

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
'Without Prejudice' as at 8 June 2017**

No.	Clause	Reasons/Comments
ABCC - Not Compliant		
1	<p>7 Purpose and Principle Objectives of Agreement</p> <p>Utilities Management and the Single Bargaining Unit (including the Unions' Enterprise Bargaining workforce representatives) will meet as required during the life of this Agreement to review any issues arising from the agreement. Such meetings may be initiated by Utilities Management or the employee representatives.</p>	<p>29/5/17 ABCC advice - This clause does not meet the requirements of section 11.</p> <p>The ABCC stated:</p> <p><i>"The clause provides for the monitoring of the agreement by persons other than the employer and employees to whom the agreement applies."</i></p> <p>7/6/17 The objected to paragraph to be removed, the rest of the clause remains as is.</p>
2	<p>Attachment 2 – 2.3.4.2 (b) Use of Casuals</p> <p>Utilities Management will advise local employees whenever casual employment is to be used. Where there is to be a change to current practice the parties to this Agreement are to consult before casuals are engaged</p>	<p>4/5/17 ABCC advice - This clause does not meet the requirements of section 11.</p> <p>The ABCC stated:</p> <p><i>"To the extent that this clause requires the employer to consult with the union (where it is a party to the agreement), the clause requires the employer to consult with a building association or an officer, delegate or other representative of the building association in relation to the source of particular employees."</i></p> <p>5/6/17 This subclause is to be removed.</p>
3	<p>Attachment 2 - 2.5 Selection and Appointment for Vacant Positions</p> <p>All vacant positions, covered in the Utilities Management Terms and Conditions Agreement 2014 in Appendix 1A and 1B, requiring permanent appointment will be advertised internally throughout the whole organisation in the first instance. For the purpose of this clause, the "whole organisation" includes Powercor and CitiPower.</p> <p>Should a Utilities Management employee and a Powercor or CitiPower employee be deemed equal on merit for a vacant Utilities Management position, the Utilities Management employee will be selected.</p> <p>In the situation where Utilities Management wishes to</p>	<p>4/5/17 ABCC advice – This clause does not meet the requirements of section 11.</p> <p>The ABCC stated:</p> <p><i>"This clause requires the employer to consult with the union in relation to the source of employees."</i></p> <p>7/6/17 The third paragraph to be removed, the rest of the clause remains as is.</p> <p>In addition, there are other issues (not related to the ABCC) flagged to be addressed by the T&O Group.</p>

ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses 'Without Prejudice' as at 8 June 2017

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	<p>advertise the position externally then consultation and agreement will occur with the relevant union(s). Agreement will not be unreasonably withheld.</p>	
<p>4</p>	<p>Attachment 2 – 2.9.1.2 Stage 2 – Formal Counselling</p> <p>A formal counselling is conducted by the leader identifying the nature of the poor performance or behaviour and indicating that failure to address the problem may result in further disciplinary action.</p> <p>Prior to the interview the employee is to be advised that they may request the attendance of a representative of their choice to attend the interview.</p>	<p>4/5/17 ABCC advice – This clause does not meet the requirements of section 11.</p> <p>The ABCC stated:</p> <p><i>“The clause provides a right for an official of a building association to enter premises where work is performed other than in accordance with Part 3-4 of the FW Act.</i></p> <p><i>Note: A clause will not be inconsistent with the requirements of section 11 of the Building Code 2016 to the extent it provides for access to premises other than those where building work is performed.”</i></p> <p>7/6/17 The ABCC’s issue appears to be that where the employee requests a Union Official to attend a formal counselling that the attendance could be in breach of Right of Entry provisions.</p> <p>It should be noted that they inconstantly omitted to mention this concern for the same provision existing in other disciplinary stages in the agreement.</p> <p>To remedy these issues throughout the entire clause, SA Power Networks proposes to insert a sentence in the lead in text in clause 2.9.1 as follows:</p> <p><i>“For the purpose of this clause, where ‘a representative of their choice to attend the interview’ is referred to, and where that person is ultimately a Union Official, that attendance must be in accordance with Part 3-4 of the Fair Work Act.”</i></p>
<p>5</p>	<p>Attachment 2 - 3.1.1 Introduction</p> <p>Utilities Management is committed to open and honest consultation with its employees and their union representatives.</p> <p>Consultation will mean informed discussion between Utilities Management, its employee(s) and their union representative(s) on workplace change likely to have a significant impact on an employee or employees. The purpose is to consider all information, advice and opinions and to create a genuine opportunity to influence Utilities Management’s final decision.</p>	<p>29/5/17 ABCC advice - This clause does not meet the requirements of section 11.</p> <p>The ABCC stated:</p> <p><i>“Clauses 3.1.1, 3.1.2 and 3.1.3 stipulate that consultation must occur with the relevant employees and their union representatives, irrespective of whether the relevant employees have appointed the union to represent them in the procedure. These clauses do not ensure that persons are free to be represented or not represented by building associations.”</i></p> <p>7/6/17 SA Power Network proposes to amend 3.1.1, 3.1.2, and 3.1.3 so that all reference to Unions or Union Representative(s) to be changed to “chosen representative (if any).”</p>

