



DECISION

Fair Work Act 2009
s.739—Dispute resolution

United Firefighters' Union of Australia

v

Fire Rescue Victoria

(C2023/2071)

COMMISSIONER WILSON

MELBOURNE, 15 AUGUST 2023

Alleged dispute about any matters arising under the enterprise agreement and the NES;[s186(6)]

[1] Through an application made to the Fair Work Commission (the Commission) on 17 April 2023, the United Firefighters' Union of Australia (UFU) alleges a dispute arising under an enterprise agreement with Fire Rescue Victoria (FRV). The application is made pursuant to s.739 of the *Fair Work Act 2009* (the Act) with the dispute being in connection with the terms of the *Fire Rescue Victoria Operational Employees Interim Enterprise Agreement 2020* (the 2020 Agreement).¹

[2] The UFU's application seeks the Commission determine a dispute involving increases to allowances within the 2020 Agreement.

[3] The matter was the subject of a hearing before me on 16 June 2023 at which Mr Warren Friend KC appeared for the UFU instructed by Ms Georgia Barendse and Ms Laura Campanaro of the UFU. Ms Robyn Sweet SC and Mr Matt Garozzo of Counsel appeared for FRV, instructed by Mr Tom Molan, of Minter Ellison.

[4] An economic analysis report prepared by Professor William Mitchell, Director of the Centre of Full Employment and Equity, University of Newcastle was received as evidence in support of the UFU's claims. Oral evidence was received on behalf of FRV from Ms Kirstie Schroder, its Deputy Secretary, Corporate, Regulation and Strategic Services.

[5] For the reasons set out below I grant the relief sought by the UFU in order to resolve the dispute now before the Commission.

RELEVANT PRINCIPLES FOR DETERMINATION OF THE DISPUTE

[6] In dealing with a dispute such as this the Commission is not undertaking an exercise of judicial power but is instead exercising a power of private arbitration, with that power deriving from the parties' agreement to submit their differences for decision by a third party. The

resultant arbitrator's award is not binding of its own force but instead its effect depends on the law which operates with respect to it.² It is accepted that while not exercising judicial power, the Commission "may legitimately form and act upon opinions about legal rights and obligations as a step in the exercise of its own functions and powers".³

[7] In doing so, the Commission must examine whether an enterprise agreement's dispute settlement procedure "requires or allows" the Commission to deal with the dispute. That task necessitates examination of the text of the dispute settlement procedure, understood in light of its industrial context and purpose, in order to determine whether the dispute, properly characterised, falls within it.⁴ The scope of a dispute settlement procedure in an enterprise agreement should not be narrowly construed since "to do so would be contrary to the notion that certified agreements are intended to facilitate the harmonious working relationship of the parties during the operation of the agreement."⁵

[8] The 2020 Agreement's dispute resolution procedures are within the Agreement's Division A (applicable to former MFB employees) at clause 21 and Division B (applicable to former CFA employees) at clause 26. The provisions are wide and allow disputes to be raised and progressed about a broad range of matters. The Division A term provides the following (with the Division B term in substantively identical terms):

"21. DISPUTE RESOLUTION

21.1. This dispute resolution process applies to:

21.1.1. all matters arising under this Division; and

21.1.2. all matters relating to the application of, or for which express provision is made in this Division; and

21.1.3. all matters pertaining to the employment relationship, whether or not express provision for any such matter is made in this Division; and

21.1.4. all matters pertaining to the relationship between FRV and UFU, whether or not express provision for any such matter is made in this Division; and

21.1.5. all matters arising under the National Employment Standards.

The parties agree that disputes about any such matters may be dealt with by using the provisions in this clause."

[9] A stepped escalation process is set out within each clause for unresolved matters, with the final step stated in the following way (from Division A):

"21.2.6. Step 5 If the matter is not settled following progression through the disputes procedure it may be referred by the union or the employer to FWC. The

FWC may utilise all its powers in conciliation and arbitration to settle the dispute.”⁶

[10] Relevantly, the Commission is charged to utilise all its powers in conciliation and arbitration to settle the dispute.

[11] In resolving the dispute now before me I take into account that although the Commission “cannot exercise the judicial power of the Commonwealth, it is well established that a federal industrial tribunal, exercising powers of conciliation and arbitration, may legitimately form and act upon opinions about legal rights and obligations as a step in the exercise of its own functions and powers”.⁷

CONSIDERATION

[12] The 2020 Agreement provides for many allowances; some of which are expressed as fixed dollar amounts and others expressed as a relativity to a person’s salary or that of another position. These types of allowances are referred to in this decision respectively as Fixed-dollar Allowances and Salary-based Allowances.

[13] The bases upon which the UFU seeks arbitration of its application are the provisions of the 2020 Agreement allowing determination by the Commission of allowance disputes. A feature of the 2020 Agreement is that it contains two main divisions, Division A applying to transferring employees of the former Metropolitan Fire and Emergency Services Board and Division B applying to transferring employees of the Country Fire Authority. Clauses 85 of Division A and 92 of Division B establish the requirement of FRV to pay allowances, as well as permitting the Commission to determine disputes over allowances, with clauses 85.3 and 92.3 each creating a head of power for those purposes:

“In accordance with existing practice the parties agree that any claim for additional allowance, new allowance, or increase to an existing allowances, will be referred to the FWC for determination if the parties are unable to agree. The parties reserve their rights to put their respective positions (to avoid doubt, the parties agree that this clause applies despite the no extra claims clause).”

[14] The UFU submits that the dispute now before the Commission is “one which the Agreement explicitly provides may be submitted to the Commission”⁸ with the terms now within the 2020 Agreement having already been the subject of favourable judicial consideration. The reference to clause 38.3 in the passage that follows is a reference to an antecedent clause to that now within the 2020 Agreement (antecedent, but not identical):

“6. While such a provision is unusual it is perfectly legitimate. Its operation was considered by a Full Court of the Federal Court in *UFU v CFA* (2015) 228 FCR 497. There the Court said at [254] after having noted that the trial judge had expressed a view that cl.38.3 was limited to certain reserved matters specified in the Agreement:

We are not sure that we share the primary judge's view that cl 38.3 was only a carve-out from the no-claims clause in respect of the pre-identified 44 matters although we accept it was certainly at least that. Its language is expressed, however, in terms which are not so confined. But whether the clause is limited in that fashion or not, we do not doubt his conclusion that the clause is merely to be read as dealing with one of the categories of disputes with which cl 15 might deal. This is for at least two reasons. First, whilst it is possible to read cl 38.3 as permitting the parties to determine allowances without ever having a disagreement about them and simply referring the issue for initial determination by the Commission, it is difficult to imagine those circumstances happening in the real world. The reference in the last sentence of the clause to the parties reserving their right to put their respective positions to the Commission rather assumes in the first place that they have differing positions which might be put.

7. Further, at [257] the Court said:

Properly construed, the clause is part of the dispute resolution procedure which the Act contemplates should exist and in respect of which it explicitly permits resolution by the Commission. The reference, in that circumstance, to an ability in the Commission to resolve these disputes is not contrary to the scheme of the legislation.

8. The reference to 'determination' in the clause is clearly a reference to arbitration, in the sense of a final determination of the merits of the dispute. The Act in s.739(4) gives the Commission in respect of dispute resolution procedure the power to arbitrate "however described".

9. Further, the dispute is also clearly a dispute under the dispute resolution clauses of the FRV Agreement. Those clauses regulate disputes about "matters arising" under the agreement, including matters for which "express provision" is made under the agreement: Part A cl 21.1.2; Part B cl.26.1.2. As clauses 85.3 of Part A and 92.3 of Part B make express provision for disputes about allowances it is clear that the dispute resolution clauses apply to this dispute. Under Step 5 of those clauses the union may refer the dispute to the Commission to "settle" the dispute."⁹

[15] The 2020 Agreement came into being as a result of Orders made in 2020 by Deputy President Gostencnik which brought previous enterprise agreements together and, having varied them as necessary, formed a single ongoing instrument. When the transferable instrument as varied commenced it had the effect of encapsulating the enterprise agreements as then made and varied. By the time the Orders were issued all promised wage increases had been paid.

