER  
LANDSCAPING PTY LIMITED  
CIVIL CONSTRUCTION  
COUNTRY NSW  
ENTERPRISE AGREEMENT  
2002-2005**

Registered  
Enterprise Agreement  
Industrial Registrar

# CONTENTS

## Part A

1. Title
2. Definitions
3. Application
4. Term of Agreement
5. Objectives
6. Consultative Committee
7. Contract of Employment
8. Productivity Multi-Skilling
9. Higher Duties
10. Occupational Health and Safety
11. Hours of Work - Day Workers
12. Rest Period After Overtime Duty
13. Call Outs - Day Workers
14. Meal Allowance
15. Inclement Weather
16. Annual Leave
17. Wages and Conditions
18. Superannuation
19. Redundancy
20. Productivity
21. Long Service Leave
22. Protective Clothing
23. Demarcation Disputes
24. Prevention and Settlement of Disputes
25. Sick Leave
26. Sub Contractors
27. Job Representatives
28. Picnic Day
29. Anti Discrimintion
30. Meal, Crib and Tea Breaks
31. No Extra Claims
32. Travel Allowance
33. Classification
34. Site Agreements
35. Signatories

## Part B

Table of Wage Rates





## 1. TITLE

This agreement shall be known as The AWU & Michael Walker Landscaping Pty Limited Civil Construction Enterprise Agreement 2002-2005

The parties to this agreement are Michael Walker Landscaping Pty Ltd and The Australian Workers Union, New South Wales.

## 2. DEFINITIONS

(a) "Awards" shall mean the:

General Construction and Maintenance, Civil and Mechanical Engineering & C. (State) Award;

Plant Operators on Construction (State) Award;

Landscape Gardeners & c. ,On Building and General Construction and Maintenance,Civil and Mechanical Engineering (State) Award;

as varied from time to time.

(b) "Michael Walker Landscaping" shall mean Michael Walker Landscaping Pty Limited.

(c) "AWU" shall mean The Australian Workers' Union, New South Wales.

(d) "Job Representative" shall mean a job representative, delegate or shop steward who holds office in accordance with the rules of the AWU.

## 3. APPLICATION

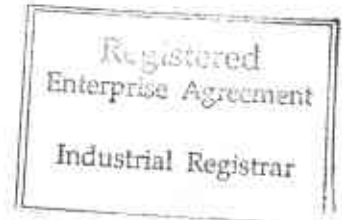
(a) This agreement shall apply to all employees of Michael Walker Landscaping.

(b) Notwithstanding (a) above, the agreement shall not apply to projects covered by project specific agreements to which the AWU is a party.

(c) This agreement shall be read and interpreted wholly in conjunction with the awards.

(d) Where any inconsistency exists between this agreement and the awards, this agreement shall prevail to the extent of the inconsistency.

(e) The terms of this agreement may be varied by agreement between the parties and such variation shall take effect only if approved by the Industrial Relations Commission of New South Wales.



#### **4. TERM OF AGREEMENT**

This Agreement shall operate from the date of making with the Industrial Relations Commission of New South Wales and shall remain in force for a period of three years. The parties agree to commence negotiation for a new agreement no later than three months prior to the expiry of this agreement.

#### **5. OBJECTIVES**

The Australian Workers Union and Michael Walker Landscaping recognise that the industry is a highly competitive industry.

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

- developing innovative, flexible and responsive workforce/management practices;
- increased workforce productivity;
- the effective marketing, planning and execution of building and/or construction projects;
- developing co-operative arrangements for the purpose of providing the owner community with a highly qualified and competitive constructive option that will produce expanded work opportunities and economic benefits for the parties;
- improved security of employment;
- the provision of safe working areas and systems of work and the provision of appropriate occupational health and safety training for both management and employees;
- developing and maintaining a workforce that is highly skilled, flexible and motivated;
- developing a workplace culture of co-operation, consultation, participation, trust and teamwork;
- the enhancement of employee's skills through the provision of competency based training.