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
'Without Prejudice' as at 8 June 2017**

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	<p>The parties recognise that there may be extraordinary circumstances where the capacity to consult in strict accordance with this clause may not be possible including where disclosure of confidential information could compromise Utilities Management's business position. In such cases, the decision will be communicated to the employee(s) and their union representative(s) and consultation will occur in relation to the means of implementing the decision.</p> <p>Nothing in subclause 3.1 prevents an employee from appointing a representative of their choice at any stage of the consultative process.</p>	
6	<p>Attachment 2 - 3.1.2 Principles</p> <p>Utilities Management acknowledges the important role its employees and their union representatives have in the change process.</p> <p>The timing, method and extent of consultation may vary according to the nature of the issue.</p> <p>Utilities Management will consult on any change proposal likely to have a significant impact on employees prior to a final decision being made (eg major changes in structure or organisation, the introduction of new technology, new work practices etc).</p> <p>Consultation will provide an opportunity for Utilities Management and the union(s) to discuss ways to minimise any adverse impact upon employees that may arise from any proposed change.</p>	As above
7	<p>Attachment 2 - 3.1.3 Guidelines</p> <p>Consultation on change proposals will take place as close as possible to the workplace where the change will impact.</p> <p>Initial consultation may be verbal and/or written. Utilities Management will provide employees and their union</p>	As above

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
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	<p>representative(s) with information concerning change proposals, including the expected impacts on employees. Where the proposed change is significant, details of those changes will be provided in writing.</p> <p>The parties recognise that some minor change issues at a workplace level may not require the involvement of union representative(s) in the consultation process. However, where an employee(s) and/or a relevant union representative(s) requests involvement in the consultation process, Utilities Management will cooperate with such requests.</p>	
8	<p>Attachment 2 - 3.3 Consultation on the Selection of Providers of Supplementary Labour and Contract for Services</p> <p>CONSULTATION ON THE SELECTION OF PROVIDERS OF SUPPLEMENTARY LABOUR AND CONTRACT FOR SERVICES</p> <p>Supplementary Labour</p> <p>Utilities Management will consult with the respective union(s) when making the selection of preferred suppliers for the supplementary labour contractor panel(s).</p>	<p>4/5/17 ABCC advice - This clause does not meet the requirements of section 11.</p> <p>The ABCC stated:</p> <p><i>"This clause requires the employer to consult with the union in relation to the source of employees.</i></p> <p><i>This clause prescribes the terms and conditions under which labour hire must be engaged."</i></p> <p>7/6/17 This clause is to be removed.</p>
9	<p>Attachment 2 - 3.3 Consultation on the Selection of Providers of Supplementary Labour and Contract for Services</p> <p>CONSULTATION ON THE SELECTION OF PROVIDERS OF SUPPLEMENTARY LABOUR AND CONTRACT FOR SERVICES</p> <p>Contract for Services</p> <p>Utilities Management will consult with the respective union(s) prior to placing contracts for defined projects (contracts for services) for core work. Where core work is defined as the management, design, construction, maintenance, administrative and clerical support of its electricity asset and</p>	As above

ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses 'Without Prejudice' as at 8 June 2017

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	telecommunications associated with the operation of that asset (excluding commercial telecommunications).	
10	<p>Attachment 2 - 7.6 Contractor Parity</p> <p>Utilities Management will instruct its contractors who provide supplementary labour for the purposes described below, that the total rate (eg Enterprise Agreement rate plus regularly paid allowances), paid by the contractor to the supplementary labour workers is equivalent to, as a minimum, the total Utilities Management rate comprised of the Enterprise Agreement rate of pay, (being the minimum pay point for the appropriate grade for 'Appendix 1A' employees), and regularly paid allowances for the classifications appropriate to the duties being performed.</p> <p>.....</p>	<p>4/5/17 ABCC advice - This clause does not meet the requirements of section 11.</p> <p>The ABCC stated:</p> <p><i>"The clause prescribes the terms and conditions under which labour hire must be engaged.</i></p> <p><i>The clause is inconsistent with section 11A(1)(b) because it requires or provides for the application of terms and conditions contained in an enterprise agreement that does not cover and apply to the relevant employer and employees. A clause of this kind imposes or purports to impose limits on the right of a code covered entity to manage its business or improve productivity."</i></p> <p>7/6/17 Clause is to be removed.</p>
11	<p>Attachment 2 – 11 Issue Resolution</p> <p>The success of the mutual relations between Utilities Management, the parties and the employees under this Agreement depends on the shared commitment to address issues in a fair and responsible manner.</p> <p>The parties agree to negotiate in good faith and on the basis of mutual trust.</p> <p>Utilities Management has an open door policy for all employees to communicate directly with leaders and managers.</p> <p>All issues of concern to management and employees (including all disputes arising under this agreement or under the National Employment Standards) will be dealt with in accordance with the following procedure with a view to issues being resolved promptly at the workplace level.</p> <p>Nothing in this procedure precludes an employee from seeking the support or representation of their union, or any other representative of their choice, at any of the following stages.</p>	<p>4/5/17 ABCC advice - This clause meets the requirements of section 11.</p> <p>The ABCC stated:</p> <p><i>"However, the entity should note that section 15(1)(b) provides that if a dispute settlement term of an enterprise agreement in respect of building work provides for arbitration of a dispute or other binding outcome, the entity must ensure that the term requires any decision of the arbiter to be consistent with the Code for the Tendering and Performance of Building Work 2016."</i></p> <p>7/6/17 The clause needs to be amended to include the following:</p> <p><i>"When arbitrating a dispute in accordance with this clause, the Fair Work Commission must ensure that any resulting decision is consistent with the Building Code as replaced or amended from time to time."</i></p>

