

REGISTER OF ENTERPRISE AGREEMENTS

ENTERPRISE AGREEMENT NO: EA05/230

**TITLE: Barclay Mowlem (Rail NSW) and Australian Workers
Union Enterprise Agreement 2004-2006**

I.R.C. NO: IRC5/448

DATE APPROVED/COMMENCEMENT: 8 February 2005 / 1 July 2004

TERM: 24

**NEW AGREEMENT OR
VARIATION:** Replaces EA02/345.

GAZETTAL REFERENCE: 9 September 2005

DATE TERMINATED:

NUMBER OF PAGES: 21

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Barclay Mowlem Construction Limited Rail Group in NSW, who fall within the coverage of the General Construction and Maintenance, Civil and Mechanical Engineering, &c. (State) Award.

PARTIES: Barclay Mowlem Construction Limited -&- The Australian Workers' Union, New South Wales

BARCLAY MOWLEM (RAIL NSW) AND AUSTRALIAN WORKERS UNION ENTERPRISE AGREEMENT 2004/2006

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APPENDIX 1

B. - High Level Competency at Grade 3 level

APPENDIX 2

All Consultative Committee members are required to communicate and consult with the workforce and management and to canvass opinions and suggestions to ensure full participation and commitment.

APPENDIX 3

Q:\Rail\Policies and Statements\POL 06 (R) Drugs and Alcohol Policy.pdf

1. Title

This agreement shall be known as the Barclay Mowlem (Rail NSW) and Australian Workers Union Enterprise Agreement 2004/2006.

2. Parties to the Agreement

The Parties to this Agreement are Barclay Mowlem Rail Group (NSW) Management, Barclay Mowlem Construction Limited Rail Group (NSW) Employees and the Australian Workers Union Branch; and shall be referred to throughout this document as the 'Parties'.

This agreement shall operate in NSW only and cover rail and civil works performed on /off mining leases.

3. Aims

The aims of this Agreement are to:

Further enhance Barclay Mowlem Rail Group's performance as a leading Railway Contractor; and

To improve the remuneration and working conditions of all the company's employees through greater profitability and increased business.

To improve overall safety of the Rail Group in NSW.

4. Objectives

The key objectives of the Agreement are to;

to continually improve quality, competitiveness and performance.

to encourage employee participation, teamwork and co-operation.

implement skill improvement programs for employees.

to provide a safe and healthy workplace by the active involvement of all employees.

to promote innovative methods and improved efficiencies to reduce project costs.

to encourage open communication between parties and shared commitment to the project goals.

to recognise and respond to the requirements of the Client.

5. Application

This Agreement will apply to all employees of Barclay Mowlem Construction Limited Rail Group in NSW.

The Agreement shall commence operation from the July 1st 2004, following certification of the Agreement by the Industrial Relations Commission of NSW.

The Agreement will operate for two (2) years from the date of its certification.

If during the life of this Agreement either party wishes to terminate the Agreement, three (3) months written notice of their intention to terminate must be given to the other party.

The Industrial Relations Commission of NSW will be notified at the same time of the notice of intention to have the Agreement terminated.

This Agreement will continue to apply until a new Agreement is certified with the Industrial Relations Commission of NSW.

This Agreement shall be read and interpreted wholly and in conjunction with the General Construction and Maintenance Civil and Mechanical Engineering (State) Award, provided that this Agreement shall take precedence over the Parent Award in the case of any inconsistency.

Where this Agreement is silent on rates, conditions and other matters, the Parent Award shall prevail.

Three (3) months before the expiry date of this Agreement, the Parties will start consultations over a new Agreement.

Should there be any significant increase in the CPI that is not covered in the rates of pay as stated in this agreement then in consultation with the consultative committee a further rate increase shall apply.

6. Consultative Committees

This Agreement will be jointly implemented and monitored by the company's management and employee representatives and the AWU representative on the Enterprise Agreement Consultative Committee.

Each major project undertaken by the company over the life of this Agreement will have a Project Consultative Committee established to achieve the Aim and Objectives of the Agreement.

Project Consultative Committees will, in particular, be the forum for setting the structure of Project Target Payments that are defined in Clause 7 of this Agreement.

Appendix 2 contains the contents of a model constitution which will guide the operation of the Enterprise Agreement Consultative Committee and the Project Consultative Committees. Each Committee that is established will adopt an appropriate version of this model constitution.

7. Measures to Achieve Gains in Productivity and Cost Control

This Agreement aims to increase the company's productivity and quality performance through consultation, skill development and changes to pay structures.

Team work will be encouraged on all projects.

Project review meetings will take place to enable open exchanges among project management, quality assurance, engineering and supervisory personnel and employees on improvements to work methods and quality systems.

Team meetings will review labour, material and other costs to find ways of reducing construction costs to enhance the Group's status as a cost effective, quality contractor.