#### **6. CONSULTATIVE COMMITTEE**

- (a) The parties agree that a consultative committee shall be established at each project.
- (b) The role of the consultative committee shall be:

- (i) to monitor the implementation and on-going operation of this agreement, and to seek remedies where the objectives of the agreement are not being met;
  - (ii) to develop and monitor key productivity improvements, and to measure the effectiveness of those initiatives;
  - (iii) to monitor the implementation of training measures the purpose of which will be to advance the concept of continuous workplace training and skills enhancement; and
  - (iv) to ensure effective compliance with the Grievance/Disputes Procedure by all parties.
- (c) The Committee shall consist of an equal number of employer and union representatives.
- (d) The Committee may, as far as is reasonable, call on persons and experts to attend the Committee and to advise it on specific matters of concern to the Committee.

## 7. CONTRACT OF EMPLOYMENT

### Full Time Employment

- (a) Except as provided in subclause (b) employment shall be on a full time basis. Notice of termination of employment shall be as per the relevant award.

### Casual employment

- (b)(i) A casual employee is one engaged on daily hire and shall be paid eight ordinary hours payment for each day he/she is required.
- (ii) A casual employee for working ordinary time shall be paid per hour 1/38th of the full time rate prescribed by Part B of this agreement, plus 20%.
- (iii) A casual employee shall not be entitled to the annual leave, sick leave and public holidays prescribed by this agreement or the awards.

## 8. PRODUCTIVITY/MULTI SKILLING

It is agreed that for the project to achieve productivity and efficiency gains that multi skilling will occur. Multi skilling performed by individuals shall be subject to employee competency and training to perform such tasks within the employees award coverage.



## 9. HIGHER DUTIES

Where an employee is required to fill a position temporarily due to the absence of another employee and the temporary position carries a higher rate of pay than the employees regular pay, that employee will receive the higher rate.

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

## 10. OCCUPATIONAL HEALTH AND SAFETY

### (a) Objective

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

- (i) control hazards at source;
- (ii) reduce the incidence and costs of occupational injury and illness;
- (iii) review work and management practices affecting the inter-relationship between efficiency, productivity and health and safety; and
- (iv) provide a rehabilitation system for workers affected by occupational injury or illness.

### (b) Consultation

(i) Consultative mechanisms will be established to address occupational health and safety issues. Such mechanisms will include:

- (1) the election of union health and safety representatives who will represent fellow workers in negotiations on health and safety matters;
- (2) the establishment of an occupational health and safety committee; and
- (3) the establishment of consultative procedures for the resolution of health and safety issues that includes the right of health and safety representatives to advise workers to refuse to do unsafe work.

(ii) the OHS Committee shall consist of equal numbers of management and union representatives, unless otherwise agreed.

(iii) The Committee shall meet at least quarterly and will facilitate co-operation between management and employees on health and safety



matters including the development, implementation and review of OHS policy and procedures, analysis of injury/incident trends and workers' compensation performance and review of accident/dangerous occurrence reports together with reports on preventive action taken.

(c) Training

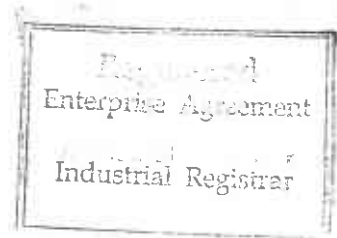
- (i) Employee OHS representatives will be given paid leave to attend trade union OHS training courses.
- (ii) Workplace training programs, including induction and on-the-job training, will outline company OHS policy and procedures, particular hazards associated with the job, controls measures applicable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

(d) Occupational Health and Safety Program

- (i) The employer shall institute procedures for collecting information on the nature of hazards and incidence of injury which includes:
  - (1) an internal system for reporting, recording and investigation of incidents, injuries and illness;
  - (2) the routine analysis of injury/illness/incident date, and
  - (3) routine reports on key OHS performance indicators (lost time trends, injury frequency rate trends, cost and severity measures, estimation of indirect costs).
- (ii) A system of regular workplace inspections and regular hazard audits of work areas and work practices, which include reference to relevant legislation, standards and codes of practice shall be instituted at the workplace. These will be carried out with the involvement of the OHS representatives.
- (iii) Records of workplace inspections shall be maintained by the employer and made available to the Occupational Health and Safety Committee.
- (iv) A scheduled maintenance program which includes requirements of relevant occupational health and safety legislation, standards and codes of practice shall be maintained in consultation with the Occupational Health and Safety.
- (v) The employer shall take prompt action to deal with any health and safety problems.







