

**REGISTER OF
ENTERPRISE AGREEMENTS**

ENTERPRISE AGREEMENT NO: EA04/21

TITLE: Cleary Bros (Bombo) Pty Ltd - Transport Workers' Union of Australia NSW Branch Enterprise Agreement

I.R.C. NO: IRC3/3718

DATE APPROVED/COMMENCEMENT: 10 July 2003

TERM: 17

**NEW AGREEMENT OR
VARIATION:** Replaces EA01/301

GAZETTAL REFERENCE: 13 February 2004

DATE TERMINATED:

NUMBER OF PAGES: 23

COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement applies to all employees employed by Cleary Bros (Bombo) Pty Ltd located at 39 Five Islands Rd, Port Kembla NSW 2505, engaged in the classifications specified in Appendix 1, namely Transport Worker Grades 1-8, excluding waste sites & transfer stations operations, who fall within the coverage of the Transport Industry (State) Award and Transport Industry Quarried Materials (State) Award

PARTIES: Cleary Bros (Bombo) Pty Limited -&- the Transport Workers' Union of New South Wales

Cleary Bros (Bombo) Pty Ltd - Transport Workers Union of Australia NSW
Branch Enterprise Agreement

Clause No.	Subject Matter
1.	Introduction Applications Parties Scope and Purpose Existing Flexibility Duration Commitment No Extra Claims Application of Parent Awards Contract of Employment
2.	Workplace Reform
a)	Agreed Parameters for Workplace Reform
b)	Consultative Mechanisms

- c) Competency Based Training
 - d) International Best Practice
 - e) Quality Assurance
 - f) Suggestion Scheme
 - g) Multi Skilling
 - h) EEO
 - i) EFT Payment
 - j) Confidentiality
 - k) Other Employment or Conflicts of Interest
3. Wages
- a) Classification Structure
 - b) Wage Rate Structure
 - c) Calculation and Rounding of Hourly Rates
 - d) Rates of Pay
 - e) Key Performance Indications
 - f) Definitions, Standards and Career Progression
 - g) Casuals
 - h) Timesheets
4. Additional Allowances
- a) Award Allowances
5. Hours of Work
- a) Ordinary Hours
 - i) Span of Hours
 - ii) Programming of RDOs
 - iii) RDO Accrual During Paid Leave
 - iv) Rest Break
 - v) Meal Break
 - b) Reasonable Work Hours
6. Safety Health and Welfare
- a) Safety Legislation
 - b) Inductions
 - c) First Aid
 - d) Cleary Bros Safety Supervisor
 - e) Sub contractors Safety Responsibilities
 - f) Amenities
 - g) Protective Clothing
 - h) Procedure for dealing with Occupational Health and Safety Issues
7. Industrial Relations
- a) Prevention of Industrial Disputes
 - b) Disputes Settlement Procedures
 - Phase I
 - Phase II
 - Phase III
 - Phase IV
 - Phase V
8. Income Security
- a) Sick Leave
 - b) Superannuation
9. General
- a) Demarcation Disputes
 - b) Work Practices
 - i) Alternative Work
 - ii) Sub Contractors
 - iii) Supervisors
 - c) Delegates
 - d) Union Official (visiting)
 - e) Disciplinary Procedure

- i) First Written Counselling
- ii) Final Written Counselling
- iii) Termination
- iv) Instant Dismissal
- v) Termination of Employment - General
- f) Site Access Passes
- 10. Redundancies
- 11. Chain of Responsibility
- 12. Blood Donor Leave
- 13. Volunteer Emergency Services & Bush Fire Fighters Leave
- 14. Service Fee
- 15. Employee Deductions
- 16. Union Picnic Day
- 17. Union Recognition & Union Membership
- 18. Review and Renegotiation

SIGNATORY PAGE

- Appendix 1 Table 1 - Classification and Installment Increases Table
- Appendix 2 Protective Clothing and Uniforms
- Appendix 3 Counselling Procedure
- Appendix 4 Contractors Declaration of Wages & Statutory Payments
- Appendix 5 TWU Delegate Charter of Rights

Clause 1 Introduction

The Parties to this Enterprise Agreement agree that Cleary Bros. (Bombo) Pty Ltd (hereinafter called Cleary Bros) must continue to achieve real and sustained performance improvement by embracing a philosophy of continuous improvement. We aim to become an internationally competitive enterprise continually improving the level of customer satisfaction, employee satisfaction, product quality and productivity.

Cleary Bros has continued the introduction of a system of total quality management principles or Quality Assurance, to assist in achieving the above objectives. All employees will become familiar with these concepts and skill through training and involvement in project work.

Applications

This Agreement shall apply and be binding upon:

- (i) Cleary Bros (Bombo) Pty Ltd
- (ii) Transport Workers Union of Australia N.S.W Branch, and
- (iii) Employees who are members or eligible to be members of the Transport Workers Union of Australia N.S.W Branch and are employed in accordance with the classification levels in Appendix 1 but shall exclude any Waste Sites and Transfer Station Operations which are the subject of a separate Enterprise Agreement.

Parties

The parties to the Agreement are Cleary Bros, and the Transport Workers Union of Australia N.S.W Branch.

Scope and Purpose

The objectives will be to improve not only the standard of working life but also the overall performance of all employees with the ultimate aim of maintaining and improving Cleary Bros competitiveness.

The provision of greater job satisfaction will be achieved by developing and increasing the employee's overall skills while at the same time offering new and advanced employment opportunities.

Existing Flexibility

Flexibility's attained from the previous Enterprise Agreements are deemed to continue during the life of this agreement.