Productivity and quality enhancement and waste reduction targets will be set for each project and explained to all site personnel.

Performance payments will be structured to reward work teams for the achievement of targets.

8. Skill Development

This Agreement aims to encourage all employees to improve their skills through industry recognised training.

Employees will also undertake training in the use of the company's quality procedures.

Project Consultative Committees will consider a skill development plan for each project, based on the training opportunities and facilities provided on the project.

Inclement weather time will be devoted to agreed structured training when it is feasible for training to be delivered.

Otherwise the procedures established in the Parent Award will prevail.

9. Medicals

All new employees will be required to pass a medical to ensure physical capability to carry out the work and compliance with the requirements of the Rail Safety Act (fitness, hearing, eyesight, colour vision). The medical will also involve drug and alcohol testing in accordance with the Company policy. The company in consultation with the consultative committee has agreed that all field employees will have Hep. B injections to counter possible needle stick injuries.

10. Inductions

Prior to the commencement of work on site, all employees of Barclay Mowlem shall be required to attend and undertake a project/company induction session. Officials of the AWU will be welcome to attend these sessions. Employees will have to demonstrate a clear understanding of the issues raised in the induction, prior to beginning actual work.

Other site personnel, including the employees of subcontractors on Barclay Mowlem projects, will also undertake an appropriate induction.

Inductions will include information and the provision of relevant documentation on the following:

the scope, purpose and anticipated duration of the project

the contents of this enterprise agreement and how they govern the contract of employment of each employee

compliance requirements of legislative, employer, employees and sites safety standards

the cooperative objectives of this enterprise agreement

the specific dispute resolution procedures of this enterprise agreement

11. EEO/AA

Barclay Mowlem is committed to a policy of equal employment (EEO) by ensuring that all employees and applicants for employment are considered on merit with the best person chosen for the position.

In accordance with our obligations under the *Affirmative Action Act* 1986, Barclay Mowlem is committed to an affirmative action policy to eliminate barriers to employment and promotion of women.

Managers and Supervisors will ensure that all employees are treated equitably and are not subjected to discrimination. Any reports of discrimination or harassment will be treated seriously and investigated promptly and confidentially.

12. Form of Employment

Employees will be employed on the following basis:

12.1 Weekly Full Time

12.2 Casual

12.3 Weekend Rostering Work (Full time employee only)

12.1. Weekly Full Time

12.1.1 Employees will be engaged on a weekly hire basis with a minimum of 38 hours work per week.

12.1.2 Weekly hire means that one weeks notice of termination must be given by either party to the other.

12.1.3 Hours of Work (Non-Shift)

Ordinary hours of work will be 38 hours per week and will be worked between 6am and 6pm on consecutive days.

By agreement with a majority of the employees, up to 10 hours ordinary time may be worked on any day.

All ordinary hours work on a Saturday will be paid for at time and a half for the first 2 hours and double time thereafter.

All ordinary time worked on a Sunday will be paid for at double time.

12.1.4 Overtime: For all work carried out outside ordinary hours the rates of pay shall be time and a half for the first two hours and double time thereafter. On Saturdays work performed after noon and Sunday work will be paid at double time.

12.1.5 Rates of Pay: Rates of pay shall be in accordance with Schedule 18.

12.1.6 Shift Work:

Definitions:

Afternoon Shift means any shift of ordinary hours finishing after 6pm and before midnight.

Night Shift means any shift of ordinary hours finishing subsequent to midnight and at or before 8am.

Rostered Shift means any shift of ordinary hours of which the employee has had at least 48 hours notice.

Afternoon Shift workers shall be paid at 15% over the ordinary rate and Night Shift workers shall be paid at 20% over.

An employee who:

- (i) Remains on night shift for longer than four weeks, or
- (ii) Works on a night shift which does not rotate so as to give at least one third of their time off night shift in each cycle shall be paid 30% more than the ordinary rate.
- (iii) Overtime rates shall apply as for day worker provisions.
- (iv) Shift workers on afternoon or night shift which does not continue for at least 5 successive working shifts shall be paid at 50% more for all ordinary hours worked.

12.2. Casual Employees

12.2.1 A casual employee is one engaged and paid on an hourly basis terminable on an hour's notice by either side. Provided that the maximum period that a casual can be employed continuously is 4 weeks.

12.2.2 A casual shall be paid at the same rate of pay as a weekly full time employee plus a loading of 20%. The loaded hourly rate includes consideration for annual leave, sick leave, public holidays and insecurity of casual work.

12.2.3 Hours worked in excess of 8 hours a day and worked on Saturday or Sunday shall be paid at the normal penalty rates.

12.2.4 The minimum hours of payment for a casual once called to work shall be 4 hours.

12.2.5 The clothing issue applicable to weekly employees shall not apply to casuals, however a clothing allowance will apply as defined in Clause 14.