## 11. HOURS OF WORK - DAY WORKERS

### Ordinary hours

- (a) Subject to the provisions of this clause, the ordinary hours of work for day workers shall be 38 per week and shall be worked between 6.00 a.m. and 6.00 p.m. Monday to Friday inclusive with a limit of eight ordinary hours per day. Work may start at 5 am during daylight saving by agreement.

### Rostered day off

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

### Alternative RDO

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

### Banking of RDO's

- (d) By agreement between an employer and an employee, up to five rostered days off may be accumulated by that employee in any one year (January to December) and taken later in the year in not more than two groups of days at a mutually agreed time or times.

### Paid leave

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

### Pro rata accrued entitlements

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

## 12. REST PERIOD AFTER OVERTIME DUTY

- (a) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least ten consecutive hours off duty between the work of successive days.
- (b) An employee who works so much overtime between the termination of his ordinary work on one day and the commencement of his ordinary work on

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

### 13. CALL OUTS - DAY WORKERS

#### Mondays to Fridays

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

#### Saturdays

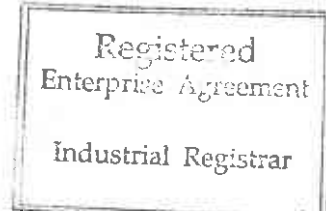
- (b) An employee called out to work on a Saturday shall be paid for a minimum of four hours work calculated at one and a half times the ordinary prescribed rate for each time he/ she is so called out. Provided that the employee if required to work for two hours or more, shall be paid for a minimum of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

#### Sundays

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

#### Public holidays

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



#### 14. MEAL ALLOWANCE

An employee who is required to work in excess of 1 ½ hours overtime after working ordinary hours shall be paid a meal allowance of \$14.00 inclusive of crib.

#### 15. INCLEMENT WEATHER

Definition - inclement weather

- (a) "Inclement weather" shall mean the existence of rain or abnormal climatic conditions (whether they be hail, snow, cold, high wind, severe dust storm, extreme of high temperature for the locality concerned) by virtue of which it is either not reasonable or not safe for workers exposed to such weather.
- (b) the purposes of this clause weather shall not be regarded as inclement unless it is mutually agreed between the employer and employees concerned.
- (c) Except as provided in sub-clauses (e) and (f) hereof, no employee shall be required to work exposed to inclement weather conditions. For the purposes of this subclause, an employee operating machinery fitted with a functional weatherproof cab shall not be deemed to be exposed to inclement weather.
- (d) There shall be no deduction of wages for any working time lost due to inclement weather.
- (e) Completion of concrete pours and emergency work
  - (i) Except as provided in this subclause an employee shall not be required to work in the rain.
  - (ii) Employees shall not be required to start a concrete pour in inclement weather.
  - (iii) Where a concrete pour has been commenced prior to the commencement of a period of inclement weather employees may be required to complete the concrete pour to a practical stage and for such work shall be paid at the rate of double time calculated to the next hour. In the case of wet weather employees shall be provided with adequate wet weather gear.

If the employee's clothes become wet as a result of working in the rain during a concrete pour he/ she shall, unless he/ she has a change of dry working clothes available, be allowed to go home without loss of pay.
  - (iv) The provisions of paragraph (iii) hereof shall also apply in the case of emergency work where the employees concerned and their job representative agree that the work is of an emergency nature and can start and/or proceed.

- (e) Where it is necessary and safe for a spotter to work during a period of inclement weather thereby enabling mobile plant to continue operating, such spotter shall be entitled to the provisions of paragraph (e)(iii) hereof.

## 16. ANNUAL LEAVE

Entitlement to annual leave and leave loading should be in accordance with the terms set out in clauses 19 and 20 of the General Construction and Maintenance, Civil and Mechanical Engineering and C. (State) Award.

## 17. WAGES AND CONDITIONS

All employees shall be paid in accordance with the rates of pay contained in Part B of this agreement.