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
'Without Prejudice' as at 8 June 2017**

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	<p>Step 1 The employee and their leader will meet to identify and define the matter causing concern. The employee and leader will discuss the matter in a genuine attempt to resolve the issue. If the matter remains unresolved, then</p> <p>Step 2 The problem is to be described in writing by the leader and referred to the manager for resolution. If required, additional parties may be identified and brought into discussions to assist in achieving a resolution. If the matter remains unresolved, then</p> <p>Step 3 Utilities Management and the employee and their representatives (if requested) will make a further attempt to resolve the issue. If the matter remains unresolved, then</p> <p>Step 4 Any of the parties may refer the matter to the Fair Work Commission for conciliation and/or arbitration, or where the parties agree, to an alternative independent mediator.</p> <p>The decision reached by such an independent mediator or the Fair Work Commission will be final and binding upon the parties, subject only to rights of appeal pursuant to the Fair Work Act 2009 (Cth) or its replacement.</p> <p>Employees will continue to work normally and the status quo will be preserved while these procedures are being followed except where the personal safety of employees is at risk.</p>	
ABCC - Implementation Issues		
12	13 Compact Relating to Professional Engineers	4/5/17 ABCC advice - Whilst this clause, on its face, is not inconsistent with section 11, its implementation

ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses 'Without Prejudice' as at 8 June 2017

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	<p>Utilities Management recognises that Professional Engineers play a vital role in the ongoing success of the business.</p> <p>Utilities Management's ongoing commitment to Professional Engineers is recognised through the existence of the SA Power Networks/Professionals Australia Compact ('The Compact').</p> <p>The Compact (dated December 2013) is a stand alone document, will not be registered, does not form part of this Enterprise Agreement and will not form the basis of an application to the Fair Work Commission to vary this Enterprise Agreement.</p> <p>The Compact may not be amended without the agreement of the parties.</p>	<p>may result in conduct that is a breach of the Building Code 2016.</p> <p>The ABCC stated:</p> <p><i>"The implementation of the clause may result in conduct which is not compliant with the Building Code if the clause is applied in such a way:</i></p> <ul style="list-style-type: none"> • <i>As to provide for terms, conditions or benefits of employment of employees of the employer;</i> • <i>That are not contained in an agreement that is registered, and applies to the employer and its employees; or</i> • <i>As to provide for such terms in an agreement that is not a common law agreement made between an employer and an individual employee."</i> <p>7/6/17 SA Power Networks position is that clause will be removed.</p> <p>The December 2013 Compact never existed and SA Power Networks has flagged the potential for this clause to be a Building Code issue for some time.</p> <p>This position was outlined in SA Power Networks' letters to Professionals Australia 19 May 2015 and 14 July 2015 and is independent of the ABCC assessment of this clause.</p> <p>The Graduate Engineer Progression Matrix and the Professional Engineer Development Subsidy elements of the Compact of the original have been preserved in an SA Power Networks' Work Instruction.</p>
13	<p>Attachment 2 - 2.14 Redeployment, Relocation and Wage/Salary Maintenance</p> <p>Utilities Management has in place a Relocation Directive and a Redeployment and Wages & Salary Maintenance Policy. Those documents are internal policies which Utilities Management, from time to time, will review. Utilities Management will consult with the relevant Unions concerning these policies with a view to reaching an agreed position which reflects a competitive business environment.</p>	<p>29/5/17 ABCC advice - Whilst this clause, on its face, is not inconsistent with section 11, its implementation may result in conduct that is a breach of the Building Code 2016.</p> <p>The ABCC stated:</p> <p><i>"The implementation of the clause may result in conduct which is not compliant with the Building Code if the clause is applied in such a way as to limit the right of the employer to make decisions about redundancy based on operational requirements (for example, by requiring the approval of a building association or representative of a building association to the redundancy of workers).</i></p> <p><i>The implementation of this clause may also result in conduct which is not compliant with the Building Code if the clause is applied in such a way as to allow for the monitoring of redundancy processes as a term of the agreement by persons other than the employer and employees to whom the agreement applies."</i></p>