12.3. Weekend Shutdown (Full Time Employee)

Any employee required to work on Saturday and Sunday shall be paid at normal overtime rates. Entitlement for Ann/leave, sick etc will be accrued for these days as per normal time.

Weekend work will be offered to all employees, should they decide to work they must bear in mind that the following Monday and/or Tuesday will be required to taken off in accordance with our fatigue management policy.

Fatigue days rostered off when at remote station will be paid at 8hrs normal time if employee can not relocate home and return in reasonable time.

Fatigue Management - 1 to 2 days per fortnight

All weekend work will have a work and fatigue management plan structure.

Weekend work will be scheduled where possible but on occasions the nature of work to be performed is such that call-outs preclude correct planning procedures .

13. Standby Allowance

The Company will pay 4 hours at ordinary time for employees who have been requested to remain at home on standby in the event their services are required to attend to an emergency. The employee is required remain in a sober state and to be easily contactable in order to qualify for this special payment.

14. Meal Breaks

While meal breaks will generally be taken at normal hours, the Parties agree that due to specific Project requirements greater flexibility in meal breaks can be agreed on by the Consultative Committee to suit track possessions or continuous operations, without additional rates of pay.

Employees shall generally have a meal break at no more than 4 hour intervals, with the following exceptions:

if working in a possession, employees are entitled to the same number of meal breaks but the timing may be arranged to suit available work requirements.

If the afternoon crib is taken as a longer morning break then the afternoon shift may be up to 6 hour duration.

15. Rostered Days Off

Rostered days off (RDO's) will be generally observed in accordance with the Parent award. Greater flexibility in the taking of RDO's is, though, available under this Agreement, without the imposition of additional penalties.

The Company will notify the union of any changes that are proposed to the industry set RDO's.

At least 2 working days notification will be provided if the scheduled RDO is to be changed.

The options for all or individual employees will include -

An alternative day in the same or immediately following four (4) week cycle can be utilised but in consultation with employee.

Banking of up to 5 RDO's but must be cleared within the calendar year.

On any RDO's Barclay Mowlem may, with the consent of the Consultative Committee offer work to employees and subcontractors on a voluntary basis.

The flexibility arrangements will be considered through the Project Consultative Committee and will require a majority decision by Barclay Mowlem employees covered by this Agreement on the particular site of the proposed variation.

16. Protective Clothing

All weekly hire employees will be issued by the company - at no cost to employees - with;

one pair of safety footwear and a safety helmet before commencing work on initial project. Footwear will be replaced on the basis of fair wear and tear.

one bluey jacket per year, for any employee working between 1 May and 30 September each year, and with two weeks employment with the company.

three sets of long navy coloured trousers, a navy or orange long sleeve shirt at the end of the first two weeks employment with the company.

a further two sets of long navy coloured trousers and navy or orange long sleeve shirts will be issued following six months of service.

Employees will be made aware of these clothing entitlements on commencement of employment with the company and the clothing will be of a high standard and Australian made.

Clothing will be purchased with a Company logo or sew-on logos will be provided to employees.

Clothing will be issued on a bi-annual basis or more frequently on a fair wear and tear basis.

Casuals will be paid a Clothing Allowance in lieu of the provisions of this clause of \$0.12/hour for all purposes.

Should an employee leave the Company within 4 weeks of issue he/she will reimburse the employer the following proportion of purchase cost of the protective clothing;

| | |
|-----------------------------|----------------|
| Up to 2 weeks (after issue) | 2/3rds of cost |
| 2 - 4 weeks | 1/3rd of cost |

Due to the risks of working in the sun, employees will be issued with long sleeved shirts and long trousers. To ensure that a business-like image is maintained, all employees who are issued such clothing are required to wear Company issued clothing whilst at work and to ensure its proper care, maintenance and storage.

Employees will be provided with the following protective equipment as required:

eye protection

gloves

hearing protection

sun screen lotion

safety harness

leggings (welding)

safety hard hat

Where an employee who has been issued with safety equipment is found not to be wearing them on the job, then such employee will be counselled in the presence of a representative of the Safety Committee.

Further infractions in relations to protective equipment will result in the warning procedures under clause 26 being invoked.

17. Work on Mine Leases

Employees who work on open cut mine leases shall be paid at EBA rates.

Employees who work on underground leases shall be paid according to the hourly rates, allowances and coal bonus supplied by the Mine Owner where applicable.

Should underground workers be required to work on other projects for a period of 7 days or less then they shall be paid at the mine rate. EBA rates will apply for longer periods.

18. Work on Overhead Wiring

18.1 Employees who work on overhead wiring shall be classified as assistant linesman, linesman or lead hand linesman and paid at the appropriate rate as specified by the classifications of Labour in Appendix 1.

18.2 Payment of the Site Allowance and Fares as specified under this agreement will replace any other allowances normally applicable.

