

## **REGISTER OF ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA05/196

**TITLE: Austral Bricks Production Workers Agreement  
Agreement 2005**

**I.R.C. NO:**

**DATE APPROVED/COMMENCEMENT:** 20 May 2005 / 5 April 2005

**TERM:** 36

**NEW AGREEMENT OR  
VARIATION:** New.

**GAZETTAL REFERENCE:** 19 August 2005

**DATE TERMINATED:**

**NUMBER OF PAGES:** 21

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by Austral Brick Company Pty Limited, engaged in production of clay brick and pavers. It will not apply to Maintenance Employees at Plants 1, 2 and 3 who work in or in connection with such manufacture, who fall within the coverage of the Brick and Paver Industry (State) Award.

**PARTIES:** Austral Brick Company Pty Limited -&- The Federated Brick, Tile and Pottery Industrial Union of Australia, New South Wales Branch

# **THE AUSTRAL BRICKS PRODUCTION WORKERS' AGREEMENT 2005**

## **1. Parties**

The Austral Brick Company Pty Ltd, NSW Division (the Company) and The Federated Brick, Tile and Pottery Industrial Union of Australia (NSW Branch), (the Union).

## **2. Application**

This Paid Rates Agreement is binding on The Austral Brick Company Pty Ltd; The Federated Brick, Tile and Pottery Industrial Union of Australia (NSW Branch) representing their Members, Production Employees of the Company, and Production Employees of the said Company in respect to employment conditions and rates of pay for the Company's Production Employees engaged in the manufacture of clay bricks and pavers at the Horsley Park Plants 1,2&3 located at Wallgrove Road, Horsley Park NSW 2175 and the Bowral Plant at Kiama Street, Bowral NSW 2576.

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## **3. Date and Period of Operation**

This Agreement will operate from the first pay period to commence after 5th April 2005 providing the Agreement has been approved by the Industrial Relations Commission of New South Wales, and will continue

in force for three (3) years until 5th April 2008, subject to the provisions of the New South Wales *Industrial Relations Act 1996*.

#### **4. Scope**

This Agreement will cover all Employees engaged in the production of clay bricks and pavers. It will not apply to Maintenance Employees at Plants 1,2 &3 who work in or in connection with such manufacture.

This Agreement is to be read and interpreted in conjunction with the Brickmakers and Paver Industry (State) Award (the Award). It contains some additions and/or modifications to the rates and conditions of that Award. Where there is any inconsistency between this Agreement and the Award, the Agreement will prevail.

#### **5. Objectives**

- (a) The objectives of this Agreement are to continue to facilitate:
  - (i) flexible working hours
  - (ii) workplace productivity
  - (iii) the development and maintenance of  
the most productive and harmonious  
working relationship obtainable.
- (b) An important factor in reaching the above objectives is the continued development of the working environment where all parties are involved in the decision making process. Both Management and Employees are committed to a continuation of positive co-operation in implementing work practices that are flexible and meet the requirements of the Company.

#### **6. Workplace Efficiency**

- (a) It is the objective of the parties to this Agreement to continue to implement workplace practices providing for more flexible working arrangements to improve the efficiency and productivity of the Company, enhance skills and job satisfaction, and assist positively towards making the Company a more efficient enterprise.
- (b) In particular, Employees will perform a wide range of functions and duties, including work incidental or peripheral to their main tasks according to training and competency. They will take all necessary steps to ensure the quality, accuracy and completion of any task. (1994Agreement)
- (c)
  - (i) In support of the commitments in clauses 6a&b which call for the continued implementation of more flexible working arrangements and the performance of a wider range of duties the parties agree as follows. Continuous operation of the brickmaking machinery during rostered shifts is a highly desirable productivity enhancement and therefore the production workers offer the following arrangements to support the recent agreement with the Company's maintenance employees for the purpose of covering unexpected and un-avoidable absenteeism by operators.
  - (ii) Employees unable to attend their normal shift will use their best endeavours to notify their shift supervisor by telephone at least two (2) hours prior to normal commencement so that a suitable replacement can be found. Employees who have repeatedly failed, (two (2) times), to provide any notice before the commencement of their shift will go unpaid for the first two (2) hours of any such absence regardless of any balance of sick leave due.
  - (iii) Management upon notification will in the first instance ask any suitably qualified operators on the current shift to stay back on overtime to allow suitably qualified operators on the shift

following the absence to be contacted and called-in early to cover the balance of the absence on overtime. In the interests of safety it is preferable that each individual cover not more than half the shift so that the working of 'double shifts' that result in unacceptable levels of fatigue is actively discouraged.

- (iv) Operators who are called-in early as a result of short notice absenteeism discussed above and who commence work within two (2) hours of being contacted will be entitled to a call-in bonus equivalent to two (2) hours pay at their ordinary time rate of pay. This payment will have no application for any purpose other than short notice call-in to cover unplanned overtime. In the case of overtime to cover an absence which is pre-arranged such as annual leave the payment of a call-in bonus will have no application regardless of when the coverage arrangements are agreed.
- (v) While these arrangements are being made and until a suitable relief production operator arrives it is acceptable that suitably trained members of the maintenance team can stand-in as relief operators to maintain productivity.
- (vi) In order to facilitate these arrangements the Company seeks Senior Production operators who are skilled in all areas of the Plant (pay level D) to volunteer as trainers for volunteer stand-in operators from the maintenance team.
- (vii) The Company will endeavour to have a reasonable number of Employees on each shift multi-skilled in the operation of more than one section of the plant to facilitate relief for holidays and other normal absences as well as to enable cross training.
- (viii) Records of short notice call-ins and stay-backs will be maintained in the shift supervisor's diary and any payments in accordance with this clause must be authorised in writing on that Employee's bundycard/timesheet by the Plant Manager prior to payment by the pay office. Any roting of this bonus will be considered serious misconduct by all parties involved.
- (ix) The intention of this clause is to enable continuous operation of production machinery during rostered production shifts and not to create an alternate workforce whose purpose is to maintain production during industrial action on the part of the production workers and it is not designed to take the jobs of the existing production workforce. (2002 Agreement)

This variation shall take effect on and from 10 September 2004. (2002 Agreement)

- (d) In case of machine breakdown, Employees will ensure that the plant is kept clean and free from spent materials. (1996 Agreement)
- (e) Employees agree that Maintenance Employees can change augers or air bags. (1988 Agreement)
- (f) Kiln Burners at Plant 2 agree to sidetrack kiln cars from No.9 setter and to set one (1) kiln car per shift (on average). (1988 Agreement)
- (g) Productivity undertaking by the Union and its members for (2002 Agreement)

The Union and its members commit to the following productivity undertaking:-

It is recognised by the parties to this Agreement that increasing competitive pressures are upon the brick industry as a result of new technology, new products and new building systems.