[16] Since creation of the 2020 Agreement wages and allowances have been varied twice administratively:

- 2.5% with effect from 1 January 2020; and

- 2.5% with effect from 1 January 2021.

[17] The UFU through this application seeks variation of the allowances within the instrument through two different mechanisms:

- a 9.5% increase to Fixed-dollar Allowances;
- a recurring additional payment for Salary-based Allowances.

[18] A schedule of the rates sought by the UFU for each allowance is attached to this decision as an ATTACHMENT.

The UFU case

[19] The UFU submits about these provisions that the dispute presently before the Commission is one which the enterprise agreement explicitly provides may be submitted to the Commission; while unusual it is argued to be perfectly legitimate.¹⁰ The union argues that the reference within the clauses to “determination” is clearly a reference to arbitration in the sense that the Commission is able to make a final determination of the merits of the dispute, with it also noting that s.739(4) of the Act gives the Commission in respect of the dispute resolution procedures the power to arbitrate “however described”. The UFU also argues that the dispute now before the Commission is clearly a dispute under the dispute resolution clauses of the 2020 Agreement which permits disputes to be raised and progressed about “matters arising” under the 2020 Agreement.¹¹

[20] The UFU also notes that this Commission has relied upon disputes about increased allowances to make orders in favour of the union in 2017 and 2021.¹²

[21] The UFU submitted there is no prescription of the approach the Commission should take however such consideration should be within the Act’s framework:

“17. The Commission is tasked with arbitrating the Union claim. There is no prescription of the approach the Commission should take. There is no question of applying anything like the former wage fixing principles. Nor is this matter to be approached like a workplace determination. The Fair Work Commission is bound to apply the words of the agreement.

18. In this regard it is submitted that it is required to approach the matter on the basis of s.578 of the Act. That is, it must take into account:

- (a) the objects of this Act, and any objects of the part of this Act;
- (b) equity, good conscious and the merits of the matter;
- (c) the need to respect the value and diversity of the workforce by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer’s

responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

19. Paragraphs (a) and (b) are pertinent to this matter.

20. Regard should also be had to s.577(a) of the Act which requires the Commission to exercise its powers in a manner which is fair and just.”

[22] After submitting that the Commission is required to direct attention to the objects of the Act as well as equity, conscience, and the merits of the matter, the UFU submitted:

“Accordingly, the Commission is required to direct its attention to the objects of the Act and equity, good conscience and the merits of the matter. It is submitted that the relevant object is found in s.3(f) concerning the emphasis on enterprise level collective bargaining. Here the parties have made a bargain which provides for adjustments to allowances and new allowances during the course of an enterprise agreement, either by agreement or through arbitration by the Commission. Given the parties have agreed on that approach the Commission should come to the matter on the basis that it should determine a fair increase in the allowances.”¹³

[23] The UFU argued that support for its case was given by an expert report prepared by Professor Mitchell from the Centre of Full Employment and Equity within the University of Newcastle. Professor Mitchell is professionally an economist and Director of the Centre. His report entitled “Analysing proposed allowance increments for Victorian Fire Fighters”, dated May 2023, was received into evidence with the consent of FRV and he was not required to give oral evidence.

[24] Professor Mitchell’s report built upon the detail within the application made to the Commission in this matter. After undertaking some analysis on modelling pertinent to the issues at hand the report found that the claims made by the UFU would have mixed results:

“• That the quantum sought for the dollar figure allowances would not be sufficient to restore the January 2021 purchasing power of the allowances if we evaluate the situation for the March-quarter 2023 or the June-quarter 2023.

• That the quantum sought for the percentage of salary allowances would overcompensation for the purchasing power loss between January 1, 2021 and June 30, 2023 and involve ‘double dipping’.

• We propose a higher quantum under the dollar allowances and an alternative way of dealing with the percentage allowances involving a special top-up sum to accompany the existing allowance.”¹⁴

[25] The analysis conducted by Professor Mitchell took into account not only movements in the Australian Bureau of Statistics Consumer Price Index but also four nominated selected living cost indexes also compiled by the ABS (abbreviated as SLCI) noting that each showed

movements over the period of more than 12.6%.¹⁵ In relation to that part of the UFU's claim seeking adjustment of Fixed-dollar Allowances Professor Mitchell applies modelling to two different elements; a component which deals with the differences in purchasing power between the date the last adjustment was made and 30 June 2023 and a second component which deals with the fact that during the period the employees who have been paid allowances have incurred a loss where the current value of the allowance paid had a lower nominal value than at the start of the analysis period. In respect of the first component he concludes that the "UFU claim of 9.5 per cent is thus very conservative and will not fully compensate the firefighters for the component one loss".¹⁶

[26] Further, with the second component capturing an employee's cumulative loss, its rectification might justify "a once-off lump sum component scaled to the value of the allowance being made to accompany a percentage increase in the dollar amount to account for first component".¹⁷

[27] In relation to Salary-based Allowances, being those which are expressed as a percentage of salary, Professor Mitchell considers the issue to be a more complex problem, essentially because the salary to which the allowance is referable has not been adjusted:

"In the case of the percentage of salary allowance there is only one source of purchasing power erosion – the nominal salary upon which the allowance is based. In that regard, the solution to restore purchasing power is to negotiate an appropriate increase in the nominal salary of the firefighter.

But it is also true that the percentage of salary allowance loses purchasing power in an inflationary environment because the fixed percentage is being applied to a nominal amount (the salary) which is being eroded in real value.

This is the motivation for the UFU claim that the percentage should be increased. Clearly, applying an increase to the percentage quantum would provide a means to compensate for loss of purchasing power if the quantum was of sufficient magnitude.

But this remedy also would build in a further nominal increase when a new enterprise agreement was finalised and increased in the nominal salary itself, upon which the allowance is scaled. One could consider that to be 'double-dipping'.

Take the example of a Qualified Firefighter who is currently earning a salary of \$1,738.86 per week and receiving a 5 per cent of salary allowance of \$86.94. We know from the previous discussion that the 'Employee households SCLI' will increase by around 15.5 per cent between January 2021 (when the salary was set) and June 30, 2023.

To restore the purchasing power of the nominal allowance of \$86.94 would require the allowance be increased to \$100.44. However, if we increased the percentage quantum from 5 per cent to 7 per cent, the allowance at the current salary would increase to \$121.72, a 40 per cent increase. In other words, the purchasing power of the allowance is being increased beyond that necessary to compensate the recipient for the inflation

over the period in question. The 2 per cent rule would only not overcompensate in the case of the 25 per cent of salary allowance, in which case it would under compensate.

Now assume that on June 30, 2023, the firefighter's salary is also fully indexed to the increase in the 'Employee households SCLI' and thus rises to \$2,007.73 (a 15.5 per cent increase).

Under the UFU proposal, the allowance would also jump to \$140.61, whereas under the 5 per cent rule it would be \$100.44. In the UFU case, the firefighter is being over-compensated for the inflation, whereas if the salary is indexed while the 5 per cent rule remains, both nominal components – the salary and the allowance – are fully compensated for the loss of purchasing power.

However, while the source of the purchasing power loss in the percentage of salary allowance case is the erosion of the nominal salary, it remains true that until the salary is adjusted appropriately, the nominal allowance that is derived from the salary via the percentage rule is being eroded in purchasing power terms in an inflationary environment.

There are various ways of handling that complexity but the simplest way from the perspective of administrative effectiveness and cost-of-living loss would be to compute a once-off lump sum amount scaled to the salary - which might be considered to be a 'special allowance' on top off the current percentage of salary allowance.

In that way, the original percentage relativities are not disturbed, and the allowance would scale up proportionately when the wage is subsequently adjusted with a new enterprise agreement.

We conclude that instead of trying to deal with the purchasing power loss of the allowance, the better approach is to maintain the current percentage of salary values as per their January 2021 values but augment them with a special lump sum payment on top of that allowance until the new enterprise bargain provides for increase in the salary.