Duration

This Agreement shall operate for the beginning of the first pay period to commence on or after the date of Certification of this Agreement and shall remain in force until 31 December 2004.

Commitment

The parties acknowledge that an important ingredient of sound employee relations is stability and predictability. They have therefore devoted considerable time to examining the nature and scope of work to be covered by this Agreement and particular features, circumstances and the issues which require discussion and resolution between the parties.

The parties have reserved leave to apply to incorporate details on workplace reform matters which will continue to be the subject of examination and discussion during the currency of this Agreement.

By entering this agreement the company hereby makes a commitment to:-

The full time engagement of its Transport Workers.

Utilise full-time employees to their full capacity before casual employees or subcontract carriers are engaged.

Recommend, in accordance with current laws, that all transport workers covered by this agreement join the T.W.U.

The training of the company transport workers in Occupational Health & Safety training as provided by a licensed Blue Card Provider and as it applies in conjunction with the Company's Registered Quality Assurance procedures CB4.21 / Truck Safe requirements.

Abide by the T.W.U Delegates Charter of Rights (as annexed to this agreement) - only where it applies to Cleary Bros operations and in accordance with our Enterprise Agreement / Transport Industry (State) Award and excluding any information that is "Commercial in Confidence".

No Extra Claims

The parties agree that there shall be no additional claims made for increases in wages, salaries or wage related allowances for the period of this Agreement.

Application of Parent Awards

This Enterprise Agreement will apply in conjunction with the Transport Industry (State) Award and the Transport Industry Quarried Materials (State) Award.

Provided that where there is any inconsistency between the respective Award and this Agreement, the Agreement will prevail.

Parent award provisions will apply.

- a) In relation to matters which this Agreement specifically indicates should be determined by reference to parent awards:
or
- b) Where there is no provision contained in this Agreement relating to the same or like matters.

Contract of Employment

Employment shall be by the week. Any employee not specifically engaged as a casual employee in accordance with Clause 3g) shall be deemed to be employed by the week.

Clause 2 Workplace Reform

- a) Agreed Parameters for Workplace Reform

Participative Management and Work Organization

Cleary Bros employees will be organized so that they work in quality driven, broadly skilled work teams to perform a wide range of functions. Parties to this Agreement will foster a work environment where all continuously strive for improvement in what is done and how it is done, in order to optimize value through improvement in productivity and quality as well as to enhance quality of employees' working life.

- b) Consultative Mechanisms

In agreeing to form a Consultative Committee, all parties, management and unions acknowledge the requirements for an atmosphere of mutual trust and co-operation. The overall purpose of the Committee is to provide an environment for greater communication and, in doing so, establish a forum in which employees are able to express their points of view and thus an opportunity to influence management decision making and also allowing management to utilize knowledge and experience. The Committee will pursue the objectives of this agreement.

Two important areas of operation are specifically excluded from the domain of the Consultative Committee:

- (i) Industrial relations issues will be processed via the disputes avoidance procedure contained in Clause 8b of this Agreement.
- (ii) Matters which by definition are the responsibility of the Occupational Health and Safety Committee will be referred to that Committee.

- c) Competency Based Training

A programme using competency standards has been incorporated in Cleary Bros Quality Assurance System.

Training and demonstrated competence through this assessment procedure will provide the basis for career progression for workers and access to higher paid classifications provided for in this Agreement. Progression to a higher classification will also be determined by the availability of work for that classification.

- d) International Best Practice

Both parties agree that international or other relevant best practices be jointly identified and adopted in measuring and improving the efficiency of all company functions. As a result, both parties are committed to a process which will ensure that:

During the course of the Agreement we will progressively develop and implement systems which will identify local and international best practices benchmarks in specific target areas in Cleary Bros.

The identification, development of best practices benchmarks will be undertaken in consultation and agreed with the employees in the appropriate workplace.

e) Quality Assurance

The parties acknowledge their commitment to the concept of Total Quality Management and the objective of continuous improvement.

This will involve a program and philosophy of continuing co-operation, consultation and communication with all employees.

The parties will utilize the "Non Conformance" mechanism to provide feedback on quality performance in all areas. Management will take responsibility for this occurring.

f) Suggestion Scheme

Employees are encouraged to communicate their ideas for workplace productivity improvement to management. Where suggestions are implemented, recognition will be given to the employee concerned.

g) Multi-Skilling

For the purpose of increasing productivity and flexibility, as well as enhancing career opportunities for employees, multi-skilling will extend by agreement to allow employees to perform agreed tasks within the scope of their skills and competence. Agreement has been reached for employees to perform a wider range of tasks and participate in additional training as necessary.

Cleary Bros may direct any employee to carry out such duties as are reasonably within the limits of the employee's skill, competence and training and shall be consistent with Cleary Bros responsibilities to provide a safe and healthy working environment as well as ensuring fully productive employees at all times.

h) EEO

Cleary Bros is an equal opportunity employer. All employees are entitled to work in an environment free from discrimination. Cleary Bros will recruit, employ and train personnel on the basis of experience, skills and on the job performance. Cleary Bros. has a commitment to an affirmative action program which will be taken into account when considering employment opportunities.

i) EFT Payment

All wages and allowances will be paid on a weekly basis by EFT on the Thursday following the week worked.

j) Confidentiality

As part of normal duties, the employee will obtain or have access to confidential information concerning Cleary Bros. Under no circumstances is any use to be made of this information except for the purposes directly related to furthering the business objectives of Cleary Bros as provided with the terms of the employee's authority.