The Union and its members are concerned about the effect these trends will have on the long term viability of the brick industry and the interests of its members in maintaining employment, training and career development opportunities. These concerns are validated by the loss of employment opportunities to its members in the clay pipe industry over the last decade.

For these reasons the Union and its members agree to actively work in cooperation with Management of The Austral Brick Company Pty Ltd to achieve its goal of increasing the productivity of Plant personnel to current worlds best practice by taking advantage of the latest developments in technology and

production management systems (examples of which are automation, video and telecommunications as well as computerisation).

The parties to the Agreement including the Brick Tile and Pottery Union recognise that the adoption of a best practice program is in the interest of the clay brick industry and its Employees who will benefit not only through increased job security but also by acquiring up to date skills. These skills in the use of the latest technologies will improve the quality of the Employees work life at Austral and are also transferable across industries and will therefore maintain the long term employability of its members. (2002 Agreement)

### **7. Career Progression and Training**

- (a) The parties to this Agreement continue to recognise that a strong commitment to skill development is required in order to increase efficiency and productivity.
- (b) Opportunities will be made available, wherever practicable, to enable Employees to develop skills and competencies for progression through the classification structure.
- (c) Employees will be encouraged to progress to the highest level personally attainable, consistent with the needs of the enterprise.
- (d) When a new Employee commences at a high level due to particular skill requirements, that Employee must "backfill" lower level skills within twelve (12) months in order to ensure full flexibility of the enterprise.

(2002 Agreement)

### **8. Casual/Contractor Employment**

- (a) Casual/Contractor Labour may be employed on the basis of one (1) casual/contractor Employee to every ten (10) full time Production Employees at Plants 1,2,3 and Bowral , in a particular week. (This basis may be reviewed by the Consultative Committee).

Such casual Employees may be used to cover:

Employees on annual leave or extended sick leave,

Employees undergoing training requirements, and

the need to supplement labour during peak load periods,

provided that

- (i) they are not used to replace full time employment and normal overtime,
  - (ii) they only work overtime after all full time Employees have declined to work overtime, and
  - (iii) whilst they are employed there will be no retrenchments of full time Employees.
- (b) A casual Employee is one specifically engaged as such and paid a loading of an additional 20% on the wage rate prescribed in this Agreement. This loading is in lieu of non-payment for sick leave, Public Holidays, annual leave and long service leave.

### **9. Hours (Day Workers)**

- (a) The ordinary hours of work will be thirty eight (38) per week.

- (b) Ordinary hours will be worked between the hours of 6.00am and 6.00pm with a maximum of eight (8) hours (apart from meal breaks), worked consecutively, on any one (1) day, including the Thursday before a Friday Public Holiday.

However, ordinary hours may be worked in the period Monday to Sunday by agreement between the Company and the Employees, provided that Employees will not be required to work in excess of twelve (12) consecutive hours per day (apart from meal breaks).

- (c) The Plant Manager may fix the starting time in the Plant Manager's Yard within the limitations in subclause (b) above, and may alter it from time to time either with the consent of the Employees or by posting the alterations in a convenient place.
- (d) Employees will be provided with a meal break of not less than twenty (20) minutes and not more than thirty (30) minutes no longer than five (5) hours after commencing work. The morning rest period will be deemed as time worked.
- (e) If an Employee or group of Employees is required to work during their usual meal break, due to an emergency or for the purpose of maintaining production, they will be allowed to take their meal break when the other Employees have resumed work and relief is available.
- (f) Employees are to clock on and off at the bundy clock, be at their working station by the commencement of the shift and to remain at their working station until the bell sounds for morning tea, lunch and end of shift. (1988 Agreement)
- (g) Employees agree to work a rostered meal break to keep machines on line. (1988 Agreement)

## **10. Shift Workers**

10.1 Employees deemed shift workers are those that are engaged on a working pattern that is either fixed or rotating and requires one or more of the following working patterns continuous shift, seven (7) day shift, afternoon shift or night shift, as defined in the Award.

### 10.2 Hours Of Work

- (a) The ordinary hours of shift workers will be thirty eight (38) per pay period and each shift will not exceed eight (8) consecutive hours inclusive of a paid meal break.

However, if the Company and the Employees agree, a greater number of hours may be worked providing that Employees are not required to work in excess of twelve (12) consecutive hours per shift.

- (b) In Plants 1,2,3 and Bowral shifts Monday to Friday are to be equal eight (8) hour shifts with no overlap except that the one (1) short shift per week is to be of six (6) hours duration. Lunch period is to be twenty (20) minutes and paid tea break to be ten (10) minutes
- (c) The starting and finishing time for shift workers will be set by the Company to best service the effective operation of the Plant.

However, the Company may alter the starting and finishing times and vary the shift overlap times in any Plant in order to enable a factory to respond flexibly and maximise production in the pattern of demand for the Company's product.

- (d) Rosters will be provided to enable weekly rotation and equity. An Employee's place on a roster will not be changed with less than forty eight (48) hours notice unless payment of penalty rates is made. However, the notice period will change to seven (7) days if and when it becomes a provision of the Award.
- (e) Employees will observe punctuality for start times by clocking on prior to their normal shift at a time which will allow them to be at their place of work at the start time so that machines do not

stop on shift changes, and to remain at their working station until the bell sounds for morning tea, lunch and end of shift. (1988 Agreement)

- (f) A continuous or seven (7) day shift worker will have added to the worker's annual leave period, one (1) extra day for any holidays (as prescribed by the Award) which fall within the leave period.