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
'Without Prejudice' as at 8 June 2017**

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		<p>7/6/17 Clause to remain as is.</p> <p>The concern of the ABCC seems to be that agreement may be needed and/or the unions could apply some form of veto to change.</p> <p>That is not the case.</p> <p>These internal policies are able to be changed by SA Power Networks without agreement or any form of veto.</p>
14	<p>Attachment 2 - 2.15.2 Noticeboard</p> <p>For the purposes of displaying formal union notices pertaining to the employment relationship between Utilities Management and its employees, Utilities Management will provide noticeboards of reasonable dimensions in prominent positions.</p>	<p>29/5/17 ABCC advice - Whilst this clause, on its face, is not inconsistent with section 11, its implementation may result in conduct that is a breach of the Building Code 2016.</p> <p>The ABCC stated:</p> <p><i>"The implementation of the clause may result in conduct which is not compliant with the Building Code if the clause is applied in such a way as to result in the display of 'no ticket, no start' signs, or similar, or the application of building association logos, mottos or indicia to company supplied property or equipment."</i></p> <p>7/6/16 SA Power Networks proposes that clause 2.15.2 be altered such that the clause begins with:</p> <p>"Provided that such union notices are not inconsistent with the requirements of the Building Code,....."</p>
15	<p>Attachment 2 - 2.16 Union Representation</p> <p>The parties to this agreement acknowledge a shared commitment to address workplace issues in a fair and reasonable manner and on the basis of mutual trust.</p> <p>Utilities Management recognises that union delegates will be treated fairly in performing their union delegation role without discrimination in their employment.</p> <p>On notification to Utilities Management, an employee appointed as a shop steward/workplace representative in the work location in which the employee is employed will be</p>	<p>4/5/17 ABCC advice - Whilst this clause, on its face, is not inconsistent with section 11, its implementation may result in conduct that is a breach of the Building Code 2016.</p> <p>The ABCC stated:</p> <p><i>"The implementation of the clause may result in conduct which is not compliant with the Building Code if the clause is applied in such a way as to result in the employment of a non-working shop steward or job delegate."</i></p> <p>7/6/16 SA Power Networks proposes that clause 2.16 be altered such that the clause has added to it:</p> <p>"This clause must not be interpreted in a way which would contravene the Building Code in so far as that code prohibits Utilities Management employing a non-working union delegate."</p>

ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses 'Without Prejudice' as at 8 June 2017

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	<p>recognised as the accredited representative of the union of which the employee is a member.</p> <p>The union delegate, as officially nominated through the respective union, will be supported in their role by Utilities Management by allowing sufficient time during working hours to directly:</p> <ul style="list-style-type: none"> • represent members; • place union information on the workplace notice boards pertaining to the employment relationship between Utilities Management and its employees; and • use Utilities Management facilities including phone, fax, photocopier, computer and e-mail to directly represent their members. <p>Official union work pertaining to the employment relationship and or matters in this Agreement undertaken on Utilities Management premises outside the normal span of hours must have prior leader approval.</p>	
16	<p>Attachment 2 - 3.4.2 and 3.4.4 Consultation and Communication Forum Composition Meeting Procedure</p> <p>3.4.2 Composition</p> <p>Up to four (4) workplace representatives from each Union in addition to the Union Officials will be able to attend each CCF meeting. Utilities Management representatives will attend as nominated by Utilities Management. Utilities Management representatives will be relevant Human Relations personnel plus relevant line managers from the business and, where appropriate, possibly relevant Executive Management Group (EMG) member(s).</p> <p>The meetings will be chaired by a Utilities Management</p>	<p>4/5/17 ABCC advice - Whilst this clause, on its face, is not inconsistent with section 11, its implementation may result in conduct that is a breach of the Building Code 2016.</p> <p>The ABCC stated:</p> <p><i>"The implementation of the clause may result in conduct which is not compliant with the Building Code if the clause is applied in such a way as to allow entry to building sites by officials of a building association other than for a purpose for which a right of entry could be exercised under Part 3-4 of the FW Act or a relevant work health and safety law. Further the entity must ensure that where an officer of a building association seeks to enter premises, the officer must strictly comply with all applicable legislative requirements in Part 3-4 of the FW Act or a work health and safety law, including permit and notice requirements.</i></p> <p><i>This clause does not relieve the code covered entity's obligation to comply with section 14 of the Building Code."</i></p>

ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses 'Without Prejudice' as at 8 June 2017