All employees are required to keep information about the business of Cleary Bros confidential. Disclosure may only be made with the express consent of Cleary Bros.

k) Other Employment or Conflicts of Interest

For the duration of employment with Cleary Bros, employees shall not set themselves up or engage in private business or undertake other employment in direct or indirect competition with Cleary Bros or

use knowledge or materials gained during the course of employment with Cleary Bros for that purpose. No other employment shall be undertaken in conflict with the employee's employment with Cleary Bros.

Clause 3 Wages

a) Classification Structure

All employees covered by this Agreement shall be classified according to the classifications shown in Appendix 1 and shall be paid the appropriate weekly ordinary wage rates as shown in Appendix 1 - Table 1 - these rates shall be taken to include alterations made from time to time strictly in accordance with this Agreement.

Annual assessment of all employees may be carried out. Assessment criteria and the procedure used is contained in the Quality Manual. Each employee will be required to comment on their assessment outcome.

b) Wage Rate Structure

(i) Wage rates will increase in the following manner:

3% payable 1 February 2003
2% payable 1 July 2003
5% payable 1 January 2004

Where each increase is calculated using the base rate payable under the particular classification in effect immediately prior to the first of February 2003.

(ii) These rates of pay will apply as the all purpose rate for Cleary Bros employees covered under this Agreement.

(iii) Overtime penalties will be applied to the all purpose Rate for actual overtime hours worked.

c) Calculation and Rounding of Hourly Rates

Wage Rates will be calculated in all cases as hourly rates and will be round to the nearest 1/100 cent per hour.

d) Rates of Pay

No employee shall unreasonably refuse to undertake training provided by Cleary Bros in paid work time which would enable the employee to fulfill the substantive requirements of the skill level to which they have translated as a result of the introduction of this Agreement or its predecessor. In seeking upward reclassification an employee shall be required to demonstrate that he or she meets the full requirements of the higher skills level in accordance with the criteria outlined in the Quality Manual.

Appendix 1 - Table 1 shows the rate of pay applicable.

Income and Entitlement Protection

The rate as paid in Appendix 1 - Table 1 includes an allowance for the provision for Income Protection Insurance. Employees who wish to activate this insurance should advise the Company and the premium will be deducted from your pay.

Washing of vehicles

It is a condition of Cleary Bros employment that trucks and equipment be kept at high standard. The washing of trucks will be paid if outside normal working hours at maximum rate of time and one half.

e) Key Performance Indicators

Discussion will commence, during the term of this agreement, between the parties for inclusion of Key Performance Indicators to apply to each grade classification noted in Appendix 1- Table 1.

It is intended to select and agree on three (3) Key Performance Indicators from a table of nominated KPI's which will apply to each applicable future increase period.

Where it is apparent that some or all of the three (3) KPI's for a particular area will not be met discussion will be held between the company and the employees to determine whether strategies can be put into place to achieve these KPI's

f) Definitions, Standards and Career Progression

The parties to this Agreement recognize the importance of career planning. The Consultative committee may develop guidelines for the discussion of the scope and opportunities for career progression of employees. Divisional Managers will be delegated the responsibility of developing and agreeing on a career plan.

g) Casuals

Casual employees may be employed in any financial year to assist with seasonal production requirements. Minimum time payment is 4 hours.

A casual employee working ordinary time shall be 1/38th of the appropriate weekly wage per hour plus a loading of 15% plus 1/12 of ordinary time worked.

(This loading is in lieu of all paid leave and public holidays and to compensate for the nature of casual employment).

Casuals shall not be entitled to payment for:

- i) annual leave
- ii) bereavement leave
- iii) jury service leave
- iv) sick leave
- v) public holidays
- vi) any other leave item

h) Timesheets

Timesheets shall be sent to the pay office at Port Kembla or given to the appropriate supervisor on a daily basis. Late timesheets received after 9.00 am Monday morning may not be processed until the following pay week. Timesheets or hire dockets incorrectly completed may result in the employees pay for that day being delayed.

Any alteration of timesheets must be notified to the employee with pay.

Clause 4 Additional Allowances

a) Award Allowances

In addition to the Wage Rates provided for in this Agreement only the following allowances will be paid under the condition provided for in the relevant parent awards.

- i) First Aid Allowance (Where the employee is the designated first aid officer)
- ii) Leading Hand (Responsibility) Allowance
- iii) Travel Allowance
- iv) Meal Allowance -

Meal Allowance will be payable:

- a) two hours prior to normal starting time if not previously advised.
 - b) after one & a half hours of overtime worked at end of a normal shift or
 - c) after four hours of overtime worked on a normal shift.
 - d) rate of pay be as per the rate applicable in the current award.
- v) Collecting Moneys
 - vi) Slump Allowance - Pre Mixed Concrete Industry

Clause 5 Hours of Work

a) Ordinary Hours

i) Span of Hours

Ordinary hours of work shall be 38 per week worked Monday to Friday between the hours of 5.00am and 6.00pm. Latest start times will be as per relevant award. Daily start times to be advised to employees as necessary to satisfy customer requirements.

Management will endeavor to notify employees of normal start times (Monday to Friday) by 4pm the previous weekday where possible. Weekend start times will be advised to employees as soon as possible.

Management will provide notice to take RDO by with an agreed roster or as soon as possible in all other circumstances.

Further flexibility may be agreed with employees and the union advised accordingly.

ii) Programming of RDO's

1. The parties agree that there has been and will be benefits for Cleary Bros and the employee in allowing greater flexibility in taking RDO's. It is intended that some of the Cleary Bros workplaces may remain open during designated industry RDO's.

2.