### 10.3 Overtime - Shift Workers

- (a) An Employee who is engaged on shift work for less than five (5) shifts in any working week will be paid overtime rates for the time worked as a shift worker in that particular week. Overtime rate will be as per Clause 6(2) of the 1996 Award as defined in Clause 4 of this Agreement
- (b) The above overtime penalty will not apply if:
  - (i) the Employee has been engaged on continuous shift work for more than one (1) week, or
  - (ii) the Company and the Employee have agreed to work a greater spread of ordinary hours per shift over a lesser working week, or
  - (iii) The lesser number than five (5) shifts worked is due to the action of the Employee, or
  - (iv) the Employee is a regular burner or tunnel kiln operator to whom Clause 21(vi) of the Award applies.

## 11. Overtime - All Employees

- (a) Overtime work will be so arranged that, wherever practicable, Employees have at least eight (8) hours off duty between successive days.

However, an Employee whose ordinary working time commences on the following day before the Employee has had eight (8) consecutive hours off duty, will be released until the eight (8) consecutive hours are completed. The Employee will suffer no loss of pay for the ordinary working time occurring during the Employee's absence from duty.

## 12. Sick Leave

- (a) An Employee, other than a casual Employee, who is absent from work on account of personal illness, or injury by accident not arising out of and in the course of employment will be entitled to paid leave of absence equivalent to five (5) days in the first year of service and eight (8) days for each subsequent year of service. One day will be counted as 7.6 hours and payment will be subject to the following conditions:
  - (i) Sick leave taken during the first three (3) months of employment (which satisfies the other provisions of this clause) will only be paid for after the Employee has been employed for three (3) months.
  - (ii) No payment will be made for any absence for which workers' compensation is paid.
  - (iii) The Employee will not be entitled to payment in respect of any time lost on an ordinary working day on which, had the Employee attended for duty, the Employee would not have been required to work.
  - (iv) The Employee will advise the Company of the expected absence and state, as far as practicable, the nature of the illness or injury, refer as per notification in Clause 6 (c)(ii) two (2) hours notice required.
  - (v) For absences of three (3) single days or more in any sick leave year the Employee will provide satisfactory evidence of the illness or injury.

- (vi) The yearly entitlement of sick days will apply to the sick leave year commencing 1 January 1974 and continue thereafter. Continuous service with an Employer prior to this date will be taken into consideration in assessing an Employee's sick leave entitlements.
  - (vii) Employees working the eleven (11) hour Monday to Sunday can elect to be paid for a day of at 7.6 hours or the length of the actual day they were sick provided their entitlement is debited for the number of hours they elect.
- (b)
- (i) Any untaken sick leave at the end of each year's continuous service will accumulate and be added to the Employee's entitlement for the taking of genuine sick leave except as provided in sub-clause (d).
  - (ii) In place of adding the accumulation to the entitlement, the Employee may apply for a bonus made up of wages equivalent to the outstanding days of the current year's entitlement for each full day of untaken sick leave during the current year.
  - (iii) The sick leave entitlement for each year of service will be calculated as follows:
    - \* For employment commenced before 31 December each year, pro rata until an Employee has reached 31 December of the following year after employment.
    - \* For employment thereafter, the period from 1 January to 31 December of each year.
- (c) Continuous service will be deemed not to have been broken by absence on sick leave which meets the above requirements.
- (d) It will also be deemed not to have been broken in the case of leave of absence granted by the Company or other reasonable cause (proof of which will be on the Employee).

### 13. Wages

- (a) Wages will be paid by EFT on Thursday of each week. Changes may be made to accommodate unusual situations or circumstances providing they are in accordance with the Industrial Relations Act 1996.
- (b) Base Rate Increase

The Company will provide the following base rate increase:

The following wage increases will apply on the base rate of pay from the first full pay period commencing:-

  - (i) 5th April 2005 - 4%
  - (ii) 5th April 2006 - 4%
  - (iii) 5th April 2007 - 4%
- (c) Safety Awareness Incentive

For the duration of this Agreement, an annual Safety Awareness Bonus of \$345.00 (gross) will be paid to each Employee who successfully completes each twelve (12) month cycle of continuous service without sustaining a "lost time injury" as at the 5th April each year for the duration of this Agreement.

For the purpose of this Agreement, a "lost time injury" is defined as a compensable injury / illness occurring out of or in the course of employment where time lost from work is one (1) full day / shift or more.

(d) Attendance Bonus

The Attendance Bonus will be lost to any Employee who takes time off work during the week for any reason other than prearranged annual or long service leave. Any person who goes home sick after a minimum of four (4) hours work on any day or who is late by a total of not more than two (2) hours in a pay week, will not lose this attendance bonus. [2002 Agreement]

There will be an exception to the loss of this attendance bonus for one single days absence per year if the Employee provides a Doctors certificate for the day. In addition any person who is off work by prearranged and authorised leave without pay will only lose the bonus for that days absence. [2002 Agreement]

This attendance bonus will be made up of (and replace) all existing weekly monthly and yearly incentives (including KPI's travel allowance, Kmart vouchers and \$25 bonus on good attendance) but excluding production bonuses.

(2002 Agreement)

The weekly attendance bonus will be \$60 per week at Plants 1,2 & 3 and Bowral. This will be increased as per the outcome in Clause 13(b).

(e) Shift Allowances

Afternoon Shift 15%

Night Shift 30%

Plant Kiln Operators will receive a 10% shift loading. (2002 Agreement)

#### **14. Public Holidays**

When a Public Holiday falls on a day where ordinary hours are worked, it will be classed as that day and no time off in lieu will be available to be taken on another day.

i.e. eight (8) hours Monday to Thursday and six (6) hours on Friday for Plants 1, 2 & 3 and Bowral.

Employees working the eleven (11) hour (Monday-Sunday) work pattern will be required to work on Public Holidays that fall during their normal work time. Where a public holiday falls on a day which is not a normal work day the Employee will be paid 7.6 hours pay for the day.

Public holidays will be paid at single time if taken or double time and a half if worked.