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	<p>representative as nominated by Utilities Management and may vary from meeting to meeting.</p> <p>3.4.4 Meeting Procedure</p> <p>The meetings will notionally be half a day in duration. A meeting may be extended by agreement with the Unions and Utilities Management.</p> <p>The meetings will normally be held at Keswick however the venue will be determined by Utilities Management.</p> <p>The topics considered, and the main elements of any of those topics considered will be recorded and provided to the participants.</p>	<p>7/6/17 The clause needs to be amended to include the following:</p> <p>“Entry by a Union Official into Utilities Management’s premises must be in accordance with Part 3-4 of the Fair Work Act or its replacement.”</p>
<p>17</p>	<p>Attachment 2 - 4.4.1 Classification Process – Appendix 1A Positions (CRC)</p> <p>4.4.1 General</p> <p>...</p> <p>a) The classification of all positions (i.e. new, restructured and positions with incumbent employees) within Appendix 1A will be determined solely by decision of the Classification Review Committee(CRC) four (4) ordinary members, two (2) of whom will be nominated by Utilities Management and two (2) of whom will be nominated by the Unions.</p>	<p>29/5/17 ABCC advice - Whilst this clause, on its face, is not inconsistent with section 11, the implementation of this clause may result in conduct which is not compliant with the Building Code 2016.</p> <p>The ABCC stated:</p> <p><i>“The implementation of the clause may result in conduct which is not compliant with the Building Code if the clause is applied in such a way that results in the entity adopting and implementing policies and practices that do not ensure that persons are free to become or not become, members of building associations and free to be represented or not represented by building associations.”</i></p> <p>7/6/17 The ABCC identified a significant, fundamental issue in relation to the CRC ie the fact that Unions play a role in the composition and operation of the Committee.</p> <p>The ABCC is highlighting that a concern arises from non-union members having their classifications determined by a process involving mandated union participation.</p> <p>It is hard to see how a meaningful clause which incorporates a CRC could continue to exist once direct union participation is removed.</p> <p>To be further discussed.</p>

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
'Without Prejudice' as at 8 June 2017**

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18	<p>Attachment 2 - 4.4.2.1 Composition</p> <p>a) Utilities Management and the union(s) may nominate alternative members.</p> <p>b) The Independent Chair will be agreed by Utilities Management and the Unions and will be appointed for a period of two (2) years.</p>	As above
19	<p>Attachment 2 – Appendix 2 Table 2 – Disability Allowances Line Work Disability – Full</p> <p>Line Work Disability - Full</p> <p>Payable to:</p> <ul style="list-style-type: none"> • Trade skilled worker (powerline); • Trade skilled worker (mechanical); • Trade skilled worker (electrical); • General skilled worker; <p>or any other Appendix 1B classification that may be mutually agreed between Utilities Management and the CEPU Electrical Division which is required to permanently perform any work in the field on or directly connected with:</p> <ul style="list-style-type: none"> • any overhead or underground conductor or cable or any closely associated plant or equipment for the transmission or distribution of electricity; or • any equipment for the purpose of providing public lighting; or • the installation, removal, alteration or repair of any switchboard or distribution board on consumer's premises. 	<p>29/5/17 ABCC advice - Whilst this clause, on its face, is not inconsistent with section 11, the implementation of this clause may result in conduct which is not compliant with the Building Code 2016.</p> <p>The ABCC stated:</p> <p><i>"The implementation of the clause may result in conduct which is not compliant with the Building Code if the clause is applied in such a way that results in the entity adopting and implementing policies and practices that do not ensure that persons are free to become or not become, members of building associations and free to be represented or not represented by building associations."</i></p> <p>7/6/17 This clause needs to be amended to remove the required agreement of the CEPU (or any other party).</p>
20	Attachment 2 – Appendix 2 Table 2 – Disability Allowances Substation Disability – Full	29/5/17 ABCC advice - Whilst this clause, on its face, is not inconsistent with section 11, the implementation of this clause may result in conduct which is not compliant with the Building Code 2016.

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
'Without Prejudice' as at 8 June 2017**

No.	Clause	Reasons/Comments
	<p>Substation Disability – Full</p> <p>Daily allowance payable to:</p> <ul style="list-style-type: none"> • Trade skilled worker (powerline) • Trade skilled worker (mechanical) • Trade skilled worker (electrical) • General skilled worker <p>Or any other classification that may be mutually agreed between Utilities Management and the CEPU Electrical Division where such employees are engaged on substation maintenance and construction for more than two (2) hours (excluding travelling time) during any one day on the site of any substation</p>	<p>The ABCC stated:</p> <p><i>“The implementation of the clause may result in conduct which is not compliant with the Building Code if the clause is applied in such a way that results in the entity adopting and implementing policies and practices that do not ensure that persons are free to become or not become, members of building associations and free to be represented or not represented by building associations.”</i></p> <p>7/6/17 This clause needs to be amended to remove the required agreement of the CEPU (or any other party).</p>
21	<p>Attachment 2 Appendix 3 Table 1 – Special Rates Dirty Work</p> <p>Where there is a disagreement between the Leader and employee, the employee or a shop steward can, within twenty four (24) hours, ask for a decision on the employee’s claim by Utilities Management. The decision will be made within forty eight hours of it being asked for (unless that time expires on a nonworking day, in which case it will be given during the next working day), or else the allowance will be paid.</p>	<p>29/5/17 ABCC advice - Whilst this clause, on its face, is not inconsistent with section 11, the implementation of this clause may result in conduct which is not compliant with the Building Code 2016.</p> <p>The ABCC stated:</p> <p><i>“The implementation of the clause may result in conduct which is not compliant with the Building Code if the clause is applied in such a way that results in the entity adopting and implementing policies and practices that do not ensure that persons are free to become or not become, members of building associations and free to be represented or not represented by building associations.”</i></p> <p>7/6/17 This clause needs to be amended to remove “shop steward” and replace it with “their chosen representative (if any).”</p>