This top-up dollar sum would be on top of the existing allowance based on existing percentage of salary rules and be paid at the same frequency as the standard allowance. In other words, when the percent of salary allowance was paid, it would be accompanied by this special topup amount.”¹⁸

[28] In finality in relation to this part of the UFU's claim Professor Mitchell argues that the adjustment to be made to each Salary-based Allowance will need to be fixed in accordance with the rank being referred to. Whereas Professor Mitchell's report then referred to examples modelled around a 15.5% increase being required to maintain purchasing power, the UFU claim now before me proposes that the payment be fixed at an equivalent 9.5% increase.¹⁹

The FRV case

[29] FRV does not oppose the application in concept, submitting that it would be appropriate both to order an increase to the Fixed-dollar Allowances as well as to create a new or additional “compensatory” allowance to compensate for the Salary-based Allowances, being those expressed as a percentage of salary:²⁰

“i. that any increase to existing allowances ordered to resolve the Increase to Fixed Monetary Allowances Claim and New Compensatory Allowance Claim should be less than the increase / allowance sought by the UFU, noting that the maximum increase to allowances that could be achieved through negotiating a replacement enterprise agreement under the Victorian Government's 2023 Wages Policy would be 9% over the life of a three year agreement; and

ii. in respect of the New Compensatory Allowance Claim, that the new compensatory allowance should be an annual lump-sum allowance payable on a date to be fixed and subject to annual review.”²¹

[30] FRV submitted that its industrial context meant that in determining the dispute the Commission should have regard to the impact of Government wages policy and other matters, including its financial state:

“5. In light of the following industrial context, FRV submits that the Commission should resolve the dispute in a manner which is consistent with the position summarised in paragraph 4 above:

a. as indicated above, the correct approach to applying the Allowance General Clauses requires the Commission to first determine whether it is appropriate to resolve the dispute by ordering an increase and / or new allowance, rather than proceeding on the basis that such an increase should be ordered and that the task of the Commission is simply to determine the quantum (noting that, in the case of the Increase to Fixed Monetary Allowances Claim, FRV accepts that it would be appropriate to resolve the dispute in relation to that component of the Claim by ordering an increase);

b. while it is relevant to consider the impacts of fluctuations in the broader economic environment (including, amongst other things, cost of living increases) in determining whether to order an increase and / or the quantum of any such increase, it is not the sole consideration and there are other factors that need to be taken into account;

c. the increases proposed by the UFU would impose additional costs on FRV and there is no budgetary allowance made, or funding available, for such increases; and

d. the financial state of FRV is such that it would not be appropriate for the Commission to make the determination sought by the UFU.”²²

[31] FRV put forward that the quantum to be determined should be less than sought by the UFU and in generality “under the relevant wages policy it could be no greater than a 3 per cent increase each year for the course of a three-year agreement”²³ and then drawing a distinction between the adjustment that should be made to compensatory allowances and those referable to a salary. More particularly the FRV submitted that it would be appropriate for the Commission to determine the dispute in the following way:

“a. ordering an increase to relevant allowances to resolve the Increase to Fixed Monetary Allowances Claim and the introduction of a new compensatory allowance to resolve the New Compensatory Allowance Claim, but with such increase and compensatory allowance to be less than those sought by the UFU (noting that the maximum increase to allowances that could be achieved through negotiating a replacement enterprise agreement under the Victorian Government's 2023 Wages Policy would be 9% over the life of a three year agreement); and

b. in addition to the above, any new compensatory allowance should be an annual lump-sum allowance payable on a date to be fixed and subject to annual review.”²⁴

[32] Aside from the matter of having regard to the need for consistency with the Victorian Governments wages policy FRV’s submissions and evidence also drew attention to FRV’s financial position, advocating that the two together should steer the Commission to a conclusion different to that sought by the UFU. Further, “any new compensatory allowance should be an annual lump-sum allowance payable on a date to be fixed and subject to annual review”.²⁵

[33] The industrial context and financial position relied upon by FRV is within the evidence of Ms Kirstie Schroder, FRV’s Deputy Secretary, Corporate, Regulation and Strategic Services.

[34] FRV’s industrial context includes that being an agency of the Victorian Government it is required to comply with the bargaining framework set for bodies in the Victorian public sector with the relevant framework having been updated and republished in April 2023.²⁶ After noting that FRV understands that the UFU will in the course of bargaining discount any bargained increases arising from the new operational firefighters agreement by the amount of increases, if any, granted by this application Ms Schroder puts forward that “[t]he UFU's proposal does not appear to take into account the budgetary constraints within which FRV operates”.²⁷

[35] In relation to FRV’s financial position Ms Schroder gave evidence that about one-eighth of the funds available to the service come from the Victorian Government’s consolidated fund with the remainder coming from the fire service property levy paid by Victorian property owners as part of their property rates collected by local councils.²⁸ The fire service property levy itself is established by the responsible Minister after estimates have been provided by FRV about its forward expenditure and revenue. FRV expected to operate a deficit for the financial year just ended:

“28. The updated forecast for the financial year ending 30 June 2023, as at the end of April 2023, is for a deficit of \$188,970,000. This forecast is based on, amongst other things, the March 2023 actual financial results, current trends and revenue estimates.

29. FRV is currently forecasting the following employment related costs for the financial year ending 30 June 2023:

- (a) salaries and wages of \$579,130,000;
- (b) overtime of \$103,740,000; and
- (c) employee entitlements, allowances and oncosts of \$207,190,000.

30. Additional claims, such as the UFU's current claim for increased allowances, have not been included in the forecasts or budget for the current financial year.”²⁹

[36] Ms Schroder’s evidence also refers to estimates prepared by FRV’s payroll and finance teams about the likely cost of the increases being sought by the UFU, reporting that:

“36. FRV has estimated that it would cost an additional \$6,570,656 per annum to fund the 9.5% increase to the current allowances — being both the increased fixed rate allowances and the proposed lump sum payment made in relation to those increased fixed allowances that are calculated as a percentage of the employee's salary.

37. Of the estimated \$6,570,656 per annum increase:

- (a) \$1,688,494 would be spent on those allowances that are calculated as a percentage of the employee's salary and paid in a recurring annual lump sum payment; and
- (b) \$4,882,162 would be spent on increased fixed rate allowances.”³⁰

[37] Ms Schroder also gave evidence that the allowance increases have not been included in FRV’s forecasts or budgets and after taking into account the funding arrangements referred to above “does not have available funding to meet the increases to allowances sought by the UFU in this dispute”.³¹ Further, her witness statement set out the following about the implications of the UFU’s claims:

“39. In the last financial year of 1 July 2021 – 30 June 2022, FRV recorded a deficit of approximately \$132.5 million. As indicated above, FRV is expected to record a larger deficit for the current financial year, ending 30 June 2023.

40. These recent deficits would have been more substantial but for the cooperation of the UFU over the past three years in identifying and implementing a significant number of efficiencies, with cost savings in the vicinity of \$117,000,000.

41. In circumstances where FRV is primarily funded by statutory contributions, funding of these proposed increases would require either:

- (a) obtaining a Treasurer's Advance; or
- (b) the reallocation of funding from non-core operational organisational initiatives; or
- (c) a combination of the above.”³²

Consideration of the claim

[38] There is no serious question that the application cannot be arbitrated by the Commission. UFU submits and FRV agree both that the application properly invokes the Commission’s jurisdiction and that an increase of some amount is not opposed. Professor Mitchell’s report persuasively identifies that the purchasing power of the allowances in the agreement has diminished over time and that, at least for those allowances couched as a reimbursement of expenses incurred, an increase of at least 9.5% is warranted.

[39] On the other hand, the increases sought by the UFU are not presently budgeted for by FRV and it is not explicitly funded for them.

[40] It is also the case that the usual practice of the parties has been to settle increases to allowances at the same time as each enterprise bargaining round is concluded. That practice though has not been uniformly applied in recent years with the allowance variation orders made by several members of the Commission, including me. If this application is granted it follows that adjustments to allowances will most likely be granted at different times to wage increases.