18.3 Form of Employment, Overtime and all other conditions specified in this agreement shall apply to these employees.

19. Special Rates & Disabilities Allowances

It is agreed that a site disabilities allowance of \$1.10 per hour will be paid on all projects established under this Agreement, in lieu of the following allowances in the Parent award.

Clause 4 (* Note)

Clause 5

* Note NB. Allowances 4(i) and (ii) are included elsewhere.

This payment will be payable as a flat rate for each hour worked on site or travelling. It is not payable on Annual Leave, Sick Leave, Workers Compensation or Wet Weather time off site, however, it is payable while employees are on site ready for work, training and at Consultative Meetings.

Major projects as defined hereunder may have provision for a Project Productivity Payment to reward employees for the achievement of agreed productivity, quality, waste minimisation and safety targets.

Major projects for this clause will be defined as any project with a total duration of employment on site of 2 months or more where there will be identifiable benefits to the Company should certain targets be met.

The schedule of Project Productivity Payments will be determined within six (6) weeks of commencement of work on site.

Targets will be agreed to through discussion involving the Parties and the Project Consultative Committee. The Project Consultative Committee will monitor the achievements of these targets.

In the event of project completion times being extended through negotiation and/or agreement with clients, adjustments will be made to targets.

Project Productivity Payments will be agreed by the Consultative Committee to the mutual benefit of all parties. Payment of such bonuses to be an agenda item at all meetings of committee over the next two (2) years.

These payments will be paid on hours worked on site only, and will not attract penalty rates. This payment will not apply to Workers Compensation, Sick Pay, Annual Leave, Public Holidays or time off site due to inclement weather.

20. Rates of Pay Schedule

The classifications are defined in Appendix 1

| CLASSIFICATION | 1st July 2004 to 30th June 2005 | 1st July 2005 to 30th June 2006 |
|----------------|---------------------------------|---------------------------------|
| GRADE 1 | 16.34 | 16.99 |
| GRADE 2 | 16.64 | 17.30 |
| GRADE 3 | 17.74 | 18.44 |
| GRADE 4 | 18.20 | 18.92 |
| GRADE 5 | 18.80 | 19.55 |
| GRADE 6 | 20.60 | 21.42 |

These rates represent a 4.0% increase from the 1st July 2004 and another 4.0% from the 1st July 2005

(i) Leading Hand *

| CLASSIFICATION | 1st July 2004 to 30th June 2005 | 1st July 2005 to 30th June 2006 |
|----------------|---------------------------------|---------------------------------|
| 0 - 5 MEN | 0.56 | 0.58 |
| 5 - 10 MEN | 0.79 | 0.82 |

* Applies only to Grades 1 to 5

Apprentice Fitters

| | | |
|--------|-----|---------|
| Year 1 | 42% | Grade 3 |
| Year 2 | 55% | Grade 3 |
| Year 3 | 65% | Grade 3 |
| Year 4 | 88% | Grade 3 |

21. Work Obligations

It is a condition of employment that an employee;

- a) Performs allocated work to the best of their ability.
- b) Participates in training and be accredited in work skills and knowledge to become a flexible member of the work team.
- c) In the case of emergency or limited track possession work, continues work until completed or relieved by an incoming shift.
- d) Notifies the Company if unable to attend work within 2 hours of the normal time of commencement of duty (when and if possible earlier) and advise the reason for absence and anticipated duration of absence.
- e) Works reasonable overtime as required in the Construction and Maintenance Industry.

- f) Complies with appropriate Occupational Health and Safety Regulations, Codes of Practice and the Project Health and Safety Plan.
- g) Shall not consume alcohol or illegal drugs at work or attend work under the influence of these. All employees may be tested at random to ensure compliance. Under the Rail Safety Act 2002 No 96 (refer clause 32), it is an offence to commence work with a prescribed concentration of alcohol of 0.02 grams or more of alcohol per 100 ml of blood. The Company Procedure for Alcohol and Drugs must be adhered to.
- h) Employed as a plant operator, will carry out daily maintenance checks and operate machinery responsibly and safely at all times.
- i) Will comply with Railway Safeworking regulations when working on or adjacent to an operating rail system.
- j) The Barclay Mowlem Certificate of Competency and any other relevant documents required to work on a particular site shall be carried by respective personnel at all times.
- k) Track Inspections will generally require a two (2) man crew when operating in remote locations.

22. Superannuation

The company will contribute an amount as legislated (at present 9%) into the agreed Superannuation fund.

The agreed fund is C+BUS.

Employees can elect to have additional payments directed to their C+BUS accounts in lieu of receiving productivity performance payments as wages.

23. Redundancy

Each employee will be entitled to receive a redundancy payment for each week of service of \$54.08 per periods of continuous service that are accrued after the certification of this Agreement.