#### **15. Occupational Health and Safety and Environment**

Compliances

The Employer and Employees both agree that the following issues must be complied with:

- (a) Adhere to all established site rules with respect to health, safety and environment.
- (b) Ensure safe work procedures (such as isolation procedures, environmental clean up) are followed and adhered to at all times. If there is a reason why the procedure is unworkable then report it and offer a solution.
- (c) Participate in Health, Safety and Environment meetings.
- (d) Protective clothing and/or safety equipment supplied by the Company are to be worn at all times whilst at work. (2002 Agreement)

- (e) Maintain good housekeeping practices in the work area and around the site at all times.
- (f) Reduce waste by ensuring proper handling, recycling and disposal methods.
- (g) Offer suggestions to improve health, safety and environment practices around the site and work areas.
- (h) Immediately report hazards and near misses to the Supervisor and ensure any incidents are recorded in the "Hazard Inspection Log sheets". Review and use the "Hazard Inspection Log Sheets" at every Health, Safety and Environment Committee meeting.
- (i) Participate in health, safety and environment training programs.
- (j) Participate in the Company rehabilitation program by helping injured workers return to work as soon as possible. This may include attending a Company preferred/nominated medical practitioner for the treatment or review of compensable work related injuries or illnesses.

### 16. Redundancy

- (a) Payments will be made in accordance with the following scale:

| Years of Service              | Entitlement in Weeks<br>Under 45 Years | Over 45 years |
|-------------------------------|--|---------------|
| Less than 1 year              | Nil                                    | Nil           |
| 1 year and less than 2 years  | 4                                      | 5             |
| 2 years and less than 3 years | 7                                      | 8.75          |
| 3 years and less than 4 years | 10                                     | 12.5          |
| 4 years and less than 5 years | 12                                     | 15            |
| 5 years and less than 6 years | 14                                     | 17.5          |
| 6 years and less than 7 years | 16                                     | 20            |

- (b) An Employee with seven (7) or more years service will receive, in addition to the above payments, two and a half (2½) weeks pay for each completed year of service over the seventh (7th) year; provided that the maximum amount of any payments made in accordance with this clause will be capped at fifty two (52) weeks (this includes weeks paid for the notice period) when notice is paid in lieu.
- (c) If the Company is part of a group of companies with sections other than brickmaking, Employees may be offered work in any of those sections situated in the Metropolitan area. An Employee accepting such a position will complete three months as a trial period to ascertain whether the work is suitable.

If the position is not suitable, and the Employee leaves or is terminated during the trial period, the Employee will be entitled to the payments set out in sub-clause (d) above.

This provision will not apply where Employees are transferred to work or shifts due to the Company altering its production program.

Where the Company offers to transfer an Employee to a like position at another of its brickmaking Plants in the Metropolitan area, and the Employee declines the transfer, then the employee will not be entitled to any of the payments set out in this clause.

- (d) "Week's Pay" means the all-purpose rate of pay for the Employee concerned at the date of termination and will include, in addition to the ordinary rate of pay and over-award payments, shift penalties and allowances paid in accordance with Clause 7 (Penalty Rates) and Clause 9 (Shift Allowances) of the Award. (2002 Agreement)

## 16.2 Notice of Redundancy

The conditions for notice period in relation to redundancy will be as per the Award except in the case of Employees over the age of 45 years. They will not be entitled to the additional weeks notice. (2002 Agreement)

## 17. Disciplinary Procedure

The following procedure will be adhered to by the Company and the Employees:

- (a) Employees who exhibit unsatisfactory performance or behaviour will be counselled so that they understand the standards expected of them, and will be offered assistance and guidance in achieving those standards.
- (b) Confidential written records of such counselling will be made. The Employee will be shown the written record and will have the opportunity of commenting on its contents whether in writing or orally. The record will be placed on the Employee's file where the Employee has been given the opportunity of responding to the record.
- (c) Employees whose performance or behaviour is unsatisfactory will be given adequate time to demonstrate a willingness to improve. If at the end of this period the Employee shows no willingness to improve in the opinion of the Company, then disciplinary action up to and including dismissal may be taken.
- (d) Nothing in the procedure will limit the right of the Company to summarily dismiss an Employee for serious and wilful misconduct.
- (e) At all stages of the disciplinary process the Employee will be entitled to have another available Employee present as a witness if desired. The union representative may be informed providing Employee confidentiality is not breached.
- (f) All warnings will only expire twelve (12) months after the anniversary date of the relevant warning.

## 18. Grievance Procedure

### A. Procedure in relation to a grievance of an individual Employee:

- (a) The Employee is required to notify (in writing or otherwise) the Company as to the substance of the grievance, request a meeting with the Company for bilateral discussions and state the remedy sought.
- (b) A grievance must initially be dealt with as close to the source as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- (c) Reasonable time limits must be allowed for discussion at each level of authority.
- (d) At the conclusion of this discussion, the Company must provide a response to the Employee's grievance, if the matter has not been resolved, including reasons for not implementing any proposed remedy.
- (e) While a procedure is being followed, normal work must continue.
- (f) Either party may request that the NSW Industrial Commission exercise its powers to assist in settling the dispute including through conciliation and/or arbitration.

### B. Procedure for a dispute between the Company and the Employees:

- (a) A question, dispute or difficulty must initially be dealt with as close to its source as possible, with graduated steps for further discussion and resolution at higher levels of authority.

- (b) Reasonable time limits must be allowed for discussion at each level of authority.
- (c) While a procedure is being followed, normal work must continue.
- (d) The Employee may be represented by an industrial organisation of employees and the Company may be represented by a chosen adviser for the purposes of each procedure.
- (e) Either party may request that the NSW Industrial Commission exercise its powers to assist in settling the dispute including through conciliation and/or arbitration.

### **19. Union Meetings**

- (a) All Union meetings are to be held in the Employees' own time. (1988 Agreement)
- (b) Annual Union training of two (2) days will be allowed to the delegate & co-delegate at each Plant without loss of pay.