(a) RDO's may be allowed to accumulate up to five days maximum as agreed by Management and allocated on a first in basis. Once the maximum of five days has been reached, then these days shall be taken at a time as agreed with management and employee. All rates paid for working on the RDO will be at ordinary time rates (with penalty rate applicable after 8 hours work) and the RDO entitlement can be taken at a later agreed time. If feasible an RDO roster or procedure will be developed in consultation with employees by the relevant Divisional Manager or delegate responsible for the work area in which the employee works.

(b) In time of Industry downturn in excess of 2 days. Employees may be asked to take R.D.O's and employees will assist by the taking of R.D.O's as requested. Supervisors are to contact the nominated drivers prior to normal start time to allow the drivers the benefit of having a full day off.

iii) RDO Accrual During Paid Leave

Any day of paid leave taken shall be regarded as an 8 hour day for accrual purposes.

iv) Rest Break

One paid fifteen (15) minute rest break shall be allowed to all employees covered by this Agreement during ordinary hours on any working day. Employees shall take the rest break at a time mutually agreed upon between Cleary Bros and its employees.

v) Meal Break

The commencement time of the meal break shall be by agreement between Cleary Bros and the majority of its employees at the particular site and on larger projects may be staggered. Employees may be required to work through their meal breaks to suit the requirements of the customer. In these circumstances these employees will be paid at ordinary time rates for working through their meal break and will have an additional 30 minute break at a later time or date as agreed with management.

b) Reasonable Work Hours

i) Subject to sub clause (ii) employees shall work overtime as reasonably requested by Cleary Bros management . Payment for overtime will only be made when such overtime is authorised by Cleary Bros management.

ii) A transport worker may refuse to work overtime in circumstances where the working of such overtime would result in the transport worker working hours which are unreasonable having regard to:-

Risk to employee health and safety

Personal circumstances including family responsibility

Workplace needs

The notice given by the company of the overtime

Clause 6 Safety Health & Welfare

a) Safety Legislation

Authorise all employees elected to OH&S committees and/or O.H&S Representatives to attend a committed training course (as per the N.S.W Occupational Health & Safety Act 2001) as soon as practicable and within 3 months of being elected to the position. (Refer Cleary Bros Quality Management Operating Procedure CB 4.21 - 5.11.4)

Use best endeavours to train all T.W.U delegates / co-delegates to "Certificate 4 in Workplace Training & Assessing" trainer standard within 3 months of either the commencement of this agreement or the delegate / co-delegate assuming this position and without effecting customer service.

Use best endeavours to train all existing and new transport workers in the Blue Card Induction Programme with such training to occur within the first 12 months of the commencement of this

agreement and shall be conducted by a licensed Blue Card training provider and without effecting customer service.

Enrol and provide all transport workers that perform driving duties together with allocation staff with the opportunity to attend Driver Fatigue Management programmes.

Provide T.W.U. Delegates / co-delegates with additional paid training leave as requested by T.W.U and agreed in writing by Company.

Approved training / reasonable expenses to be paid by the Company.

b) Inductions

All employees at the commencement of their first working day shall attend an induction on workplace safety procedures and Cleary Bros policies (including Trucksafe and current enterprise agreement).

The induction shall be presented by a Cleary Bros representative at a central location appropriate to the site.

No employee will be allowed to commence work on site until they have attended the Cleary Bros induction.

Potential employees shall undergo a pre employment medical.

Employees transferring from other sites will undergo site specific inductions prior to commencement on the work site if its constraints are substantially different from their previous workplace.

c) First Aid

In the interest of safety, Cleary Bros will establish as a reasonable target fifteen percent of all site personnel to hold current first aid certificate evenly distributed throughout the work face on the Cleary Bros Projects, such that a qualified employee will be on each site where possible. Cleary Bros will pay selected employees the cost of an agreed First Aid course if carried out in their own time. Only the designated first aid officer will be paid the first aid allowance.

d) Cleary Bros Safety Supervisor

OH & S law requires both Management and employee's responsibility. All employees will play their part in ensuring a safe work environment. Divisional Managers, Project Managers and Foremen will co-ordinate safety across Cleary Bros in accordance with the Cleary Bros Quality Assurance System, and also act as safety supervisors.

e) Sub Contractors Safety Responsibilities

Each subcontractor will be directly responsible for safety in his work areas(s). Cleary Bros will have an overriding authority to direct subcontractors on any matters concerning safety on CB sites. This will however, in no way remove any obligation of individual subcontractors and employees.

f) Amenities

Amenities on Cleary Bros projects shall be of a consistent standard and shall comply with the standards laid down in the relevant awards and / or State legislation. However, it is acknowledged that there are times when it is impractical due to the short term nature of the job, the location of the job etc. to provide lunch and toilet facilities, and this Agreement acknowledges that employees endure these conditions from time to time to ensure the job is completed in the most productive and cost effective manner. Equipment is to be cleaned, checked and any minor repairs undertaken before leaving the site. All facilities are to be kept clean, equipment is to be stowed appropriately. Where necessary nonproductive time shall be utilized to carry out these tasks.

g) Protective Clothing

All employees on Cleary Bros sites will be issued with protective clothing in accordance with Appendix 2 - Protective Clothing. Personnel must maintain a neat appearance and be wearing the latest issue uniform. Care must be taken of personal protective equipment. It is a condition of employment that employees wear the uniform. Employees not wearing a uniform will not be paid and / or may be sent home to change into uniform.

- h) Procedure for dealing with the Occupational Health and Safety issues.

All employees shall comply with the OH&S Act and Cleary Bros' policies on OH&S and on Alcohol and Related Drugs Safety. Now contained in the Quality Manual under CB4.21.

Clause 7 Industrial Relations

- a) Prevention of Industrial Disputes

It is the aim of the parties to this Agreement that industrial disputation shall be prevented or minimized.