This payment will be made in lieu of the schedule of entitlements provided in sub-clause 13 (b) of the Parent Award.

Redundancy payments for continuous service prior to the certification of this Agreement will be determined in accordance with arrangements in place prior to this Agreement, or, in the absence of such arrangements, in accordance with the Parent Award provisions.

The agreed redundancy fund shall be ACIRT.

24. Distant Work & Fares

A. Fares

Fares shall be paid in accordance with the provision of the Parent Award in so far as the applicability of full and half fares. Fares shall take into consideration starting and finishing at the worksite within a travel distance of 50km from the main Depot. Should it be necessary for a crew to stop at depot on way to worksite and the duration of the stop is less than ½ hour with no work being performed this does not constitute that starting time is at depot but at worksite. Travel to worksites outside the 50km radius or in excess of ¾ hour shall be paid at ordinary rates for the excess travel.

B. Living Away from Home

- 1) Travelling expenses to and from the work site by train/bus, economy airfare, provision of company vehicle or reimbursement for the use of the employees own car at the rate specified in the Parent Award.

- 2) Wages for travel to the location of the project for the journey time at the rate of up to 8 ordinary hours per day.
- 3) By agreement with the workers concerned, either reasonable board and lodging or at the discretion of the company, payment of a living away from home allowance of \$395.20.00 per 7 day week.
- 4) When Hotel or Motel accommodation only is provided a meal allowance of \$50.00 will be paid.
- 5) The provisions of this clause will apply to all employees transferred to a distant project, or to a person re-employed within 3 months of termination from a previous project of the company.
- 6) Except for specialised positions, attempts will be made to employ local labour.

25. Sick Pay

Weekly employed employees under this Agreement shall be entitled to sick pay.

- a) An employee other than a daily employee as defined who is absent from work on account of personal illness or on account of injury by accident, other than that covered by workers' compensation, shall be entitled to leave of absence, without deduction of pay, subject to the following conditions and limitations.
 - (i) Notifies the Company if unable to attend work within 2 hours of normal time of commencement of duty (when and if possible earlier) and advise the reason for absence and anticipated duration of absence.
 - (ii) An employee during his first year of employment with an employer shall be entitled to sick leave entitlement at the rate of one day at the beginning of each of the first ten calendar months of his first year of employment.

Provided that an employee who has completed one year of continuous employment shall be credited with a further ten days' sick leave entitlement at the beginning of his second and each subsequent year, which, subject to subclause (c) of this clause shall commence on the anniversary of engagement.

- (b) A medical certificate will be required for all absences exceeding one day, or where an employee has had two days sick leave in the previous year without provision of a medical certificate, or if requested by the supervisor.
- (c) Sick leave with an employer shall accumulate from year to year so that any balance of the period specified in paragraphs (a)(iii) and (iv) of this clause which in any year has not been claimed by the employee and subject to the conditions herein prescribed shall be allowed by that employer in a subsequent year, without diminution of the sick leave prescribed in respect of that year.
- (d) Any sick leave for which an employee may become eligible under this Award by reason of service with one employer shall not be cumulative upon sick leave for which the employee may become eligible by reason of subsequent service with another employer.
- (e) If an employee is terminated by his employer and is re-engaged by the same employer within a period of six months, then the employee's unclaimed balance of sick leave shall continue from the date of re-engagement.

In such case the employee's next year of service will commence after a total of twelve months has been serviced with that employer excluding the period of interruption in service from the date of commencement of the previous period of employment or at the anniversary of the commencement of the previous period of employment, as the case may be.

- (f) Employees who have accrued in excess of 17 days sick pay at year end can elect to be paid out the days exceeding 17, which must remain to ensure employees have adequate provision.

26. Dispute Prevention Procedures

This Agreement is intended to achieve the highest level of involvement of Employees in the operations of the company on each of its projects.

Management is committed to improving its practices and methods in consultation with Employees.

The Parties agree to work to avoid the escalation of disputes and the following procedures are designed to achieve this objective. At any stage of the following procedures, Employees can elect to be represented by an appropriate official of the Union, or the accredited site delegate. The site delegate will automatically be a member of the Project Consultative Committee.

Work will continue whilst these procedures are being followed:

- a) In the event of an employee or site delegate wanting to pursue any matter with the company it can be raised with any member of the Project Consultative Committee or at a Project Consultative Committee meeting for resolution at project level.
- b) If not settled at that stage, the Committee will submit the matter to the Project Manager for resolution.
- c) If not settled at this stage, the Enterprise Agreement Consultative Committee will be required to meet to resolve the dispute.
- d) In the event of the Enterprise Agreement Consultative Committee not being able to find a solution by consensus, then the matter will be referred to the Industrial Relations Commission of NSW for a determination. The IRC of NSW's decision will be accepted by all Parties, subject to legal rights of appeal without prejudice.
- e) Payment for lost time due to industrial disputes will not be claimed by employees nor will be paid by the company except where the relevant Tribunal awards payment for lost time.