### **20. Additional Annual Leave**

- (a) In lieu of Financial Members' Day as provided in 7.5.1(a) of the Award, as defined in Clause 4 of this Agreement, an extra day of annual leave will be added to each Employee's entitlement (and paid the same as any other days annual leave) and taken at a time mutually agreeable to the Employee and the Company. Only financial members of the union will receive payment for this day.
- (b) Employees working the eleven (11) hour (Monday-Sunday) daily work pattern will receive four (4) weeks annual leave per year. The leave is to be taken in one (1) week blocks and a one (1) week block is defined as all those shifts falling in one cycle of Monday through Sunday.

Employees working this pattern who regularly work Sundays and Public Holidays will receive an extra week's leave to be paid as a bonus in the first pay week in December each year. It will be paid at the average weekly earnings of the Employee. This will commence to accrue from 19th April 2002 and be pro-rata to December in the first year. (2002 Agreement)

### **21. Additional Long Service Leave**

- (a) Employees who commence employment with Austral Bricks Pty Ltd (as defined in Clause 2) on or after the 19th April 2005. (New Employees) will be entitled to ten (10) weeks long service leave on completion of ten (10) years continuous service.
- (b) Employees who commence with Austral Bricks Pty Ltd (as defined in Clause 2) prior to 19th April 2005 (Current Employees) will be entitled to the same long service leave benefits that they enjoyed prior to the making of this Agreement.
- (c) From the date of this Agreement for Current and New Employees, long service leave will accrued at the rate of 1 (one) week per year of continuous service.

### **22. Drugs and Alcohol**

All Company sites are to be free from the consumption of alcohol, or other mood altering substances.

After investigation by the Company, an Employee's health has deteriorated to a point where they are unable to carry out their normal duties efficiently, or that they are deemed a danger to themselves or other Employees. Then they may request the Employee to attend a Doctors Surgery for a blood alcohol or drug test before being allowed to resume work.

Repeated instances of this nature will result in counselling, warning and ultimately dismissal from employment in accordance with the Company's disciplinary policy.

Employees found consuming drugs or alcohol at work will be summarily dismissed for misconduct as per clause 17d of this Agreement. (2002 Agreement)

### **23. Anti-Discrimination**

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

It is recognised that it is unlawful to victimise an Employee because the Employee has made or may make or has been involved in a complaint of discrimination or harassment.

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.

Nothing in this clause is to be taken to effect:

- (a) any conduct or act which is specifically exempt from anti-discrimination legislation.
- (b) offering or providing junior rates to persons under 21 years of age.
- (c) any act or practice of a body established to propagate religion which is exempt under Section 56(d) of the *Anti-Discrimination Act 1977* (NSW).
- (d) a party to this Agreement from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

### **24. Occupational Superannuation**

Definitions

- (1) The Fund means
  - (a) the WHSP Superannuation Fund; or
  - (b) C + BUS Fundas may be amended from time to time and including any Superannuation schemes which may succeed them;
- (2) Ordinary wage is the amount of money usually earned by an Employee during the Employee's ordinary hours of work, or shift and included Leading Hand Allowance, shift allowance, and penalty rates the Employee may be entitled to for working ordinary hours under the Award. For the purposes of this clause the terms "ordinary time rate of pay", "ordinary rates of wage(s)", "ordinary rates" and "days pay" and "ordinary time earnings" have the same meaning. It does not include overtime payments for working outside of an Employees ordinary hours or rostered shift.

Choice of Fund

The Company will make superannuation contributions on behalf of each Employee covered by this Agreement, in accordance with the Superannuation Guarantee Charge Act 1992 (Cth) and associated legislation, as varied from time to time. Such contributions will be made into:

- (a) the WHSP Superannuation Fund; or
- (b) C + BUS Fund

The Company will provide each Employee with the opportunity to nominate a fund from (a) or (b) above into which their superannuation contributions will be made. The Employee's nomination must be recorded in writing, signed by the Employer and Employee and kept on the Employee's file.

The Company must contribute to the fund in respect of each Employee an amount at least the equivalent of the contribution required by the Superannuation Guarantee legislation but in any case not less than 9%.

For the purposes of this Agreement, in the absence of an Employee making a nomination, the default fund will be the WHSP Superannuation Fund. Those Employees already in existing Superannuation funds can remain as such but Employees who wish to vary their fund membership then Clause 24(3)(a) of this Agreement will only apply.

#### Unpaid Absences

An Employer will not be required to make a contribution on behalf of an Employee who is absent from work without pay and the Employer's contribution in any week when unpaid leave occurs will be reduced by a proportionate amount.

#### Employee Contributions

Subject to the rules of the Fund, Employees who wish to make additional contributions to the Fund are entitled to do so. They may either forward their own contributions directly to the Fund Administrators or, where it is practicable to do so, authorise the Employer to pay into the fund from the Employee's wages amounts specified by the Employee.

#### Cessation of Contributions

An Employee's eligibility for contributions to the fund will cease on the last day of employment with the Employer and the Employer must not make any contributions to the fund in respect of any period beyond that last day of employment.

### **25. Transmission of Business**

- (a) Where a business is, whether before or after the date of insertion of this clause in the Agreement transmitted from an Employer (transmittor) to another Employer (transmittee), and an Employee who at the time of such transmission was an Employee of the transmittor of the business, becomes an Employee of the transmittee:
  - (i) the continuity of the employment of the Employee shall be deemed not to have been broken by reason of such transmission; and
  - (ii) the period of employment which the Employee has had with the transmittor or any prior transmittor shall be deemed to be service of the Employee with the transmittee.
- (b) In this clause, 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.
- (c) The provisions of clause 16 'Redundancy' are not applicable where a business is before or after the date of the insertion of this clause into the Agreement, transmitted from an Employer (transmittor) to another Employer (transmittee), in any of the following circumstances:
  - (i) where the Employee accepts employment with the transmittee which recognises the period of continuous service which the Employee had with the transmittor, and any prior transmittor, to be continuous service of the Employee with the transmittee; or

- (ii) where the Employee rejects an offer of employment with the transmittee:
  - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the Employee at the time of ceasing employment with the transmittor; and
  - (B) which recognises the period of continuous service which the Employee had with the transmittor and any prior transmittor to be continuous service of the Employee with the transmittee.