In the interests of good industrial relations it is acknowledged that meetings between Union Officials and their members engaged by Cleary Bros. may be required on occasions.

Agreement between the company and the Union as to any union meetings with employees must be reached allowing at least 7 days notice of such meetings.

The company is authorized to use such other labour, including supervisors, to carry out such work that cannot be delayed until the end of such meetings.

Such meetings shall only be held following agreement between appropriate Cleary Bros. Divisional Manager and the duly authorized Union Official(s).

- b) Disputes Settlement Procedures

The Parties agree to the elimination of lost time if a dispute arises. To achieve a prompt resolution it is agreed that the most effective procedure is for the responsibility for resolution to remain as close to the source of the dispute as possible.

Accordingly, the following procedures are agreed:-

Phase I

Discussion at the workplace between those parties directly affected, if these parties are unable to resolve the dispute within 48 hours, then;

Phase II

Cleary Bros management and delegates will adopt the role of facilitator to assist the parties to resolve their dispute amicably.

If the dispute still cannot be resolved, within further 48 hours then;

Phase III

Cleary Bros Management and the Union Organizer shall negotiate settlement of the dispute. If a settlement satisfactory to both parties cannot be negotiated, then;

Phase IV

Senior Cleary Bros management and the State Secretary of the Union or their nominees shall continue negotiations. If a settlement, cannot be agreed within seven (7) days of such a meeting then either party may;

Phase V

Refer the matter to the Industrial Relations Commission of New South Wales for resolution and determination and such decision shall be binding on the parties subject to the legal rights of appeal.

The parties to the Agreement agree that work shall continue without interruption or dislocation throughout the period of discussions and negotiations. Whilst these phases are in place the status quo, that being the position immediately before the dispute that gives rise to the dispute, should be maintained. If either party refers the dispute to the Industrial Relations Commission of New South Wales, then any order of the Commission will be accepted to enable the dispute to be arbitrated. This shall not prevent the union from having reasonable consultations with its member during the period. It is also agreed that any meeting will be arranged to provide a minimum of interruption to Cleary Bros operations and to this end, it is agreed that a maximum of three hours would be appropriate for such meetings and such meetings would not be appropriate until after completion of Phase III of this Dispute Settlement Procedure.

No party shall be prejudiced as to final settlement by the continuance of work in accordance with this clause.

It is further agreed that members of the Consultative Committee may act as facilitators during the course of these discussions and negotiations if requested by one of the parties involved.

Safety issues are to be dealt with under Clause 6 (h).

Clause 8 Income Security

a) Sick Leave

In order to reduce the incidence of absenteeism and unsubstantiated sick leave and to provide flexibility for employees, the parties agree to the following:

- i) In the case of an employee claiming sick leave entitlements, he / she shall provide a doctor's certificate for all absences due to illness, after such employee has exhausted his/ her first 2 single day absences in the course of any completed year of service.

Where any employee begins to develop a pattern of excessive unjustified absences, a warning procedure shall be applied along with appropriate counseling of the employee.

- ii) Employees must notify their supervisor as soon as practical before the normal shift starting time if they will be absent due to sickness stating:
 - a) nature of sickness
 - b) expected duration

Non compliance for genuine reasons only will be allowed.

- iii) Sick leave taken on the day immediately before or after a weekend or RDO must be supported by a Doctor's Certificate. If there is not sufficient documentation to demonstrate that an employee has been genuinely affected by a bona fide and disclosed medical condition overtime shifts may not be available to that employee in the subsequent week.
- iv) Accumulation of sick leave will extend beyond the Award time provision.

b) Superannuation

Cleary Bros will for all employees covered by the Agreement contribute to the TWU Superannuation Fund in accordance with the requirements of the Transport Industry (State) Superannuation Award (No.2) and the superannuation guarantee levy or any other subsequent legislative requirement.

Additional contributions by way of salary sacrifice are available upon application, subject to any Government regulation, guidelines or ruling to the contrary.

Clause 9 General

a) Demarcation Disputes

It is agreed that demarcation disputes will be resolved in accordance with the demarcation agreements between unions involved. If one or more of the unions involved in a demarcation dispute is not a party to a national demarcation agreement then the dispute will be resolved in accordance with the ACTU demarcation dispute procedure.

All Unions agree to the Demarcation Settlement Procedures as set out hereunder.

In all demarcation disputes the union(s) shall;

- i) Maintain the genuine status quo that existed prior to the dispute. The genuine status quo shall be the way the work had been allocated by the respective employer, prior to the dispute.
- ii) Ensure that no stoppage of work or other forms of industrial action shall be taken and that there has been proper negotiations between the unions concerned.
- iii) Notify through the Labour Council or ACTU, the unions party to this Agreement, of any demarcation dispute. Where they are not able to be resolved directly by the unions concerned, the Labour Council, or ACTU must participate in any discussions or meetings convened to try to reconcile the parties or protect members.

All parties to this Agreement reserve their right to submit matters in dispute to the appropriate Industrial Relations Commission.

b) Work Practices

In the interests of safety and productivity the following work practices shall be observed on Cleary Bros projects. Above all, every employee covered by this Agreement will be productive and there will be no scope for any non-productive employees on Cleary Bros projects.

i) Alternative Work

Where there is a temporary lack of work for any employee, alternative work will be found for the employee concerned, subject to the employee being duly qualified and able to perform the alternative work. There will not be any reduction in the employee's acquired classification rate of pay while performing the alternative work.

ii) Sub Contractors

Cleary Bros' management shall engage sub contractors, as required. Sub contractors shall be required to meet all their statutory obligations as part of their sub contractor agreement.

iii) Supervisors

Employees will not unreasonably impose any limitations or enforce any limitations on Supervisors or Technical personnel, demonstrating the use of equipment or machinery from training purpose or operating it as part of work in an emergency situation or while a union meeting is in progress and until employees are able to resume work on site.

c) Delegates

An employee appointed as a Delegate shall, upon notification by the Union to the employer and the Cleary Bros' site representative of the Union to which they belong, be allowed time during working hours subject to approval from Cleary Bros to submit to the employer matters affecting the employees he or she represents.