27. Procedures for Settling Disagreements Over Safety

A Safety Management Team will be established for the Rail East Operations. The Safety Management Team shall as a minimum include the designated Barclay Mowlem Safety Manager, an agreed number of other employee representatives and project management personnel.

The Safety Management Team shall meet as often as is necessary to monitor adherence to a safe working environment and to promote safety awareness among all site personnel.

Where a safety problem exists work shall cease in the affected area. Work shall continue elsewhere unless access to safe working areas is unsafe. However, any problem of access shall be immediately rectified and Employees will use any alternate safe access to such safe working areas while the usual access is being rectified.

In the event of major disputation on projects, the relevant Manager and The AWU will confer and coordinate to rectify the situation.

Should any dispute arise as to the rectification of any zone then the following procedures shall apply;

- a) Immediate inspection shall take place of the zones by members of the Safety Management Team.
- b) Barclay Mowlem will nominate, in consultation with the Safety Management Team, the order of priority the zones to be inspected by the Safety Management Team.
- c) The inspection shall identify the safety rectification work needed to take place in each zone.

- d) As zones are agreed for rectification, all Employees who can be gainfully employed shall immediately commence rectification works.
- e) Upon verification that such rectification has been completed, work will resume in those zones. Such resumption of work shall take place progressively as each zone has been verified as being safe.
- f) In the event of disputation continuing, the relevant Manager will immediately call an OH&S Inspector to determine the appropriate method of rectifying any safety concerns in accordance with the relevant OH&S legislation, regulations and Codes of Practice.
- g) There will not be payment for lost time if employees leave site without the approval of the Business Unit Manager Rail East.
- h) Employees may leave the site without loss of pay when the unsafe circumstances pose an immediate threat to their health and safety and only after the above process has been followed. In these situations the company management, the union and the Safety Management Team will confer and coordinate to rectify the safety problem (s) as soon as practicable.

28. Counselling

Where a misdemeanour occurs, it shall be appropriate that management in the presence of an employee representative of the Project Consultative Committee or a union delegate counsel the employee.

If after counselling the problem continues, the employee will be counselled and provided with a written first warning detailing the event or behaviour, which needs to be improved or changed.

This first warning should be given in the presence of an employee representative on the Project Consultative Committee, or a union delegate. The employee has the right to respond to the warning in writing. A copy of both, the warning and the response shall be placed in the employee's employment history file.

If after the first warning to the employee no improvement occurs, the employee shall be provided with a written final warning in the presence of an Australian Workers Union official or an employee representative.

After receiving this final warning, if the employee repeats the event or behaviour within a period of three months, then the employee can be terminated.

If during the above three months period the employee does not repeat the behaviour which produced the need for the final warning, the final warning advice becomes null and void and cannot be considered grounds for termination.

The above procedure shall not be adopted in cases of deliberate and wilful misconduct.

29. Subcontractors

Barclay Mowlem will encourage all of the subcontractors engaged on its projects to either have an enterprise agreement in place, or undertake to conclude an agreement with the AWU.

The parties agree that all enterprises in the industry should endeavour to develop enterprise agreements that meet their individual productivity and quality objectives. It is agreed that no attempts will be made to flow productivity payments or other benefits from one enterprise to another enterprise, or from one project to another project.

The employees and management of subcontractors will adhere to the safety requirements and management systems of each project and observe the dispute resolution procedures of this enterprise agreement.

In the event of a subcontractor being found to be in breach of an award or their enterprise agreement, Barclay Mowlem will be given time to ensure the breach is rectified by the subcontractor.

If The Australian Workers Union is in dispute with a subcontractor over issues not directly relating to Barclay Mowlem but concern the performance of work on a particular project, the Union will discuss the problem with the Project Manager and the Project Manager will undertake to assist in resolving the matter. Matters related to other projects will not be raised by the Union.

30. Workers Compensation and Sickness Benefits

The Company will provide a 24 hour insurance cover for accident and sickness benefits for all weekly employees to a value of \$800.00 per week. (Note that maximum receivable is equivalent average gross earnings). The insurance policy will be with Safety Net.

31. Barclay Mowlem as a Subcontractor

In the circumstances where Barclay Mowlem is a subcontractor on a project and productivity and disability payments that have been agreed to by the head contractor and/or client exceed the payments stated in this Agreement, the rates in this Agreement will be adjusted to the higher rates, but only for that project.

The same will apply with any conditions that exceed what is stated in this Agreement.

32. Alcohol & Drugs Policy

Barclay Mowlem Construction Ltd is committed to protecting the health, safety & welfare of all employees from injuries resulting from the use of alcohol or other drugs.

As such all employees are required to comply with the company Drugs & Alcohol Policy. (refer attachments 1-4)

The company and consultative committee will review policy as and when required.