[41] In some respects, it could be said that allowance increases should be dealt with in bargaining with the need for adjustments to them or compensation dealt with at the same time.

[42] I have decided though that such would not be appropriate on this occasion and that instead an adjustment should be made to allowances. This is for the reason that it has been sometime since the last administrative adjustment, in January 2021.

[43] The evidence put forward by the UFU and particularly in the form of the report from Professor Mitchell cogently establishes that increases are warranted and especially because the relative purchasing power of the allowances has diminished since the last formal Commission approved or ordered movements in the allowances.

[44] The material put forward by FRV about its industrial and financial context is important, however not persuasive on this occasion. The importance of the industrial context of course is that being a Victorian public sector agency it is to be expected that adjustments to wages and conditions are the subject of established policies which endeavour to define what may be the subject of bargaining as well as to place limits on what may be agreed. FRV’s arguments about its financial context are also no less important; funds ultimately are drawn either from central Government tax receipts or from charges levied on ratepayers throughout the State. Both matters of context combine to be reason for caution.

[45] The industrial context referred to by FRV though is a matter of enterprise bargaining for new agreements rather than the exercise of rights and obligations under an agreement already approved and, in this case, subject to transferable instrument orders and operating for some years. That is the industrial context referred to by FRV is not to be seen as a brake on claims by the UFU to which it has a right under the 2020 Agreement. Whereas there may be different considerations to be had in the case of enterprise bargaining over the subject of increases to existing allowances or the creation of new ones the consideration in this case is whether or not the 2020 Agreement as made permits the application to be advanced and determined in the manner sought by the UFU. Plainly it does.

[46] The financial context referred to by FRV may be seen as involving two strands; first that for reasons which are not fully articulated before the Commission FRV is presently running in deficit; and second that claims of this type are not contemplated within its financial forecasts or budgets. It is not argued by FRV that these matters amount to an incapacity to pay in relation to the UFU's claim.

[47] Ms Schroder states in relation to the financial position of FRV that "FRV does not have available funding to meet the increases to allowances sought by the UFU in this dispute".³³ I read that statement together with others made by her as saying that FRV has not budgeted for the increases and does not have formal approval from central Government for additional funding in the event that the increases are granted. I do not understand the statement to be suggesting that somehow FRV has insufficient funds to cover payments in the event the UFU's application was granted.

[48] Further I take into account the estimated cost of meeting the UFU claim, being \$6.57m in a full year is to be compared with total employment costs of \$890m and employee entitlements, allowances, and oncosts of \$207m. The claim if granted would thus add about 0.74% to FRV's total employment costs or would add about 3.2% to the current employee entitlements, allowances, and oncosts. It stands in context against the reported deficit for the past financial year in the 9 months to the end of April 2023 of \$188.97m.

[49] Within that context the increases sought by UFU are significant, certainly, but hardly defining of FRV's financial position now or into the future. Increases of this level and within the context of the overall dispute being dealt with, do not in themselves give rise to the proposition that the claim should not be granted.

[50] It would be insufficient to say that because bargaining has not concluded that either the claim should not be granted at all, or that it should be only partially granted. The analysis undertaken by Professor Mitchell shows persuasively that the purchasing power of allowances presently in the 2020 Agreement has declined and that employees are not being reimbursed in real terms to the same level they once were. Furthermore, because the allowances have not been varied for some time employees are incurring a notional loss each time they are "reimbursed". A determination by me at a quantum lower than that claimed by the UFU would exacerbate this problem. The 2020 Agreement also provides explicit rights to the UFU to raise and have

resolved claims for “additional allowance, new allowance, or increase to an existing allowances” which amply covers the relief sought in this matter.

[51] The UFU’s claim is in two parts, a 9.5% adjustment to the Fixed-dollar Allowances and introduction of a mechanism which has the same effect as a 9.5% increase to Salary-based Allowances. Whereas the adjustment to Fixed-dollar Allowances is straightforward the adjustment to the Salary-based Allowances is inherently more complex. That is because the Salary-based Allowances are expressed as an entitlement to a percentage (%) of a nominated reference salary; not only will the percentage vary from allowance to allowance but so too will the reference salary, which in most cases is either the employee’s current salary or some other nominated salary. While it would, of course, be desirable for this complexity to be avoided, if at all possible, I am satisfied that it is unavoidable in this matter.

[52] Having considered all material before the Commission I am satisfied that it is appropriate to grant the relief sought by the UFU in order to resolve the dispute now before the Commission. The parties are directed to file in the Commission within 7 days an agreed Draft Order consistent with my decision, after which a formal order will be issued.

[53] Liberty to apply is given to either party for a conference or hearing if necessary to settle any dispute that may arise over the form of order.

[54] The dispute before the Commission is determined accordingly.



COMMISSIONER

Appearances:

Mr W. Friend KC for the UFU

Ms R. Sweet SC for FRV

Hearing details:

Melbourne;
16 June;
2023.

Final written submissions:

13 July 2023; Agreed Document – FRV and UFU – Allowances (appearing as an Attachment to this decision).

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ATTACHMENT

Agreed Document – FRV and UFU - Allowances

1. The allowances set out in the *Fire Rescue Victoria Operational Employees Interim Enterprise Agreement 2020* will be increased in accordance with the following table and Attachment A from the first pay period after 16 June 2023.

Allowances payable in accordance with Division A of the *Fire Rescue Victoria Operational Employees Interim Enterprise Agreement 2020*

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Temporary work location allowance	\$4.37/day shift	\$4.79/day shift
	\$5.68/night shift	\$6.22/night shift
Insecure work allowance	25% of salary	25% of salary plus additional recurring payment depending on current salary as set out in annexure A.
(FSCC) Higher Duties	10% or the rate of the person they are replacing if filling the role of MOC or similar	10% of wage plus additional recurring payment depending on current wage as set out in annexure A or the rate of the person they are replacing if filling the role of MOC or similar
Meal Allowance	\$18.75	\$20.53

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Motor Vehicle / Mileage Allowance	\$1.37	\$1.50
Relieving allowance	\$32.06	\$35.11
Special Duties Allowance	\$76.84	\$84.14
Spoilt Meal Allowance	\$18.74	\$20.52
Fitness Leader Allowance	\$25.26	\$27.66
Temporary Accommodation Allowance	\$4.37	\$4.79
	\$5.68	\$6.22
Permanent relocation allowance	\$1,535.30	\$1,681.15
Disturbance allowance clause		
Availability Allowance	5.5% of salary	5.5% of salary plus additional recurring payment depending on current wage asset out in annexure A.
Language Allowance	\$1,277.12	\$1,398.45
First Aid Certificate	\$20.72	\$22.69
IFE Graduate Certificate or a Certificate of Fire Technology	\$17.31	\$18.95
IFE Graduate Certificate and Certificate of Fire Technology	\$26.39	\$28.90
IFE Membership and Graduate/Technician Certificate	\$32.65	\$35.75
Cert IV in Workplace Training and Assessment	\$17.31	\$18.95
Income Protection Reimbursement Allowance	\$50.43	\$55.22
Representation Reimbursement Allowance	\$5,000	\$5,000.00
Heavy Rescue Allowance	\$25.26	\$27.66
USAR Operator	\$25.26	\$27.66
Trench Rescue Allowance	\$25.26	\$27.66
EMR Allowance clause 132.3	\$2.42	\$2.65
EMS First Responder Training Allowance	\$1.69	\$1.85
EMS First Responder Allowance	\$0.83	\$0.91
Fire Investigation Allowance	4.5%	6.5%
Fire Safety Inspector Allowance	4.5%	6.5%
Hydrostatic Testing of Breathing Apparatus Allowance	\$7.95	\$8.71
Hazardous Material Technician Allowance	\$2.84	\$3.11
Marine Response Operator Allowance	\$25.26	\$27.66
High Angle Rescue Technicians Allowance	\$25.26	\$27.66
UAV Operator Allowance clause 135.9	\$2.84	\$3.11
Driving Instructor Allowance clause 135.11	\$17.54	\$19.21
JFAIP Allowance	\$25.26	\$27.66
Watchroom Duties Allowance	\$10.08	\$11.04
Qualification allowance	\$26.67	\$29.20
FSCC Coordination Allowance	5%	5% of salary plus additional recurring payment depending on current salary as