ABCC – Compliant

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Previous issues identified by either FWBC, the Department of Employment or SA Power Networks' legal advisers		
22	<p>5 Renegotiation Clause</p> <p>Utilities Management Pty Ltd commits to bargain collectively with parties to this Agreement and with the Unions covered by this Agreement with the aim that a new Agreement is established prior to the expiry of this Agreement. The parties will commence discussions no later than six months prior to the expiry date of the Utilities Management Pty Ltd Enterprise Agreement 2014</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant.</p> <p>7/6/17 Clause remains as is.</p>
23	<p>10 No Extra Claims</p> <p>The parties bound by this Agreement undertake that, until the nominal expiry date set out in Clause 4, they will not make any extra claims relating to terms or conditions of employment (whether dealt with in this Agreement or not) in respect of the employees covered by this Agreement.</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant.</p> <p>7/6/17 Clause remains as is.</p>
24	<p>14 Income Protection Insurance</p> <p>Utilities Management provides Income Protection Insurance which, as a minimum, is in accordance with the provisions and arrangements that were agreed between the parties at the time of its introduction. Those minimum provisions and arrangements are outlined in Attachment 15 of this Agreement.</p> <p>Additional provisions and arrangements are as set out in Attachment 16 of this Agreement.</p> <p>The addition of Attachments 15 and 16 to this Agreement, together with this new Clause 14 (which wholly replaces Clause 14 in the Utilities Management Pty Ltd Enterprise Agreement 2011) sets out the situation that now applies.</p> <p>Utilities Management may from time to time undertake</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant.</p> <p>7/6/17 Clause remains however some changes (unrelated to ABCC) are to be handled by the T&O Group.</p>

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
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	<p>competitive sourcing processes for the provision of Income Protection Insurance. Utilities Management will consult with the Unions during any such processes.</p>	
<p>25</p>	<p>Attachment 2 – 4.9 Individual Voluntary Remuneration Agreement</p> <p>This subclause shall apply for Appendix 1A employees only.</p> <p>For the avoidance of doubt, an Individual Voluntary Remuneration Agreement is an individual flexibility arrangement for the purposes of the Fair Work Act 2009 (Cth).</p> <p>Utilities Management may offer an Individual Voluntary Remuneration Agreement to an employee under the terms outlined in this clause. An Individual Voluntary Remuneration Agreement may only be entered into on a voluntary basis and will be for a fixed term. The fixed term nature of the Agreement relates to the employee's remuneration arrangement only and is not related to, and has no effect on the employee's ongoing employment with Utilities Management. An employee may request that Utilities Management consider offering an Individual Voluntary Remuneration Agreement to them.</p> <p>An employee is entitled to seek any advice/assistance they require (including from the Unions covered by this Agreement) to assess whether they wish to enter into any such Agreement.</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant.</p> <p>7/6/17 Clause remains as is.</p>
<p>26</p>	<p>Attachment 2 – 7.17 Individual Flexibility Arrangement</p> <p>Where Utilities Management intends to reach an Individual Flexibility Arrangement with an employee in accordance with this subclause, the employee is entitled to seek any advice/assistance they require (including from the Unions covered by this agreement) to assess whether they wish to enter into any such arrangement.</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant.</p> <p>7/6/17 Clause remains as is.</p>

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
'Without Prejudice' as at 8 June 2017**