There shall not be more than one (1) Delegate per union on a Cleary Bros Project and they must be officially recognized as such by both the Company and the TWU.

d) Union Official (Visiting)

Union Official visiting a site will report to the site office before visiting employees and adhere to appropriate site operational laws and safety procedures while on site.

e) Disciplinary Procedure

Any issue concerning application of the provisions of this procedure will be resolved strictly in accordance with these provisions and in accordance with our Quality Assurance Procedures.

i) First Written Counselling

Employees who exhibit unsatisfactory performance or behaviour shall be counselled so that they understand the standards expected of them and will be offered assistance and guidance in achieving their standards.

Confidential written records will be kept (First Written Counselling Form - see appendix 3 form 1) on any counselling undertaken, copy given to the employee and the employee's file marked accordingly.

Following this discussion, the supervisor shall report the matter to the Project Manager and/or the Divisional Manager in writing using the First Written Counselling Form. A copy shall also be supplied to the union delegate.

ii) Final Written Counselling

Where the same or similar behavior continues a second formal warning shall be issued in writing (Final Written Counselling Form - see appendix 3 form 2) as in i) immediately above.

The written counselling shall state that unless the employee's behaviour improves the employee's services will be terminated.

Confidential written records will be kept (Final Written Counselling Form) on any counselling undertaken, copy given to the employee and the employee's file marked accordingly.

Following this discussion, the supervisor shall report the matter to the Project Manager and/or the Divisional Manager in writing using the Final Written Counselling Form. A copy shall also be supplied to the union delegate.

iii) Termination

Where the same, or similar behavior is repeated a Termination Interview will be conducted by the Project Manager or Divisional Manager to determine if the employees services are to be terminated.

The termination interview shall be completed using the appropriate form (Termination Interview Form, see appendix 3 form 3) and shall be conducted in the presence of another member of management and the union delegate.

iv) Instant Dismissal

There will be occasions when the warning system is not appropriate such as serious misconduct, in which case instant dismissal is the appropriate procedure. The employee's Delegate shall, where applicable, be informed of the circumstances prior to the dismissal.

v) Termination of Employment - General

Termination of employment for all employees shall be in accordance with the terms specified in clause 9 (e) of this Agreement.

Nothing in this clause shall affect the right of Cleary Bros to dismiss an employee without notice for misconduct or refusal of duty.

Employees to be terminated under this Clause shall be suspended for 48 hours on full pay prior to such termination taking effect to allow full review of circumstances of termination by management and union delegate.

A witness shall be present for all counselling and termination interviews if required by either the employee or management. See Appendix 3, for example of Counselling / Termination Interview Forms.

f) Site Access Passes

Following the induction of an employee he / she will be issued with an Employees Safety Card which should be carried at all times whilst on site (refer CB 4.17)
Lost cards must be reported as soon as possible.

On many sites Cleary Bros will be required by condition of contract or in response to OH&S requirements to control sites on a security basis. Visitors to the sites will require visitors passes and employees located on a temporary basis may require work permits prior to proceeding with work. Site staff will require identification badges.

All employees covered by this Agreement will be required to adhere to these conditions.

Clause 10 Redundancies

Should there be an over - supply of labour due to completion of contracts or a general downturn of industry for any reason, redundancy of employees may be necessary. Redundancy means a situation where an employee ceases to be employed by Cleary Bros, as initiated by Cleary Bros other than for reasons of misconduct or refusal of duty.

An offer of redundancy can be made to any individual employee or group of employees at any time.

The following notice periods shall apply:

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks

5 years and over	4 weeks
------------------	---------

In addition to the notice above, employees over 45 years of age at the time of the giving of notice with not less than two years continuous service shall be entitled to an additional weeks notice.

The following payment shall be made to an employee made redundant in accordance with the above:

Years of Service	Under 45 years	Over 45 years
Less than 1 year	Nil	Nil
1 year and less than 2 years	4 weeks	5 weeks
2 years and less than 3 years	7 weeks	8.75 weeks
3 years and less than 4 years	10 weeks	12.5 weeks
3 years and less than 5 years	12 weeks	15 weeks
5 years and less than 6 years	14 weeks	17.5 weeks
6 years and over	16 weeks	20 weeks

After 6 years service an additional payment will be on the basis of three (3) weeks per completed year of service over six years plus pro-rata entitlement for completed months in the final year. Total redundancy payment shall not exceed the equivalent of 52 weeks. Casuals shall not receive any notice nor severance pay.

Clause 11 Chain of Responsibility

The Company will have in place by 1st July 2003 a procedure whereby contractors confirm in writing prior to payment for services that their obligations stated below are fully met.

- 1) payment of wages and allowances to all my/our employees
- 2) payments to all my/our nominated subcontractors
- 3) payment of all my/our statutory obligations including payroll tax if applicable
- 4) payment of my/our workers compensation insurance premiums (copy of workers compensation certificate of currency to be attached, if not previously provided)

Appendix No 4 contains a copy of the form to be executed by the contractor.

Clause 12 Blood Donor Leave

A transport worker who is absent during normal working hours for the purpose of donating blood shall not suffer any deduction of pay up to a maximum of 2 hours on each occasion and subject to a maximum of 4 separate occasions for annum.