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
		set out in annexure A.
Breakfast (Capital Cities, Full Day)	\$29.09	\$31.85
Lunch (Capital Cities, Full Day)	\$41.22	\$45.14
Dinner (Capital Cities, Full Day)	\$57.73	\$63.21
Bed (Capital Cities, Full Day)	\$239.81	\$262.59
Incidentals (Capital Cities, Full Day)	\$29.42	\$32.21
Total (Capital Cities, Full Day)	\$397.33	\$435.08
Breakfast (Other Places within Australia)	29.09	31.85
Lunch (Other Places within Australia)	41.22	45.14
Dinner (Other Places within Australia)	57.75	63.24
Bed (Other Places within Australia)	184.49	202.02
Incidentals (Other Places within Australia)	29.44	32.24
Total (Other Places within Australia)	\$342.00	\$374.49
Incidental allowance (Part Day)	\$25.36	\$27.77
Breakfast (Part Day)	\$23.90	\$26.17
Lunch (Part Day)	\$27.39	\$29.99
Dinner (Part Day)	\$47.26	\$51.75

Allowances payable in accordance with Division B of the *Fire Rescue Victoria Operational Employees Interim Enterprise Agreement 2020*

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Insecure work allowance	25% salary	25% of salary plus additional recurring payment depending on current salary as set out in annexure A.
Temporary accommodation/premises allowance	\$4.37/day shift	\$4.79/day shift
	\$5.68/night shift	\$6.22/night shift
Disturbance allowance	\$1,534.39	\$1,680.16
ACFO insecure work allowance	25% salary	25% of salary plus additional recurring payment depending on current salary as set out in annexure A.
CTSO insecure work allowances	25% salary	25% of salary plus additional recurring payment depending on current salary as set out in annexure A.
Manager Technical Services insecure work allowance	25% salary	25% of salary plus additional recurring payment depending on current salary as set out in annexure A.

PAD insecure work allowance	25% salary	25% of salary plus additional recurring payment depending on current salary as set out in annexure A.
PE Technician 3 (availability)	\$3,280.40/yr	\$3,592.04 /yr
PE Technician 4 (availability)	\$3,433.12/yr	\$3,759.27 /yr

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
PE Technician 5 (availability)	\$3,738.60/yr	\$4,093.77 /yr
Senior PE Technician (availability)	\$3,958.42/yr	\$4,334.47 /yr
Fitness Leader Allowance	\$25.26/wk	\$27.66/wk
Temporary Work Location Allowance	\$4.37/day shift	\$4.79/day shift
	\$5.68/night shift	\$6.22/night shift
Permanent relocation allowance rate	\$1,535.30 for each instance as described in the clause	\$1,681.15 for each instance as described in the clause
Meal Allowance	\$18.74	\$20.52
Spoilt Meal Allowance	\$18.74	\$20.52
Motor Vehicle / Kilometre Allowance	\$1.37/km travelled	\$1.50/km travelled
Relieving Allowance	\$32.06/shift	\$35.11/shift
Availability Allowance	5.5% of salary	5.5% of salary plus additional recurring payment depending on current salary as set out in annexure A.
Commander Qualifications Allowance	5 relativity points of QFF rate	7 relativity points of QFF rate
Difficult to fill location allowance	10% superable allowance per annum or part thereof	10% superable allowance per annum or part thereof plus additional recurring payment depending on current salary as set out in annexure A.
First Aid Allowance	\$20.71/wk	\$22.68/wk
Language Allowance	\$1,277.12/yr	\$1,398.45/yr
IFE Graduate Certificate or a Certificate of Fire Technology	\$17.31/wk	\$18.95/wk
IFE Graduate Certificate and Certificate of Fire Technology	\$26.39/wk	\$28.90/wk
IFE Membership and Graduate Certificate	\$32.65/wk	\$35.75/wk
Certificate IV in Workplace Training and Assessment	\$17.31/wk	\$18.95/wk
Reliever Work Allowance	\$52.53/wk	\$57.52/wk

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Income Protection Reimbursement Allowance	\$50.43	\$55.22
Representation Reimbursement Allowance	\$5,000.00	\$5,000.00

Allowances for Employees covered by Part B and Part C of Division B of the Agreement

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
EMR Allowance	\$2.42/hr	\$2.65/hr
Road Accident Rescue (RAR) Allowance	\$12.51/wk	\$13.70/wk
Higher Duties Allowance	10% of substantive salary for that period	10% of substantive salary for that period plus additional recurring payment depending on current salary as set out in annexure A.
Heavy Rescue Allowance	\$25.26/wk	\$27.66/wk
Fire Investigation Allowance	\$25.26/wk	\$27.66/wk
CBR Allowance	2% of salary shall be paid to all employees	2% of salary shall be paid to all employees plus additional recurring payment depending on current salary as set out in annexure A.
Hydrostatic Testing of Breathing Apparatus Allowance	\$7.95/shift	\$8.71/shift
USAR operator	\$25.26/wk	\$27.66/wk
Trench Rescue Allowance	\$25.26/wk	\$27.66/wk
CBR Allowance	\$25.26/wk	\$27.66/wk
Marine response Allowance	25.26/wk	\$27.66/wk
HART Allowance	\$25.26/wk	\$27.66/wk
UAV Operator	\$2.84/hr	\$3.11/hr
Watchroom Duties Allowance	\$10.08/shift	\$11.04/shift
Driving Educator Allowance	\$17.54/wk	\$19.21/wk
JFAIP allowance	\$25.26/wk	\$27.66/wk
Facility Allowance	\$32.06	\$35.11/shift
Qualification Allowance	\$26.67/wk	\$29.20/wk
State Wide Training Allowance	\$32.06	\$35.11/shift
Relieving Allowance	\$32.06	\$35.11/shift
Regional Command and Control Qualification Allowance	5% of OM 4	5% of OM 4 plus additional recurring payment depending on current salary as

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
		set out in annexure A.
OM (Regional Commander) Allowance	15% of OM 4	15% of OM 4 plus additional recurring payment depending on current salary as set out in annexure A.

Allowances for Employees covered by Part D of Division B of the Agreement

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Higher Duties Allowance	15.5% of salary inclusive of 5.5% availability allowance	15.5% of salary inclusive of 5.5% availability allowance plus additional recurring payment depending on current salary as set out in annexure A.
On call payments (clause 168.2.3)	8 hours of extra pay at single rates for each week they are on call	8 hours of extra pay at single rates for each week they are on call

Allowances for Employees covered by Part F of Division B of the Agreement

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
PAD Supervisor Acting into a higher position	15% of salary or the salary of the higher position (whichever is higher)	15% of salary or the salary of the higher position (whichever is higher) plus additional recurring payment depending on current salary as set out in annexure A.

BA Training Allowance	15% of salary for all time worked	15% of salary for all time worked plus additional recurring payment depending on current salary as set out in annexure A.
PAD Safety Function Allowance	15% of salary for all time worked	15% of salary for all time worked plus additional recurring payment depending on current salary as set out in annexure A.