No.	Clause	Reasons/Comments
27	<p>Attachment 2 – 8.13 Union Training Leave</p> <p>An employee who:</p> <ul style="list-style-type: none"> • is a member of a union or association party to this Agreement; and • has been nominated by that union or association to attend an approved trade union education course; <p>may be granted not more than five (5) days leave per calendar year to attend such training, subject to operational requirements and in accordance with Utilities Management “Trade Union Leave” guidelines</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant.</p> <p>7/6/17 Clause remains as is.</p>
<p>ABCC – Compliant but further referral to ABCC now underway Previous issues identified by either FWBC, the Department of Employment or SA Power Networks’ legal advisers</p>		
28	<p>12 Indicative Tasks Performed by Appendix 1B Employees</p> <p>The parties acknowledge the existence and performance of the indicative tasks by those employees covered by Appendix 1B of Attachment 2 of this Agreement, as detailed in Volume 1 and 2 of the folders titled ‘Indicative Tasks Amendments Register’ dated 4 October 2000. A copy of these folders is kept by Utilities Management and another copy is kept by the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia.</p> <p>Where Utilities Management and the CEPU agree, a review may be undertaken of an indicative task(s). Any such reviews will be conducted by Utilities Management and the CEPU in consultation with an affected employee(s).</p> <p>Where any change to an indicatives task(s) resulting from such a review is agreed, this will be documented in the ‘Indicative Task Amendments Register’ referred to above.</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant.</p> <p>IMPORTANT NOTE:</p> <p>7/6/17 SA Power Networks’ view is that we are amazed that the ABCC has not identified this as a clause of concern.</p> <p>The clause would appear to be at the very heart of the type of issues that the ABCC would have a problem with. That may arise because the ABCC is not aware (from the way it is worded) as to what the actual effect of the clause is.</p> <p>This clause is likely to not survive a proper final assessment by the ABCC. Therefore, before we progress further, we need to get further certainty from the ABCC. We are therefore in the process of referring this clause back to the ABCC for their attention and further assessment.</p>

ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses 'Without Prejudice' as at 8 June 2017

No.	Clause	Reasons/Comments
	This clause will not result in a wholesale review of indicative tasks, rather its operation should address any agreed deficiencies in individual indicative tasks.	
29	<p>Attachment 2 - 2.7.1 Confidentiality</p> <p>Utilities Management's requirements in relation to confidentiality will not extend beyond those normally required of employees by the law. This provision is not intended to inhibit proper communication on employee relations issues between Utilities Management, employees and their Unions.</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant.</p> <p>IMPORTANT NOTE:</p> <p>7/6/17 Whereas the ABCC has not identified an issue, SA Power Networks believes that this primary advice is at risk of being different when a final assessment is made by the ABCC.</p> <p>To avoid a potential future problem SA Power Networks believes that the reference to "Unions" should be replaced with "chosen representatives (if any)".</p> <p>This clause is likely to not survive a proper final assessment by the ABCC. Therefore, before we progress further, we need to get further certainty from the ABCC. We are therefore in the process of referring this clause back to the ABCC for their attention and further assessment.</p>
30	<p>Attachment 2 - 2.10.6 Non Transferred Employees – Redundancy</p> <p>Non Transferred Employees may be made redundant if their position is no longer required as a result of reorganisation, changed business practice/requirements, technological change or a downturn in business.</p> <p>If, as a result of the above, an employee's position is considered surplus consultation will occur with the employee(s) and their union. Severance pay will include all-purpose allowance(s).</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant.</p> <p>IMPORTANT NOTE:</p> <p>7/6/17 Whereas the ABCC has not identified an issue, SA Power Networks believes that this primary advice is at risk of being different when a final assessment is made by the ABCC.</p> <p>To avoid a potential future problem SA Power Networks believes that the reference to "Unions" should be replaced with "chosen representative(s) (if any)".</p> <p>This clause is likely to not survive a proper final assessment by the ABCC. Therefore, before we progress further, we need to get further certainty from the ABCC. We are therefore in the process of referring this clause back to the ABCC for their attention and further assessment.</p>

ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses 'Without Prejudice' as at 8 June 2017

No.	Clause	Reasons/Comments
31	<p>Attachment 2 - 4.10 Annualised Pay</p> <p>The parties to this Agreement may agree that in a particular work area an employee's pay may be based on the principle of annualising an agreed work arrangement. The following criteria apply:</p> <p>a) the annual pay will be equalised over each pay fortnight and will include, some of or all of, all elements of their rate of pay including hours worked, allowances, special rates and penalties;</p> <p>b) any annualised agreement will be based upon the rates of pay and other provisions in this Agreement. No employee entering into an annualised pay agreement will be financially disadvantaged against the terms and conditions of this Agreement;</p> <p>c) the Agreement will be in writing, and signed by Utilities Management and the employee.</p>	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant</p> <p>IMPORTANT NOTE:</p> <p>7/6/17 Whereas the ABCC has not identified an issue, SA Power Networks believes that this primary advice is at risk of being different when a final assessment is made by the ABCC.</p> <p>The reference to 'the parties' needing to agree could be an issue that breaches compliance. The ABCC (in relation to other clauses) has made clear that the unions are included in the meaning of 'parties'. That being the case, SA Power Networks wonders why this clause has not been raised as a matter of concern by the ABCC.</p> <p>This clause is likely to not survive a proper final assessment by the ABCC. Therefore, before we progress further, we need to get further certainty from the ABCC. We are therefore in the process of referring this clause back to the ABCC for their attention and further assessment.</p>
32	<p>Attachment 2 - 4.12.3 Deductions</p> <p>On receipt of a signed authorisation from an employee, Utilities Management will deduct from the employee's pay specified amounts in relation to any of the following:</p> <ul style="list-style-type: none"> • deductions to approved health funds; • deductions for approved financial institutions; • deductions for the income protection scheme operated by Jardine Lloyd Thompson; • deductions of membership subscriptions of Unions party to this agreement; and • deductions for any other purpose as may be agreed between 	<p>1/6/2017 Advice from ABCC that clause meets the requirements of section 11 of the Building Code 2016 and is compliant</p> <p>IMPORTANT NOTE:</p> <p>7/6/17 Whereas the ABCC has not identified an issue, SA Power Networks believes that this primary advice could be at risk unless it is implemented within the requirements of Section 13.</p> <p>It appears that the actual deduction of Union subscriptions does not of itself bring about non-compliance, however, Section 13 of the Code requires compliant organisations to apply freedom of association provisions in a way acceptable to the ABCC. In particular, the practice of deducting union subscriptions cannot be used to encourage union membership and the knowledge the employer gains as to who is a member of a union or not, must not be used by the employer to either advantage or disadvantage an employee. To do either of those would place an employer at odds with Section 13.</p> <p>SA Power Networks does not act in respect of this matter to breach Section 13. Therefore, we believe that this clause should be able to remain unaltered in the enterprise agreement.</p>