The rates of pay contained in Part B shall be adjusted in accordance with increases to rates of pay and allowances awarded in the State Wage Case each year. If the State Wage Case delivers less than \$15.00 per week, the rates of pay contained in Part B shall be increased by \$15.00 per week. The increase in wages shall occur on 1 July each year.

## 18. SUPERANNUATION

- (a) The subject of superannuation contributions is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act, 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*. The legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.
- (b) The employer shall contribute to the Life Track Superannuation Fund in accordance with the legislation.

## 19. REDUNDANCY

- (a) "Redundancy" means a situation where a full time employee is terminated by Michael Walker Landscaping other than for reasons of misconduct or refusal of duty. It does not include termination of employment by the employee. "Redundant" has a corresponding meaning.
- (b) A redundant employee shall receive redundancy/ severance payment of \$35.00 per completed week of service.
- (c) "Hours pay" means the ordinary time rate of pay at the time of termination for the employee concerned.

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Industrial Registrar

## 20. PRODUCTIVITY

A productivity allowance of \$1.00 shall be paid for every hour worked. This allowance is only payable on projects greater than \$ 20 million contract price.

## 21. LONG SERVICE LEAVE

All employees are entitled to long service leave in accordance with the *Building and Construction Industry Long Service Leave Payments Act 1986*.

## 22. PROTECTIVE CLOTHING

The employer shall provide all personal protective clothing and equipment in accordance with clause 15 of the *Occupational Health and Safety Regulation 2001*.

Michael Walker Landscapes shall pay for or supply safety work boots after one calendar month of employment. If payment is the preferred option the employer has the right to require receipts for such boots before payment up to the value of \$120.00.

## 23. DEMARCATION DISPUTES

It is agreed that demarcation disputes will be resolved in accordance with national demarcation agreements with the union involved. If the union involved in a demarcation dispute is not party to a national demarcation agreement then the dispute will be resolved in accordance with the New South Wales Labor Council demarcation dispute procedure.

The union agrees to Demarcation dispute settlement as set out hereunder:  
In all demarcation disputes the union shall:

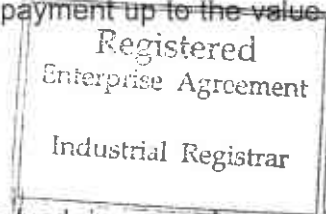
- (a) Maintain the genuine status quo that existed prior to the dispute, that is, the way the work had been allocated by the employer prior to the dispute.
- (b) Ensure that no stoppage of work or other forms of industrial action shall be taken until there has been proper negotiations among the parties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

## 24. PREVENTION AND SETTLEMENT OF DISPUTES

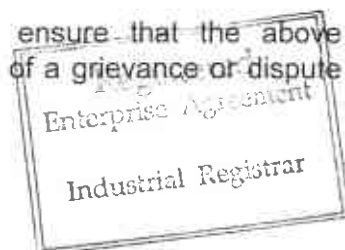
The parties to the agreement will strive to create a co-operative and productive industrial relations environment on all projects covered by this agreement.

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

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



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



## 25. SICK LEAVE

Subject to the production of satisfactory evidence an employee shall be entitled to ten days sick leave on ordinary pay per year of service. Such sick leave may accumulate from year to year. All new employees will accrue sick leave at one day per month during the first 12 months of employment until the ten day entitlement is achieved.

## 26. SUB-CONTRACTORS

- (a) The parties are committed to the use of only quality sub-contractors on the company's projects. The quality the parties seek will relate to the sub-contractors capacity to deliver a quality outcome on time and on budget and will also relate to the sub-contractors capacity to implement consultative labour relations that include adherence to the range of industrial laws and standards applicable.
- (b) The parties are committed to the concept that all sub-contractors on the employer projects should either have or be in the process of concluding enterprise bargaining agreements for certification. This means that the employer's sub-contractors should commence a dialogue with the AWU prior to commencement of work on the employers projects.

## 27. JOB REPRESENTATIVES

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

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## 28. PICNIC DAY

All employees shall be entitled to one paid union picnic day in each calendar year. The union picnic day shall be the first Monday in December or any other day agreed to by the parties to this agreement, but must notify the Union District Office in writing for approval of such alternative day.