Allowances for Employees covered by Part G of Division B of the Agreement

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
FSCC Special Duties Allowance	10% of salary for the duration of the duty	10% of salary for the duration of the duty plus additional recurring payment depending on current salary as set out in annexure A.
Higher Duties	10%	10% plus additional recurring payment depending on current salary as set out in annexure A.
Delayed or interrupted meal allowance	\$18.73	\$20.51

Accommodation, Meal and Incidental Payments

For Employees whose salary is \$115,450 or below per year

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Breakfast (Melbourne CBD & Metropolitan)	\$29.90	\$32.74
Lunch (Melbourne CBD & Metropolitan)	\$33.65	\$36.85
Dinner (Melbourne CBD & Metropolitan)	\$57.30	\$62.74
Incidentals (Melbourne CBD & Metropolitan)	\$21.30	\$23.32
Breakfast(Bright, Castlemaine, Wonthaggi, Colac)	\$29.90	\$32.74
Lunch (Bright, Castlemaine, Wonthaggi, Colac)	\$33.65	\$36.85
Dinner (Bright, Castlemaine, Wonthaggi, Colac)	\$57.30	\$62.74
Incidentals (Bright, Castlemaine, Wonthaggi, Colac)	\$21.30	\$23.32
Breakfast (All other Victorian Locations)	\$26.80	\$29.35
Lunch (All other Victorian Locations)	\$30.60	\$33.51
Dinner (All other Victorian Locations)	\$52.75	\$57.76
Incidentals (All other Victorian Locations)	\$21.30	\$23.32
Part day absence Breakfast (Melbourne CBD & Metropolitan)	\$29.90	\$32.74
Part day absence Lunch (Melbourne CBD & Metropolitan)	\$33.65	\$36.85
Part day absence Dinner (Melbourne CBD & Metropolitan)	\$57.30	\$62.74
Part day absence Breakfast (Bright, Castlemaine, Wonthaggi, Colac)	\$29.90	\$32.74
Part day absence Lunch (Bright, Castlemaine, Wonthaggi, Colac)	\$33.65	\$36.85
Part day absence Dinner (Bright, Castlemaine, Wonthaggi, Colac)	\$57.30	\$62.74

Part day absence Breakfast (All other Victorian Locations)	\$26.80	\$29.35
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Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Part day absence Lunch (All other Victorian Locations)	\$30.60	\$33.51
Part day absence Dinner (All other Victorian Locations)	\$52.75	\$57.76
Accommodation (Melbourne CBD & Metropolitan)	\$181.65	\$198.91
Accommodation (Bright)	\$167.00	\$182.87
Accommodation (Castlemaine)	\$147.00	\$160.97
Accommodation (Wonthaggi)	\$160.00	\$175.20
Accommodation (Colac)	\$144.90	\$158.67
Accommodation (Ararat, Bairnsdale, Ballarat, Benalla, Bendigo, Echuca, Geelong, Hamilton, Horsham, Mildura, Portland, Sale, Seymour, Shepparton, Swan Hill, Wangaratta, Warnambool)*	\$138.60	\$151.77
Accommodation (Other Victorian Country Centres)	\$121.00	\$132.50

* Note that the 2022/23 Schedule of Payments for FRV separates out the rate by location. The actual allowances paid are recorded in the table below. Where the rate listed is higher than \$151.77, FRV will continue to pay the higher rate.

Allowance	Agreed current amount payable
Ararat	\$134
Bairnsdale	\$134
Ballarat	\$159
Benalla	\$143
Bendigo	\$140
Echuca	\$134
Geelong	\$149
Hamilton	\$134
Horsham	\$154
Mildura	\$134
Portland	\$134
Sale	\$134
Seymour	\$134
Shepparton	\$150
Wangaratta	\$158
Warnambool	\$134

For employees whose salary is from \$115,451 per year to \$205,300 per year

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Breakfast (Melbourne CBD & Metropolitan)	\$32.55	\$35.64
Lunch (Melbourne CBD & Metropolitan)	\$46.00	\$50.37
Dinner (Melbourne CBD & Metropolitan)	\$64.50	\$70.63
Incidentals (Melbourne CBD & Metropolitan)	\$30.50	\$33.40

Breakfast(Bright, Castlemaine, Wonthaggi, Colac)	\$32.55	\$35.64
Lunch (Bright, Castlemaine, Wonthaggi, Colac)	\$46.00	\$50.37
Dinner (Bright, Castlemaine, Wonthaggi, Colac)	\$64.50	\$70.63
Incidentals (Bright, Castlemaine, Wonthaggi, Colac)	\$30.50	\$33.40
Breakfast (All other Victorian Locations)	\$29.90	\$32.74
Lunch (All other Victorian Locations)	\$30.60	\$33.51
Dinner (All other Victorian Locations)	\$59.60	\$65.26
Incidentals (All other Victorian Locations)	\$30.50	\$33.40
Part day absence Breakfast (Melbourne CBD & Metropolitan)	\$32.55	\$35.64
Part day absence Lunch (Melbourne CBD & Metropolitan)	\$46.00	\$50.37
Part day absence Dinner (Melbourne CBD & Metropolitan)	\$64.50	\$70.63
Part day absence Breakfast(Bright, Castlemaine, Wonthaggi, Colac)	\$32.55	\$35.64
Part day absence Lunch (Bright, Castlemaine, Wonthaggi, Colac)	\$46.00	\$50.37
Part day absence Dinner (Bright, Castlemaine, Wonthaggi, Colac)	\$64.50	\$70.63

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Part day absence Breakfast (All other Victorian Locations)	\$29.90	\$32.74
Part day absence Lunch (All other Victorian Locations)	\$30.60	\$33.51
Part day absence Dinner (All other Victorian Locations)	\$59.60	\$65.26
Accommodation (Melbourne CBD & Metropolitan)	\$239.40	\$262.14
Accommodation (Bright)	\$167.00	\$182.87
Accommodation (Castlemaine)	\$147.00	\$160.97
Accommodation (Wonthaggi)	\$160.00	\$175.20
Accommodation (Colac)	\$144.90	\$158.67
Accommodation (Ararat, Bairnsdale, Ballarat, Benalla, Bendigo, Echuca, Geelong, Hamilton, Horsham, Mildura, Portland, Sale, Seymour, Shepparton, Swan Hill, Wangaratta, Warrnambool)**	\$138.60	\$151.77
Accommodation (Other Victorian Country Centres)	\$145.00	\$158.78

*** Note that the 2022/23 Schedule of Payments for FRV separates out the rate by location. The actual allowances paid are recorded in the table below. Where the rate listed is higher than \$151.77, FRV will continue to pay the higher rate.*

<i>Allowance</i>	<i>Agreed current amount payable</i>
<i>Ararat</i>	<i>\$160</i>
<i>Bairnsdale</i>	<i>\$160</i>
<i>Ballarat</i>	<i>\$159</i>
<i>Benalla</i>	<i>\$143</i>
<i>Bendigo</i>	<i>\$140</i>
<i>Echuca</i>	<i>\$160</i>
<i>Geelong</i>	<i>\$149</i>
<i>Hamilton</i>	<i>\$160</i>
<i>Horsham</i>	<i>\$154</i>
<i>Mildura</i>	<i>\$160</i>
<i>Portland</i>	<i>\$160</i>
<i>Sale</i>	<i>\$160</i>
<i>Seymour</i>	<i>\$160</i>
<i>Shepparton</i>	<i>\$150</i>
<i>Wangaratta</i>	<i>\$158</i>
<i>Warrnambool</i>	<i>\$160</i>

For employees whose salary is \$205,301 and above per year

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Breakfast (Melbourne CBD & Metropolitan)	\$34.91	\$38.23
Lunch (Melbourne CBD & Metropolitan)	\$49.35	\$54.04

Dinner (Melbourne CBD & Metropolitan)	\$69.25	\$75.83
Incidentals (Melbourne CBD & Metropolitan)	\$28.14	\$30.81
Breakfast(Bright, Castlemaine, Wonthaggi, Colac)	\$34.91	\$38.23
Lunch (Bright, Castlemaine, Wonthaggi, Colac)	\$49.35	\$54.04
Dinner (Bright, Castlemaine, Wonthaggi, Colac)	\$69.25	\$75.83
Incidentals (Bright, Castlemaine, Wonthaggi, Colac)	\$28.14	\$30.81
Breakfast (All other Victorian Locations)	\$34.91	\$38.23
Lunch (All other Victorian Locations)	\$49.35	\$54.04
Dinner (All other Victorian Locations)	\$69.25	\$75.83
Incidentals (All other Victorian Locations)	\$28.14	\$30.81
Part day absence Breakfast (Melbourne CBD & Metropolitan)	\$34.91	\$38.23
Part day absence Lunch (Melbourne CBD & Metropolitan)	\$49.35	\$54.04
Part day absence Dinner (Melbourne CBD & Metropolitan)	\$69.25	\$75.83
Part day absence Breakfast (Bright, Castlemaine, Wonthaggi, Colac)	\$34.91	\$38.23
Part day absence Lunch (Bright, Castlemaine, Wonthaggi, Colac)	\$49.35	\$54.04