33. Anti-Discrimination

It is the intention of the parties bound by this agreement to achieve the object of section 3(f) of the *Industrial Relations Act 1996* (NSW), to prevent and eliminate discrimination in the workplace on the grounds of race, sex, marital status, disability, homosexuality, transgender identity and age.

Accordingly, in fulfilling their obligations under the dispute resolution procedure the parties must take all reasonable steps to ensure that neither the agreement provisions nor their operation are directly or indirectly discriminatory in their effects.

Under the *Anti-Discrimination Act 1977* (NSW), it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

Nothing in this clause is to be taken to effect:

1. any conduct or act which is specifically exempted from anti-discrimination legislation,
2. offering or providing junior rates of pay to persons under 21 years of age,
3. any act or practice of body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977* (NSW),
4. a party to this award from pursuing matters of unlawful discrimination in any state or federal jurisdiction.
5. This clause does not create legal rights or obligations in addition to those imposed upon by the parties by the legislation referred to in this clause.
6. Section 56(d) of the *Anti-Discrimination Act 1977* Provides:

"Nothing in the Act affects ... 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."

SIGNATORIES

FOR BARCLAY MOWLEM RAIL GROUP

17/12/2004

Dated

FOR THE AUSTRALIA WORKERS UNION

14/01/2005

Dated

APPENDIX 1

CLASSIFICATIONS OF LABOUR - SKILL LEVELS

Grade 1

Skill Levels

- A. General Labourer - Basic Skills
- B. Railway Labourer - Holds PW1 Certificate
 - labouring
 - re-sleepering
 - ballasting
 - pipe labourer
 - trench labourer
 - fettler
 - cable pulling labourer
 - concrete labourer
 - labourer erecting stanchions for overhead wiring
- C. Civil Construction Worker - Grade 1 - Parent Award
- D. Overhead Trainee - Holds PW1 Certificate

Progression

Must progress to Grade 2 within 12 months

Grade 2

Skill Levels

- A. General experience at Grade 1
- B. Rail Construction & Maintenance Worker
 - use of general rail tools

welder's offsider
truck driver
use of rail saws, grinders, sleeper drill
forklift driver
use of oxy-acetylene equipment

C. Civil Construction Worker - Grade 2 - Parent Award

D. Overhead Line Worker

EWP operator
hardware installation
make electrical connections

E. Safeworking

PW11

Grade 3

Skill Levels

A. Rail Construction & Maintenance

rail welder
trainee gantry operator
backhoe operator
pettibone operator
trainee tamper operator
trainee ballast regulator operator
experienced pipe layer or joiner
concrete finisher
dogman
FEL operator
Excavator Operator

B. Civil Construction Worker - Grade 3 - Parent Award

C. Overhead Line Worker

as per grade 2
install section insulator
install helical fittings (wrap on terminations/splices)
rigging of conductors

Grade 4

Skill Levels

A. Rail Construction & Maintenance

Operator ballast regulator
Assistant operator (front tower)
Assistant Gopher operator
Tracklayer gantry operator

B. High Level Competency at Grade 3 level

at least 3 years experience
and competent at least 3 skills in Section A - Grade 3

C. Civil Construction Worker - Grade 4 - Parent Award

D. Overhead Line Worker

As per grade 3
work on live wire
specific switching duties

E. Workshop Fitters 0 - 5 years experience

F. Safeworking

PW31

Grade 5

Skill Levels

A. Rail Construction & Maintenance

Tamper operator
Tracklayer operator
Ballast cleaner/Gopher undercutter operator
Crane driver 10 - 20t

B. Overhead Line Worker - Senior

As per grade 4
switching and authority issue

C. Workshop Fitters - 5 years and over experience

Grade 6

Skill Levels

A. Rail Construction & Maintenance

Foreman position - supervision of;

turnout construction
track construction
re-sleepering
surfacing
signalling equipment installation
overhead stanchion installation
overhead wiring installation

B. Field Service Fitters

APPENDIX 2

CONSULTATIVE COMMITTEE CONSTITUTION

1. Name

The Committee will be known as the BARCLAY MOWLEM RAIL ENGINEERING & CONSTRUCTION GROUP Enterprise Agreement Consultative Committee.

2. Objectives

The objectives of the Consultative Committee are:

- a) To implement the Enterprise Agreement for BARCLAY MOWLEM RAIL ENGINEERING & CONSTRUCTION GROUP.
- b) To maximise the involvement of all BARCLAY MOWLEM RAIL ENGINEERING & CONSTRUCTION GROUP's employees and management in implementing the Agreement.
- c) To monitor the Agreement so that it improves the competitiveness and quality performance of BARCLAY MOWLEM RAIL ENGINEERING & CONSTRUCTION GROUP and delivers improved benefits to its workforce.