## 29. ANTI-DISCRIMINATION

- (a) It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and carer's responsibilities.
- (b) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- (c) Under the *Anti-Discrimination Act, 1977* it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

(d) Nothing in this clause is to be taken to affect:

- (i) any conduct or act which is specifically exempted from anti-discrimination legislation.
- (ii) Offering or providing junior rates of pay to persons under 21 years of age.
- (iii) Any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*
- (iv) A party to this award from pursuing matters of unlawful discrimination in any state or federal jurisdiction.

(e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

Note:

- (1) Employers and Employees may also be subject to Commonwealth Anti-Discrimination Legislation.
- (2) Section 56(d) of the *Anti - Discrimination Act 1977* provides:

"Nothing in the Act effects...any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

### 30. MEAL, CRIB AND TEA BREAKS

Meal breaks - day workers

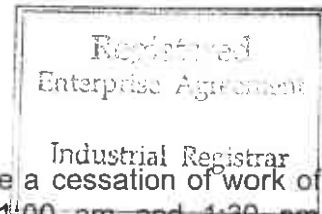
- (a) On each day Monday to Friday there shall be a cessation of work of not less than 45 minutes duration between ~~11:00 am and 1:30 pm~~ for employees to take a meal break. Provided that, by agreement between the employer and the employees and the union, the meal break may be shortened to not less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

Tea breaks

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

### 31. NO EXTRA CLAIMS

The employees of Michael Walker Landscaping and the AWU shall not make any extra claims for increases in rates of pay or allowances during the term of this agreement, other than in accordance with the terms of this agreement.





### 32. TRAVEL ALLOWANCE

- (i) For the purpose of this agreement a travel allowance of \$15.00 per day shall be paid. The above stated allowance shall not be payable if Michael Walker Landscaping provides or offers to provide a company vehicle for transport free of charge to employees to travel to and from their place of work. In that event employees will be paid an allowance of \$5.00
- (ii) Travel in excess of 100 kilometre radius from the employees residence to the work site shall attract a rate of 50c per kilometre travelled, if in own vehicle. Transport supplied by the employer shall attract ordinary rates of pay for such excess time travelled to be paid in fifteen minute increments.

### 33. CLASSIFICATIONS

- (a) Employees, other than gardeners and plant operators shall be employed under the classifications contained in Part B of the General Construction and Maintenance, Civil and Mechanical Engineering & C. (State) Award.
- (b) Plant operators shall be employed under the classifications contained in the Plant &c. Operators on Construction (State) Award. .
- (c) Landscape Gardeners shall be employed under the classifications contained in the Landscape gardeners &c. On Building and General Construction and Maintenance, Civil and Mechanical Engineering (State) Award.

All employees shall be paid in accordance with the rates of pay contained in Part B of this agreement.

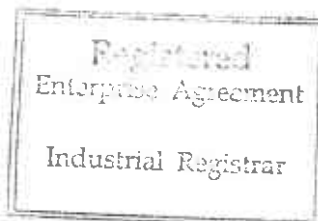
### 34. SITE AGREEMENTS

Employees employed on sites at which superior wages and conditions apply shall be employed under the superior conditions applicable at that site.

### 35. SIGNATORIES



Signed for and on behalf of  
**Michael Walker Landscaping Pty Ltd**



Date: 07-07-02



Signed for and on behalf of  
**The Australian Workers Union, New South Wales**

Date: 20. 8. 02

## PART B

### Rates of Pay & Classification Structure

<b>NEW ENTRANT</b> (less than 6 months experience)	<b>\$12.50per hour</b>
<b>LEVEL ONE</b> general labourer plant operator A	<b>\$13.95 per hour</b>
<b>LEVEL TWO</b> concrete finisher form worker plant operator B,C	<b>\$15.00per hour</b>
<b>LEVEL THREE</b> tradesmen operator kerb machine plant operator D,E	<b>\$16.50 per hour</b>
<b>LEVEL FOUR</b> ganger,supervisor	<b>\$17.00per hour</b>