Allowance	Agreed Current Amount Payable	UFU Proposed Increase (9.5%)
Part day absence Dinner (Bright, Castlemaine, Wonthaggi, Colac)	\$69.25	\$75.83
Part day absence Breakfast (All other Victorian Locations)	\$34.91	\$38.23
Part day absence Lunch (All other Victorian Locations)	\$49.35	\$54.04
Part day absence Dinner (All other Victorian Locations)	\$69.25	\$75.83
Accommodation (Melbourne CBD & Metropolitan)	\$278.25	\$304.68
Accommodation (Bright)	\$204.75	\$224.20
Accommodation (Castlemaine)	\$204.75	\$224.20
Accommodation (Wonthaggi)	\$204.75	\$224.20
Accommodation (Colac)	\$204.75	\$224.20
Accommodation (Ararat, Bairnsdale, Ballarat, Benalla, Bendigo, Echuca, Geelong, Hamilton, Horsham, Mildura, Portland, Sale, Seymour, Shepparton, Swan Hill, Wangaratta, Warnambool)	\$204.75	\$224.20
Accommodation (Other Victorian Country Centres)	\$204.75	\$224.20

Attachment A

	Current Wage	2%	4.50%	5%	5.50%	10%	15%	15.50%	25%
Div A									
Recruit	\$1,113.60	\$2.12	\$4.76	\$5.29	\$5.82	\$10.58	\$15.87	\$16.40	\$26.45
FF1	\$1,552.62	\$2.95	\$6.64	\$7.37	\$8.11	\$14.75	\$22.12	\$22.86	\$36.87
FF2	\$1,581.36	\$3.00	\$6.76	\$7.51	\$8.26	\$15.02	\$22.53	\$23.29	\$37.56
FF3	\$1,613.61	\$3.07	\$6.90	\$7.66	\$8.43	\$15.33	\$22.99	\$23.76	\$38.32
QFF	\$1,738.86	\$3.30	\$7.43	\$8.26	\$9.09	\$16.52	\$24.78	\$25.60	\$41.30
SFF	\$1,896.00	\$3.60	\$8.11	\$9.01	\$9.91	\$18.01	\$27.02	\$27.92	\$45.03
LFF	\$1,999.60	\$3.80	\$8.55	\$9.50	\$10.45	\$19.00	\$28.49	\$29.44	\$47.49
SLFF	\$2,121.41	\$4.03	\$9.07	\$10.08	\$11.08	\$20.15	\$30.23	\$31.24	\$50.38
SO	\$2,260.73	\$4.30	\$9.66	\$10.74	\$11.81	\$21.48	\$32.22	\$33.29	\$53.69
SSO	\$2,434.43	\$4.63	\$10.41	\$11.56	\$12.72	\$23.13	\$34.69	\$35.85	\$57.82
Commander - commencement	\$2,748.61	\$5.22	\$11.75	\$13.06	\$14.36	\$26.11	\$39.17	\$40.47	\$65.28
Commander - after 12 months	\$2,850.62	\$5.42	\$12.19	\$13.54	\$14.89	\$27.08	\$40.62	\$41.98	\$67.70
Commander - after 24 months	\$2,952.47	\$5.61	\$12.62	\$14.02	\$15.43	\$28.05	\$42.07	\$43.48	\$70.12
Commander L4	\$2,952.47	\$5.61	\$12.62	\$14.02	\$15.43	\$28.05	\$42.07	\$43.48	\$70.12
ACFO - on appointment	\$4,011.80	\$7.62	\$17.15	\$19.06	\$20.96	\$38.11	\$57.17	\$59.07	\$95.28
ACFO - 12 months	\$4,234.74	\$8.05	\$18.10	\$20.12	\$22.13	\$40.23	\$60.35	\$62.36	\$100.58
ACFO - 24 months	\$4,457.55	\$8.47	\$19.06	\$21.17	\$23.29	\$42.35	\$63.52	\$65.64	\$105.87
FSCC	\$2,434.43	\$4.63	\$10.41	\$11.56	\$12.72	\$23.13	\$34.69	\$35.85	\$57.82
SFSCC	\$3,025.62	\$5.75	\$12.93	\$14.37	\$15.81	\$28.74	\$43.12	\$44.55	\$71.86
Div B									
Recruit	\$1,113.60	\$2.12	\$4.76	\$5.29	\$5.82	\$10.58	\$15.87	\$16.40	\$26.45
FF1	\$1,552.63	\$2.95	\$6.64	\$7.37	\$8.11	\$14.75	\$22.12	\$22.86	\$36.87
FF2	\$1,581.36	\$3.00	\$6.76	\$7.51	\$8.26	\$15.02	\$22.53	\$23.29	\$37.56
FF3	\$1,613.62	\$3.07	\$6.90	\$7.66	\$8.43	\$15.33	\$22.99	\$23.76	\$38.32
QFF	\$1,738.86	\$3.30	\$7.43	\$8.26	\$9.09	\$16.52	\$24.78	\$25.60	\$41.30
SFF	\$1,896.00	\$3.60	\$8.11	\$9.01	\$9.91	\$18.01	\$27.02	\$27.92	\$45.03
LFF	\$1,999.60	\$3.80	\$8.55	\$9.50	\$10.45	\$19.00	\$28.49	\$29.44	\$47.49
SLFF	\$2,121.41	\$4.03	\$9.07	\$10.08	\$11.08	\$20.15	\$30.23	\$31.24	\$50.38
SO	\$2,260.74	\$4.30	\$9.66	\$10.74	\$11.81	\$21.48	\$32.22	\$33.29	\$53.69
SSO	\$2,434.44	\$4.63	\$10.41	\$11.56	\$12.72	\$23.13	\$34.69	\$35.85	\$57.82
Commander - commencement	\$2,973.64	\$5.65	\$12.71	\$14.12	\$15.54	\$28.25	\$42.37	\$43.79	\$70.62
Commander - L2	\$3,033.44	\$5.76	\$12.97	\$14.41	\$15.85	\$28.82	\$43.23	\$44.67	\$72.04
Commander - L3	\$3,093.23	\$5.88	\$13.22	\$14.69	\$16.16	\$29.39	\$44.08	\$45.55	\$73.46
Commander - L4	\$3,152.99	\$5.99	\$13.48	\$14.98	\$16.47	\$29.95	\$44.93	\$46.43	\$74.88
ACFO - commencement	\$3,502.19	\$6.65	\$14.97	\$16.64	\$18.30	\$33.27	\$49.91	\$51.57	\$83.18
ACFO - L2	\$3,547.02	\$6.74	\$15.16	\$16.85	\$18.53	\$33.70	\$50.55	\$52.23	\$84.24
ACFO - L3	\$3,591.81	\$6.82	\$15.35	\$17.06	\$18.77	\$34.12	\$51.18	\$52.89	\$85.31
ACFO - L4	\$3,636.66	\$6.91	\$15.55	\$17.27	\$19.00	\$34.55	\$51.82	\$53.55	\$86.37
ACFO4 (Regional Commanders)	\$4,087.44	\$7.77	\$17.47	\$19.42	\$21.36	\$38.83	\$58.25	\$60.19	\$97.08
MCS L1	\$3,502.19	\$6.65	\$14.97	\$16.64	\$18.30	\$33.27	\$49.91	\$51.57	\$83.18
MCS L2	\$3,547.02	\$6.74	\$15.16	\$16.85	\$18.53	\$33.70	\$50.55	\$52.23	\$84.24
MCS L3	\$3,591.81	\$6.82	\$15.35	\$17.06	\$18.77	\$34.12	\$51.18	\$52.89	\$85.31
MCS L4	\$3,636.66	\$6.91	\$15.55	\$17.27	\$19.00	\$34.55	\$51.82	\$53.55	\$86.37
FSCC	\$2,434.44	\$4.63	\$10.41	\$11.56	\$12.72	\$23.13	\$34.69	\$35.85	\$57.82
SFSCC	\$3,025.63	\$5.75	\$12.93	\$14.37	\$15.81	\$28.74	\$43.12	\$44.55	\$71.86
PE Techs									
PE Technician 1	\$1,276.03	\$2.42	\$5.46	\$6.06	\$6.67	\$12.12	\$18.18	\$18.79	\$30.31
PE Technician 2	\$1,341.45	\$2.55	\$5.73	\$6.37	\$7.01	\$12.74	\$19.12	\$19.75	\$31.86