**26. Brickworks Employee Share Plans**

Employees will be given the opportunity to participate in the Brickworks Employee Share Plans. Offers to participate in the Plans will be made on an annual basis subject to the Plan Trust Deed. The Company will contribute \$2.50 per week for those Employees who choose to participate in the Brickworks Employee Share Plans.

**27. No Extra Claims**

- a) The Union and each of the Employees bound by this Agreement will not pursue extra claims, for increased wages and improvement of Award conditions or over Award, for the duration of this Agreement. This includes claims relating to charges arising from Award variations or decisions of the NSW Industrial Relations Commission other than changes that are consistent with the terms of this Agreement.
- b) It is also a term of this Agreement that no industrial action will be taken by the parties bound by this Agreement for the duration of this Agreement.

**27. Signatories**

As an indication of their acceptance of the terms and conditions of this Agreement in accordance with the memorandum of understanding dated (Date) April 2005; the parties have placed their signatures below.

Signed for The Austral Brick Company Pty Ltd

\_\_\_\_\_  
 Peter Mahony  
 (Name)  
  
 \_\_\_\_\_  
 7.04.05  
 (Date)

\_\_\_\_\_  
 (Signature)

Signed for the Federated Brick, Tile and Pottery Industrial Union of Australia (NSW Branch)

\_\_\_\_\_  
 (Name)  
  
 \_\_\_\_\_  
 22.04.05  
 (Date)

\_\_\_\_\_  
 (Signature)

**Signatories - Plant Delegates**

Signed for the Federated Brick, Tile and Pottery  
Industrial Union of Australia (NSW Branch)  
Horsley Park Plant 1 Delegate

\_\_\_\_\_  
Mick Banda  
(Name)  
  
\_\_\_\_\_  
7.04.05  
(Date)

\_\_\_\_\_  
(Signature)

Signed for the Federated Brick, Tile and Pottery  
Industrial Union of Australia (NSW Branch)  
Horsley Park Plant 2 Delegate

\_\_\_\_\_  
Robert Kingston  
(Name)  
  
\_\_\_\_\_  
7.04.05  
(Date)

\_\_\_\_\_  
(Signature)

Signed for the Federated Brick, Tile and Pottery  
Industrial Union of Australia (NSW Branch)  
Horsley Park Plant 3 Delegate

\_\_\_\_\_  
Peter Hodder  
(Name)  
  
\_\_\_\_\_  
7.04.05  
(Date)

\_\_\_\_\_  
(Signature)

Signed for the Federated Brick, Tile and Pottery  
Industrial Union of Australia (NSW Branch)  
Bowral Plant Delegate

\_\_\_\_\_  
Darren Tuddenham  
(Name)  
  
\_\_\_\_\_  
7.04.05  
(Date)

\_\_\_\_\_  
(Signature)

**APPENDIX 1**

**Agreed Conditions for Eleven Hour Working Pattern**

(1) Payment for the Standard Shifts:-

Monday to Friday 11 hours, 8 Ord +2 T&0.5 + 1 Tx2

Wednesday 5.5 at Ordinary

Saturday 11 Hours, 11 hours at Tx2

Sunday 11 Hours at Tx2

The average number of hours worked in any week is 38.5

(ii) Meal Break:

These meal breaks are:

|               |            |
|---------------|------------|
| Morning Tea   | 15 minutes |
| Lunch         | 20 minutes |
| Afternoon Tea | 15 minutes |

These meal breaks are to be staggered if the supervisor feels this is necessary to maintain plant efficiency. Adherence to these breaks is to be in accordance with clause 9g of this Agreement.

(iii) Payment for overtime:-

After 11 hour day overtime is at Tx2

After 5.5 hour day first 2 hours at T&0.5 thereafter Tx2

Extra shift Monday to Friday 2hours T&0.5 thereafter Tx2

(iv) Payment of Good attendance bonus pro rata up to 5/4/02 \$25 for the first three (3) days of untaken sick leave ; once off year 2002 only. (2002 Agreement)

(v) Annual and long service leave to be taken in one (1) week block, i.e. the entire roster for that seven day period. No part weeks . Yearly entitlement to annual leave is one hundred and fifty two (152) hours. Hours paid for annual leave will be those that the employee was rostered to work and the entitlement will be debited by the same amount.

People working a spread of hours which regularly requires them to work Sundays and Public Holidays will be entitle to an extra thirty eight (38) hours annual leave at normal shift earnings which will be paid out as a bonus in December each year. Entitlement to this bonus in lieu of the fifth weeks annual leave will be on a pro rata basis for the proportion of the year each person has been on that working pattern.

(vi) Payment for Public Holidays

Double Time & Half for hours worked

Single Time for hours of the rostered shift if not worked

7.6 hours at single time for a public holiday which falls on a rostered off day

(vii) Sick pay on any day will be paid at single time. The Employee has the choice of claiming either the hours of the shift which should have been worked or 7.6 hours only, in either case the hours of leave claimed and paid will be deducted from the Employee's annual entitlement. The annual entitlement is five days at 7.6 hours in the first year of employment totalling thirty eight (38) hours; in subsequent years it is eight days at 7.6 hours totalling 60.8 hours.

(viii) The Company's preferred method of operating this working pattern is fixed 3.5 days per week as this improves communication options between Management and Employees as well as between shifts since they see each other on the Wednesday changeover. In addition this pattern automatically provides an averaging of pays without any extra work or confusion on the part of the pay office. It also provides a stable and predictable working pattern for the Employees.