A transport worker taking leave referred to above shall arrange per his/her absence to be on a day suitable to the Company's operation and be as close to the ending of his/her ordinary working hours, provided that he/she shall not leave to donate blood prior to two hours before the end of his/her ordinary working hours and shall not perform driving duties of at least 8 hours after donating blood.

The transport worker shall notify the company as soon as possible (but at least 7 days prior to or as agreed with their supervisor) of the time and date upon which he/she is requesting absence for the purpose of donating blood.

Proof of the attendance of the transport worker at a recognised place for blood donation and the duration of such attendance shall be furnished to the satisfaction of the company.

Clause 13 Volunteer Emergency Services & Bush Fire Fighters Leave

Any transport worker who is a member of a volunteer emergency service or bush fire brigade shall be entitled to take leave of absence if required to attend an emergency during a period that they would be ordinarily

working. Such entitlement to leave shall operate in the same manner as Personal / Carer's leave operates in Transport Industry (State) Award.

Proof of attendance at any emergency to be furnished to the satisfaction of the Company.

Clause 14 Service Fee

Leave reserved.

Clause 15 Employee Deductions

All non statutory, agreed and subsequently authorised deductions from an employees pay shall be applied to the purpose of the deduction:-

within 30 days of the deduction occurring or

No later than the date to when the installment is due to be paid to the recipient institution where the recipient institution has an instalment period of longer than 30 days.

All deductions made will appear on the employees next pay advice.

Clause 16 Union Picnic Day

The benefits of Clause 20 - Union Picnic Day of the Transport Industry (State) Award shall apply to all transport workers who are covered by this agreement and who are financial member of the union - this includes casual employees hired directly by the company who work a minimum of 38 hours per week and full time for a period of three months prior to the picnic day.

This will not include casuals hired through an employment hire agency or subcontract carriers.

Clause 17 Union Recognition & Union Membership

- i) The company recognises the T.W.U as being the union that shall represent transport workers covered by this agreement. This representation will extend to all other terms and conditions of employment as covered under the Transport Industry (State) Award.
- ii) The company makes a commitment to recommend, in compliance with the current laws, that all transport workers covered by this agreement shall join the T.W.U.
- iii) All new employees covered by this agreement shall upon induction be given an application form to join T.W.U. If they so desire.

Clause 18 Review and Renegotiation

The parties agree the Consultative Committee will review the Agreement every six months, and shall commence negotiations at least six months prior to its expiry date with a view to reaching agreement on the terms of a new Enterprise Agreement.

SIGNATORY PAGE

This Agreement is executed for and behalf of the following Parties.

For and on behalf of Cleary Bros (Bombo) Pty Limited

Signed By:
Bob Elvy
Chief Executive Officer

Date:

For and on behalf of Transport Workers Union of Australia (New South Wales Branch)

Signed By:

Date:

State Secretary

Employee Members - Consultative Committee

Signed By:

Date:

Ron Bryant

Divisional Manager - Concrete, Quarrying and Transport

Signed By

Date

TWU Organiser

Signed By

Date

Signed By

Date

Signed By

Date

Signed By

Date

APPENDIX 1 TABLE 1 CLASSIFICATION

Matrix Pay Rates		Wage Increase No 1 1 February 2003	Wage Increase No 2 1 July 2003	Wage Increase No 3 1 January 2004
Classification	Wage Rate \$			
Transport Worker	Applicable as at 1 July 2002	3%	2%	5.0%
Grade 1	538.27	554.42	565.19	592.10
Grade 2	557.07	573.78	584.92	612.77
Grade 3	570.11	587.21	598.61	627.12
Grade 4	581.46	598.90	610.53	639.60
Grade 5	610.69	629.01	641.22	671.76
Grade 6	618.04	636.58	648.94	679.84
Grade 7	654.53	674.17	687.26	719.99
Grade 8	685.80	706.37	720.09	754.38

The above increases apply to the individuals employees pay rate received by them on 31/12/2002. The increase provided above will be applied to an employees ordinary rate of pay. The ordinary rate of pay shall mean the employees award rate plus over award payment. The ordinary pay rate after the increase for each employee party to this agreement is recorded in a written form in the wages record of the company which will be maintained at Cleary Bros office.

APPENDIX 2 TO EBA PROTECTIVE CLOTHING AND UNIFORMS

Cleary Bros. shall issue to each employee:

2 Pairs Trousers, 3 Light Shirt with Cleary Bros Logo, 1 Jacket, 1 Sloppy Joe.

The employer shall supply suitable footwear to employee where necessary free of charge.

Each employee shall hand in for exchange all clothing and safety apparel on a fair wear and tear basis.

Suitable gloves, aprons, goggles, masks, ear / hearing protection and safety helmet shall be supplied by the employer for employees where necessary.

Suitable and adequate waterproof clothing shall be supplied by the employer free of charge to employees who are required to work in the rain.

Suitable sun screen protection shall be supplied by the employer for all outside working conditions and this will comprise of a suitable wide brimmed canvas hat. In addition the recommended sunscreen lotion by the Cancer Council will be made available and accessible at all company sites and depots for the employees use.

Each employee shall sign for each item of clothing of safety equipment which shall only be used for Cleary Bros work purposes and shall be recorded in an inventory book showing items issued and items returned. Such clothing remains the property of employer and must be returned to the employer on termination.

Where an employee is required to grease machinery or vehicles or carry out work on BHP premises one pair of overalls will be supplied.

Protective clothing must be worn by all employees appropriate to the requirements of their job. Uniforms must be worn by all full time employees.