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
'Without Prejudice' as at 8 June 2017**

No.	Clause	Reasons/Comments
	<p>Utilities Management and its employees.</p> <p>Any amount deducted will be immediately transmitted to the respective destination.</p>	<p>Before we progress further, we need to get certainty from the ABCC. We are therefore in the process of referring this clause back to the ABCC (with the information above as to our non-breach of Section 13) for their attention and further assessment.</p>
<p>ABCC – Non-compliant but further referral to ABCC now underway</p> <p>Previous issues identified by either FWBC, the Department of Employment or SA Power Networks' legal advisers</p>		
<p>33</p>	<p>Attachment 2 – 3.2 Consultation on Changes to Roster or Ordinary Hours of Work</p> <p>If Utilities Management proposes to make changes to employees' regular rosters or ordinary hours of work, the process for general consultation outlined in subclause 3.1 will apply.</p> <p>In addition to that process, Utilities Management will ensure that:</p> <ul style="list-style-type: none"> • all affected employees are provided with information about the change; • all affected employees are invited to give their views about the impact of the change; and • proper consideration is given to any views given by the employees about the impact of the change. <p>This clause does not apply to casual employees who do not have a regular roster or set ordinary hours of work.</p>	<p>4/5/17 ABCC advice - This clause does not meet the requirements of section 11.</p> <p>The ABCC stated:</p> <p><i>"To the extent that this clause requires the employer to consult with the Union in relation to the implementation of a roster arrangement this clause limits the ability of an employer to determine with its employees when and where work can be performed to meet operational requirements."</i></p> <p>7/6/17 SA Power Networks does not understand the ABCC's view of non-compliance in respect of this. The clause provides for consultation only and does not provide for agreement being required or any power of veto.</p> <p>It is doubtful whether the concern of the ABCC would be extinguished in respect of this clause just because of the changes to 3.1.1, 3.1.2 and 3.1.3 (changing 'union' references to 'chosen representative (if any)'). It appears that the ABCC is seeking to remove any third party involvement in this. It is likely that, in effect, they seek the removal of the words, "the process for general consultation outlined in subclause 3.1 will apply. In addition to that process," from the clause.</p> <p>SA Power Networks will seek further clarification from the ABCC.</p>
<p>34</p>	<p>Attachment 2 – 9.7.2.1 Changes to the Method of Working Shifts</p>	<p>4/5/17 ABCC advice - This clause does not meet the requirements of section 11.</p> <p>The ABCC stated:</p>

**ABCC Preliminary Advice/Building Code – 2017 CaMS EA Clauses
'Without Prejudice' as at 8 June 2017**

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	<p>Changes to the method of working shifts will not occur unless agreed between the parties concerned. These changes may include but not be limited to:</p> <ul style="list-style-type: none"> • length of shift; • rotation of shift; • start and finish times; • basic structure and frequency of roster; and • existing pay and associated arrangements contained within local shift agreements. 	<p><i>“To the extent that this clause requires agreement of a building association (which is referred to in the agreement as being a party to the agreement) to change the method of working shifts, this clause imposes a restriction on the ability of the employer to determine with its employees when and where work can be performed to meet operational requirements.</i></p> <p><i>Note: Code covered entities are required by section 9(3) of the Building Code 2016 to comply with work health and safety laws which may include management of fatigue”.</i></p> <p>7/6/17 It appears that the ABCC is as a minimum, seeking to remove any third party involvement in this. It is unclear what the reference “imposes a restriction on the ability of the employer to determine with its employees” actually means. The clause will clearly require some amendment but to what extent needs to be determined.</p> <p>SA Power Networks will seek further clarification from the ABCC.</p>