In the event that an Employee is sick on a day where they are rostered to work, then the hours they were rostered to work will be deducted from their average pay at the appropriate penalty rates and their elected sick leave hours will be added on at single time to give their pay for the week. (2002 Agreement)

## **APPENDIX 2**

### **BOWRAL PLANT**

- 1) Recalcitrant Pieceworker - only paid for piecework done on any day where poor output achieved through laziness or attitude problem, provided that the Employee is not paid less than Award rate for that week. This clause will not apply where less than ten thousand (10,000) bricks are handled due to quality problems such as sticking. (2002 Bowral Agreement)
- 2) Fork Lift Drivers will check fuel, oil, water and tyre pressure, top up as required. (2002 Bowral Agreement)
- 3) Fork Lift Drivers involved in loading trucks will defer their smoko and lunch breaks when trucks are being loaded, provided the break has not commenced. (2002 Bowral Agreement)
- 4) Yard Workers will clean up by restacking fallen bricks between loading trucks. (2002 Bowral Agreement)
- 5) The Fork Lift Drivers unloading kilns will do so when kilns are hot but workable. (2002 Bowral Agreement)
- 6) In addition the Company will provide a bus to those Employees who are Austral Bricks Social Club members so that they can attend both the "Kids Christmas Party" and also the "Adults Christmas Party". (2002 Bowral Agreement)
- 7) Shift workers involved in piecework will not be paid shift payment as a % of piecework earnings but will receive payment based on their weekly ordinary rate of pay. (2002 Bowral Agreement)
- 8) Transfer of Employee Engaged in Piecework to Hourly Rates. Where an Employee has substantially commenced in shift doing piecework, and is transferred to an hourly rate job to fill an essential vacancy created by absenteeism, that Employee will be paid the equivalent of eleven thousand, two hundred and thirty (11,230) bricks stacked for that shift (eight thousand, four hundred and twenty (8,420) for a Friday.
- 9) This subclause has no application where piecework is stopped for any other reason whatsoever including but not limited to:- breakdown, shortage of raw material, product or any other resource required.
- 10) Likewise, the Company may elect to cease piecework in any area for any reason without this clause applying. (2002 Bowral Agreement)
- 11) Piece-rates shall be increased by the use of the following formula as spelled out in clause 6 of the 2000 Enterprise Agreement.
- 12) At the same time as BBW wage rates are adjusted, piece-rates will be increased by the following formula so as to maintain the relative value of piecework against the hourly rates paid to a grade "B" Employee.

New Piece-rate = Old Piece-rate x (1 + %increase/old BBW Rate B)

(2002 Bowral Agreement)

13) Agreed conditions for Burners working twelve (12) hour Shifts (Tunnel Kiln)

The tunnel kiln operators at Bowral and Management have implemented a system of twelve (12) hour shifts since October 2000. The system works on a "three (3) on" by "three (3) off" basis with shift changes at 4.00am and 4.00pm. The Company is prepared to continue with this roster while ever it is not at a cost disadvantage as a result of the system, payment for this working pattern will be:

a) Payment for the Standard Shifts:-

|           |                                    |
|-----------|------------------------------------|
| Monday    | 12 hours Ordinary                  |
| Tuesday   | 12 hours Ordinary                  |
| Wednesday | 8 hours Ordinary + 4 hours T & 0.5 |
| Thursday  | 8 hours Ordinary + 4 hours T & 0.5 |
| Friday    | 12 hours Ordinary                  |
| Saturday  | 12 hours T & 0.5                   |
| Sunday    | 12 hours at Tx2                    |

The system works on a six (6) week cycle with average hours worked of forty two (42) per week which includes the two (2) half overtime shifts shown on Wednesday and Thursday. This system results in hours paid of two thousand, four hundred and forty eight (2,448) by the Company to staff the kiln with four (4) men over a twelve (12) week cycle. This is the same cost as the Company would incur under a traditional seven by eight (7x8) hour continuous roster.

b) Payment for Additional Overtime

After 12 hour day, overtime is at Tx2

Extra shift Monday to Friday, 2 hours T&0.5, thereafter Tx2

c) Annual and Long Service leave is to be taken in one (1) week blocks, i.e. the entire roster for that seven (7) day period. No part weeks. Yearly entitlement to annual Leave is on hundred and fifty two (152) hours. Hours paid for Annual leave will be those that the Employees were rostered to work and the entitlement will be debited by the same amount.

Employees working a spread of hours which regularly requires them to work Sundays and Public Holidays will be entitled to an extra thirty eight (38) hours Annual Leave at normal shift earnings which will be paid out as a bonus in December each year. Entitlement to this bonus, in lieu of the fifth (5th) week's Annual Leave, will be on a pro rata basis for the proportion of the year that any person has been on that working pattern.

d) Payment for Public Holidays

In any twenty four (24) hour Public Holiday, the Company would have incurred sixty eight (68) hours cost; being twenty four (24) hours at double time and on half (Tx2 & 0.5) plus a further eight (8) hours at single time for the kiln operator who was rostered off. The Bowral tunnel kiln operators have elected to have this paid as eight (8) hours single time to each of the rostered off kiln operators and the balance split evenly between the two (2) rostered on kiln operators.

e) Sick pay on any day will be paid at single time. The Employee has the choice of claiming either the hours of the shift which should have been worked or 7.6 hours only, in either case the hours of leave claimed and paid will be deducted from the Employee's entitlement. The annual entitlement of five (5) days at 7.6 hours in the first year of employment totalling thirty eight (38) hours; in subsequent years it is eight (8) days at 7.6 hours totalling 60.8.

In the event that an Employee is sick on a day where they are rostered to work, then the hours they were rostered to work will be deducted from their average pay at the appropriate penalty rates and their elected Sick Leave hours will be added on at single time to give their pay for the week.