APPENDIX 3 - (FORM 1)

FIRST WRITTEN COUNSELLING

Employee	_____	Department	_____	Date	_____
Reason for Counselling Present	_____ _____ _____				
Situation	_____ _____				
Employees Comments	_____ _____				
Commitments to change/prevent re-occurrence Employee	_____ _____				
Signature	_____			Date	_____
Employer/Management	_____				
Review Date	_____	Other Action	_____		
Signatures - Management	_____	Name	_____		
Witness Union	_____	Name	_____		
Other	_____	Name	_____		

OFFICIAL WARNING - FIRST COUNSELLING

This is a record of the first written counselling under the organisation's discipline Procedure.

YOU ARE HEREBY OFFICIALLY WARNED FOR THE ABOVE MATTER.

Any further breach may lead to further counselling or termination of employment.

APPENDIX 3 - (FORM 2)

FINAL WRITTEN COUNSELLING

Employee _____ Department _____ Date _____
Date of first written counselling _____
Reason for counselling _____
Present _____

Review Date/s _____
Situation _____

Employees Comments _____

Commitments to _____
change/prevent re-occurrence _____
Signature _____ Date _____
Employer/Management _____
Review Date _____ Other Action _____
Signatures - Management _____ Date _____
Witness Union _____ Name _____
Other _____ Name _____

OFFICIAL WARNING - FINAL COUNSELLING

This is a record of the final written warning counselling under the organisation's discipline procedure.

YOU ARE HEREBY OFFICIALLY WARNED FOR THE ABOVE MATTER

*ANY FURTHER BREACH WILL LEAD TO TERMINATION OF EMPLOYMENT

APPENDIX 3 - (FORM 3)

TERMINATION INTERVIEW

Employee _____ Department _____ Date _____
Date of first written counselling _____
Date of final written counselling _____

Summary Dismissal YES / NO

Reason for interview _____
 Present _____
 Situation _____
 Employees Comments _____

The organisation has decided to proceed / not proceed with the termination because

Date of termination	_____	Under notice	YES / NO
		Paid in lieu of notice	YES / NO
		Summary dismissal	YES / NO
Signatures - Management	_____	Date	_____
Witness Union	_____	Name	_____
Other	_____	Name	_____
Termination advise provided			YES / NO
Certificate of service requested			YES / NO
Statement of service requested			YES / NO

I _____ Acknowledge this to be an
 Accurate account of the termination interview.

Employees Signature _____ Date _____

APPENDIX 4 - (A2)
CONTRACTORS DECLARATION OF
WAGES AND STATUTORY PAYMENTS

I/we declare that this statement applies to works undertaken for or on behalf of Cleary Bros (Bombo) Pty Ltd during the period ___/___/___ to ___/___/___ inclusive, and is to confirm that my/our obligations stated below have been fully met -

- 1) payment of wages and allowances to all my/our employees
- 2) payment sot all my/our nominated subcontractors
- 3) payment of all my/our statutory obligations including payroll tax if applicable
- 4) payment of my/our workers compensation insurance premiums (copy of workers compensation certificate of currency to be attached, if not previously provided).

I further state that where subcontractors have been engaged by me/us in carrying out the above works those subcontractors have provided similar undertakings concerning payment, including payment of payroll tax and workers compensation premium, and have provided me/us with evidence of workers compensation insurance being in place.

Declared by:

Signature:

Name:

Title:

(for a company person must be a director or company secretary)

Company:

ABN:

Date:

APPENDIX 5

TWU DELEGATE CHARTER OF RIGHTS

TWU Workplace Representatives hold the most important role in the Union. The Union Representative has the key role of representing the collective and individual hopes, aspirations and needs of the workers in their workplace.

Workplace Representatives are critical in improving wages, conditions and health and safety in the workplace.

It is time that TWU Workplace Representatives received proper recognition through a charter of Workplace Representatives' Rights, and that these rights be enshrined in all enterprise bargaining agreements that the TWU is a party to.

TWU workplace Representatives shall have the following rights:

The right to be treated fairly and to perform their role as Union Delegate or Workplace Representative without any discrimination in their employment.

The right to formal recognition by the employer that endorsed Union Representatives to speak on behalf of Union members in the workplace.

The right to bargain collectively on behalf of those they represent.

The right to consultation, and access to information about the workplace and the business, excluding any information that is "Commercial in Confidence".

The right to paid time to represent the interests of members to the employer and to industrial tribunals.

The right to paid time during normal working hours to consult with Union members.

The right to paid time off to participate in the operation of the union.

The right to paid time off to attend accredited Union education and training.

The right to address new employees about the benefits of Union membership at the time that they enter employment.

The right to discuss Union and workplace matters with all employees at the workplace.

The right to access to a telephone, facsimile, photocopying, internet and e-mail and office facilities for the purpose of carrying out work as a delegate and consulting with workplace colleagues and the Union.

The right to place Union information on a notice board in a prominent location in the workplace.

The right to take leave to work with the Union.

These rights enshrined in enforceable enterprise bargaining agreements.

TWU Workplace Representatives shall have the following responsibilities:

To provide awareness and understanding of the Union's aims and achievements whenever possible.

To know the profile of Union members in the workplace.

To recruit and involve employees in the workplace in the Union and its activities

To be approachable and helpful to Union members in the workplace.

To seek out and encourage other Union members to take on roles and responsibilities.

To provide up to date and relevant Union information to Union members in the workplace.

To regularly undergo Union education and training.

To represent the views of the members.

To represent Union members fairly and accurately in negotiations and with individual grievances.

To keep in regular contact with the Union Organiser and other Union Representatives in the workplace.