3. Reporting Requirements

All Consultative Committee members are required to communicate and consult with the workforce and management and to canvass opinions and suggestions to ensure full participation and commitment.

4. Structure

4.1 The membership of the Committee will be made up of:

- a) Up to three (3) employees' representatives elected from a cross section of the company's/projects operations, and will include the union accredited site delegate.

Each employee representative shall nominate a proxy to attend when they are not available.

- b) Up to three (3) management representatives.

4.2 All decisions of the committee will be reached by consensus.

4.3 Any matters not resolved in the Committee will be decided by secret ballot by employees.

4.4 The AWU shall designate a full-time official to monitor and review all meetings and minutes of the Consultative Committee. The Australian Workers Union official will be invited to attend all meetings of the committee.

5. Official Bearers and Their Role

5.1 Chairperson

The Chairperson shall be a member of the Committee and shall have the same voting rights as other committee members. The position of Chairperson will rotate every meeting between management and an employee representative by agreement of the Committee.

5.1.1 Chairperson's duties are:

- a) To be familiar with the agenda and come to the meeting prepared.
- b) To liaise with the Committee Secretary in preparing for the meeting.
- c) To open the meeting and follow the agenda.
- d) To maintain meeting order by encouraging participation and leading the meeting.
- e) To ensure that if the previous minutes require amendments prior to their confirmation that these alterations are made prior to signing the minutes.

- f) To allow all members of the Committee to put their point of view.
- g) To close the meeting and make known date, time and place of the next meeting.
- h) To liaise with the Secretary after the meeting and prepare the minutes of the meeting.

5.2 Secretary

A Secretary shall be allocated to the Committee to:

- a) Draw up and issue agendas.
- b) Record minutes of meetings and distribute them.
- c) Receive and record correspondence.
- d) Arrange typing and photocopying services.

6. Meetings

Meetings shall be held as frequently as decided necessary by the committee or when specially convened by the Chairperson.

7. Quorum

The quorum shall be four (4) members of the Consultative Committee.

8. Agenda

The agenda is to be prepared and distributed by the Secretary to all Committee members at least five (5) working days prior to meetings. Any Committee members may submit agenda items.

Issues of importance, but not noted on the finalised agenda, can be raised at the meeting and discussed at the meeting by agreement of the Committee.

9. Recording of Minutes

Minutes shall be circulated to the Committee members for the verification prior to posting on the notice boards. Every effort shall be made to have the minutes published within ten (10) working days of the meetings. The minutes shall include:

- a) Attendance at the meeting.
- b) Summary of the issues discussed.
- c) Decisions made, the time frame for implementation of decisions and who is responsible for acting on the decision.
- d) Time frame for consideration of deferred decisions.
- e) All those in attendance agree to respect the confidentiality of commercially sensitive information disclosed at the meeting.

10. Preparation Time and Report Back

Members of the Committee shall have adequate time and access to the workforce:

- a) Prior to Committee meetings to prepare their response and input to agenda.

- b) Following Committee meetings to report back, when necessary, on issues discussed.

11. Co-option of Committee

Where agreed by the Committee:

- a) Representatives shall have the power to co-opt personnel for advisory purposes on specific issues to expedite Committee business.
- b) An external resource can be invited to attend relevant meetings.

12. Rights and Duties of Representatives

All members of the Committee undertake to carry out their duties in a responsible and honest manner in the spirit of the Agreement and commit themselves to.

- a) Attend meetings and be present a few minutes before the stated time on the agenda.
- b) Forward apologies to the Chairperson if unable to attend the meeting and ensure their proxy attends.
- c) Come to the meeting prepared, having read the minutes of the previous meeting.
- d) Study the agenda beforehand and be prepared with notes to make contributions briefly, clearly and perhaps with illustrations on matters affecting them or those they represent.
- e) Communicate with employees to establish their views and opinions on agenda items.
- f) Represent the views and opinions of those people they represent and not just their own.
- g) To speak on the basis of the facts presented and not on the basis of pre-conceived ideas not based on true facts.

13. Paid Time to Committee Members

Committee members shall be paid for time spent as follows, including any fares or travel time involved:

- a) Attend Committee meetings.
- b) Prepare for Committee meetings and report back to employees.
- c) Attend to other Committee business by agreement with the management.

14. Decision Making Processes of Committee

All decisions made by the Committee will be acted upon by management and/or union/workforce.

The Committee shall reach decisions by consensus only.

15. Access to Information

All information that is nominated as "commercial-in-confidence" by the management will be kept confidential by all members of the committee. Any violation of this confidentiality will be considered as grounds for instant dismissal.

APPENDIX 3

RAIL SAFETY ACT 2002 No96

ALCOHOL & OTHER DRUGS POLICY RAIL GROUP

This policy can be printed from:

Q:\Rail\Policies and Statements\POL 06 [R] Drugs and Alcohol Policy.pdf