### APPENDIX 3

#### PAY RATES AND ALLOWANCES

##### BPTU Pay Office Classifications

| Class | Award Classification                                   | Austral Classification | Weekly Wage           | Hourly Wage | Weekly Wage           | Hourly Wage | Weekly Wage           | Hourly Wage |
|-------|--|------------------------|-----------------------|-------------|-----------------------|-------------|-----------------------|-------------|
|       |  |                        | ON/AFTER<br>19-Apr-05 | 19-Apr-05   | ON/AFTER<br>19-Apr-06 | 19-Apr-06   | ON/AFTER<br>19-Apr-07 | 19-Apr-07   |
|       |  |                        | \$                    | \$          | \$                    | \$          | \$                    | \$          |
|       | GRADE E - Cert Operator<br>(equal to C10)              |                        | 815.19                | 21.4525     | 847.80                | 22.3106     | 881.71                | 23.2030     |
|       | GRADE D - Highly Skilled Operator                      |                        | 706.50                | 18.5921     | 734.76                | 19.3358     | 764.15                | 20.1092     |
|       | GRADE C - Skilled Operator                             |                        | 691.02                | 18.1848     | 718.66                | 18.9122     | 747.41                | 19.6687     |
|       | GRADE B - Machine Operator                             |                        |                       |             |                       |             |                       |             |
|       | Class A - Primary Machine Operator                     |                        | 679.69                | 17.8866     | 706.88                | 18.6021     | 735.15                | 19.3462     |
|       | Class B - FEL Driver/Pan Room<br>Operator/Truck Driver |                        | 671.73                | 17.6772     | 698.60                | 18.3843     | 726.55                | 19.1196     |
|       | Class C - Forklift                                     |                        | 665.13                | 17.5033     | 691.73                | 18.2035     | 719.40                | 18.9316     |
|       | Class D - Burner                                       |                        | 659.62                | 17.3584     | 686.00                | 18.0527     | 713.44                | 18.7748     |
|       | GRADE A - General Hand                                 |                        |                       |             |                       |             |                       |             |
|       | Class A - Kiln Car Maint. Operator                     |                        | 674.46                | 17.7488     | 701.43                | 18.4588     | 729.49                | 19.1971     |
|       | Class B - Trainee Operator/Strapper                    |                        | 647.21                | 17.0319     | 673.10                | 17.7132     | 700.02                | 18.4217     |
|       | Class C - Crusher Area Hand                            |                        | 634.67                | 16.7019     | 660.06                | 17.3700     | 686.46                | 18.0648     |
|       | Class D - Transfer Car/Cleaner                         |                        | 634.15                | 16.6881     | 659.51                | 17.3556     | 685.89                | 18.0498     |
| 49    | Leading Hand Allowance                                 |                        | 29.75                 |             | 30.94                 |             | 32.18                 |             |
| 201   | Meal Allowance   |                        | 7.11                  |             | 7.11                  |             | 7.11                  |             |

|     |                 |                                      |        |       |        |       |        |
|-----|-----------------|--------------------------------------|--------|-------|--------|-------|--------|
| 104 | Shift Allowance | Afternoon Shift                      | 15.00% |       | 15.00% |       | 15.00% |
| 105 |                 | Night Shift                          | 30.00% |       | 30.00% |       | 30.00% |
| 107 |                 | Burners Shift                        | 10.00% |       | 10.00% |       | 10.00% |
| 40  |                 | Attendance Allowance                 | 62.40  |       | 64.90  |       | 67.49  |
| 41  |                 | First Aid Allowance                  | 1.75   |       | 1.75   |       | 1.75   |
| 52  |                 | Heavy Block Money - Kiln Car Repairs | 14.60  | 14.60 |        | 14.60 |        |

**BTPU Pay Office Classifications**

Class

|    | Rate Code | Description                               | \$     | \$      | \$     | \$      | \$     | \$      |
|----|-----------|---|--------|---------|--------|---------|--------|---------|
| 58 | WE1       | Certificated Operator                     | 815.19 | 21.4525 | 847.80 | 22.3106 | 881.71 | 23.2030 |
| 56 | WD1       | Highly Skilled Operator                   | 706.50 | 18.5921 | 734.76 | 19.3358 | 764.15 | 20.1092 |
| 57 | WD2       | Leading Hand                              | 736.25 | 19.3750 | 765.70 | 20.1500 | 796.33 | 20.9560 |
| 54 | WC1       | Skilled Operator                          | 691.02 | 18.1848 | 718.66 | 18.9122 | 747.41 | 19.6687 |
| 55 | WC2       | Leading Hand                              | 720.78 | 18.9678 | 749.61 | 19.7265 | 779.59 | 20.5155 |
|    |           | Machine Operator                          |        |         |        |         |        |         |
| 46 | WB1       | Primary Machine Operator                  | 679.69 | 17.8866 | 706.88 | 18.6021 | 735.15 | 19.3462 |
| 47 | WB2       | Leading Hand                              | 709.44 | 18.6695 | 737.82 | 19.4163 | 767.33 | 20.1930 |
| 48 | WB3       | Fel Driver/Pan Room Operator/Truck Driver | 671.72 | 17.6770 | 698.59 | 18.3840 | 726.54 | 19.1194 |
| 49 | WB4       | Leading Hand                              | 701.49 | 18.4602 | 729.55 | 19.1986 | 758.73 | 19.9665 |
| 50 | WB5       | Forklift Driver                           | 665.13 | 17.5033 | 691.73 | 18.2035 | 719.40 | 18.9316 |
| 51 | WB6       | Leading Hand                              | 694.88 | 18.2863 | 722.67 | 19.0177 | 751.58 | 19.7784 |
| 52 | WB7       | Burner                                    | 659.62 | 17.3584 | 686.00 | 18.0527 | 713.44 | 18.7748 |
| 53 | WB8       | Leading Hand                              | 689.37 | 18.1413 | 716.94 | 18.8670 | 745.62 | 19.6216 |

General Hand

|    |     |                           |        |         |        |         |        |         |
|----|-----|---------------------------|--------|---------|--------|---------|--------|---------|
| 39 | WA1 | Kiln Car Maint. Operator  | 674.46 | 17.7488 | 701.43 | 18.4588 | 729.49 | 19.1971 |
| 40 | WA2 | Leading Hand              | 704.21 | 18.5318 | 732.38 | 19.2730 | 761.67 | 20.0439 |
| 41 | WA3 | Trainee Operator/Strapper | 647.21 | 17.0319 | 673.10 | 17.7132 | 700.02 | 18.4217 |
| 42 | WA4 | Leading Hand              | 676.96 | 17.8148 | 704.04 | 18.5274 | 732.20 | 19.2685 |
| 43 | WA5 | Crusher Area Hand         | 634.67 | 16.7019 | 660.06 | 17.3700 | 686.46 | 18.0648 |
| 44 | WA6 | Leading Hand              | 664.42 | 17.4848 | 691.00 | 18.1842 | 718.64 | 18.9116 |
| 45 | WA7 | Transfer Car/Cleaner/Lab  | 634.15 | 16.6881 | 659.51 | 17.3556 | 685.89 | 18.0498 |
| 59 | WL1 | Bricklayers               | 781.38 | 20.5626 | 812.63 | 21.3851 | 845.14 | 22.2405 |