PE Technician 3	\$1,406.86	\$2.67	\$6.01	\$6.68	\$7.35	\$13.37	\$20.05	\$20.72	\$33.41
PE Technician 4	\$1,472.27	\$2.80	\$6.29	\$6.99	\$7.69	\$13.99	\$20.98	\$21.68	\$34.97
PE Technician 5	\$1,603.07	\$3.05	\$6.85	\$7.61	\$8.38	\$15.23	\$22.84	\$23.61	\$38.07
Senior PE Technician	\$1,697.33	\$3.22	\$7.26	\$8.06	\$8.87	\$16.12	\$24.19	\$24.99	\$40.31
PE Technician 3	\$3,280.40	\$6.23	\$14.02	\$15.58	\$17.14	\$31.16	\$46.75	\$48.30	\$77.91
PE Technician 4	\$3,433.12	\$6.52	\$14.68	\$16.31	\$17.94	\$32.61	\$48.92	\$50.55	\$81.54
PE Technician 5	\$3,738.60	\$7.10	\$15.98	\$17.76	\$19.53	\$35.52	\$53.28	\$55.05	\$88.79
Senior PE Technician	\$3,958.42	\$7.52	\$16.92	\$18.80	\$20.68	\$37.60	\$56.41	\$58.29	\$94.01
PAD									
PAD Operator -	\$1,999.60	\$3.80	\$8.55	\$9.50	\$10.45	\$19.00	\$28.49	\$29.44	\$47.49
PAD Supervisor	\$2,260.74	\$4.30	\$9.66	\$10.74	\$11.81	\$21.48	\$32.22	\$33.29	\$53.69
CTSO									
CTSO 3, PP6	\$2,151.86	\$4.09	\$9.20	\$10.22	\$11.24	\$20.44	\$30.66	\$31.69	\$51.11
CTSO 3, PP5	\$2,109.67	\$4.01	\$9.02	\$10.02	\$11.02	\$20.04	\$30.06	\$31.06	\$50.10
CTSO 3, PP4	\$2,068.32	\$3.93	\$8.84	\$9.82	\$10.81	\$19.65	\$29.47	\$30.46	\$49.12
CTSO 3, PP3	\$2,027.76	\$3.85	\$8.67	\$9.63	\$10.60	\$19.26	\$28.90	\$29.86	\$48.16
CTSO 3, PP2 / CTSO 2, PP6	\$1,988.00	\$3.78	\$8.50	\$9.44	\$10.39	\$18.89	\$28.33	\$29.27	\$47.22
CTSO 3, PP1 / CTSO 2, PP5	\$1,949.00	\$3.70	\$8.33	\$9.26	\$10.18	\$18.52	\$27.77	\$28.70	\$46.29
CTSO 2 PP4	\$1,910.79	\$3.63	\$8.17	\$9.08	\$9.98	\$18.15	\$27.23	\$28.14	\$45.38
CTSO 2 PP3	\$1,873.33	\$3.56	\$8.01	\$8.90	\$9.79	\$17.80	\$26.69	\$27.58	\$44.49
CTSO 1 PP6 / CTSO 2 PP2	\$1,836.60	\$3.49	\$7.85	\$8.72	\$9.60	\$17.45	\$26.17	\$27.04	\$43.62
CTSO 1 PP5 / CTSO 2 PP1	\$1,800.58	\$3.42	\$7.70	\$8.55	\$9.41	\$17.11	\$25.66	\$26.51	\$42.76
CTSO 1 PP4	\$1,765.30	\$3.35	\$7.55	\$8.39	\$9.22	\$16.77	\$25.16	\$25.99	\$41.93
CTSO 1 PP3	\$1,730.65	\$3.29	\$7.40	\$8.22	\$9.04	\$16.44	\$24.66	\$25.48	\$41.10
CTSO 1 PP2	\$1,696.72	\$3.22	\$7.25	\$8.06	\$8.87	\$16.12	\$24.18	\$24.98	\$40.30
CTSO 1 PP1	\$1,663.46	\$3.16	\$7.11	\$7.90	\$8.69	\$15.80	\$23.70	\$24.49	\$39.51

¹ [PR720617](#).

² *Construction, Forestry, Mining and Energy Union v The Australian Industrial Relations Commission* [2001] HCA 16; (2001) 203 CLR 645 [30] – [32]; cited in *Endeavour Energy v Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia* [2016] FCAFC 82, [25].

³ *Construction, Forestry, Mining and Energy Union v Wagstaff Piling Pty Ltd* [2012] FCAFC 87 [21], cited in *Kentz (Australia) Pty Ltd v Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia* [2016] FWCFCB 2019, [52].

⁴ *CEPU v Thiess Pty Ltd* (2011) 212 IR 327 at [42], [47]; *CFMEU v AIRC* [2001] HCA 16.

⁵ *SDA v Big W Discount Department Stores* [PR924554](#), [23].

⁶ [\[2022\] FWC 3170](#), [21].

⁷ *Construction, Forestry, Mining & Energy Union v Wagstaff Piling Pty Ltd and Others*, 203 FCR 371, [21]; see also *Kentz (Australia) Pty Ltd v Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia* [2016] FWCFCB 2019, [52].

⁸ Exhibit UFU1, *Applicant Outline of Submissions*, 22 May 2023, [5].

⁹ *Ibid*, [6] – [9].

¹⁰ *Ibid*, [5].

¹¹ *Ibid*, [8] – [9].

¹² *Ibid*, [10]; see Statement by Mansini DP June 2021 in C2021/2852; and 2017 ([PR593629](#), Wilson C; [\[2017\] FWC 874](#), Harper-Greenwell C).

¹³ *Ibid*, [25].

¹⁴ Exhibit UFU2, Policy Report No, 23-03 *Analysing proposed allowance increments for Victorian Fire Fighters*, prepared by Professor Mitchell from the Centre of Full Employment and Equity within the University of Newcastle, May 2023, p.3 appearing at DCB, p.73.

¹⁵ *Ibid*, p.5 appearing at DCB, p.75.

¹⁶ *Ibid*, p.9 appearing at DCB, p.79.

¹⁷ *Ibid*.

¹⁸ *Ibid*, pp.10 – 11 appearing at DCB, pp.80 – 81.

¹⁹ Exhibit UFU1, *Applicant Outline of Submissions*, 22 May 2023, [15].

²⁰ Exhibit FRV1, *Respondent Outline of Submissions*, 14 June 2023, [4].

²¹ *Ibid*.

²² *Ibid*, [5].

²³ Transcript, PN 87.

²⁴ Exhibit FRV1, *Respondent Outline of Submissions*, 14 June 2023, [36].

²⁵ *Ibid*.

²⁶ Exhibit FRV4, *Witness Statement of Kirstie Schroder*, 14 June 2023, [32].

²⁷ *Ibid*, [34].

²⁸ *Ibid*, [19].

²⁹ *Ibid*, [28] – [30].

³⁰ *Ibid*, [36] – [37].

³¹ *Ibid*, [38].

³² *Ibid*, [39] – [41].

³³ *Ibid*, [38].