



13th December 2013

Fair Work Commission
80 William St
EAST SYDNEY NSW 2000

Please find enclosed an application for the making of a modern enterprise award. This application is made on behalf of Murray Irrigation Limited

Yours faithfully,

Shane Coyne
for & on behalf of Murray Irrigation Ltd.

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Form F1 Application for a Modern Enterprise Award*(Subrule 6.3, Fair Work Australia Rules 2010)***IN FAIR WORK COMMISSION***FWA use only***FWA Matter No.:****APPLICATION FOR THE MAKING OF A MODERN ENTERPRISE AWARD****Applicant**

Name:	Murray Irrigation Ltd ("MIL")				
Address:	443 Charlotte St				
Suburb:	Deniliquin	State:	NSW	Postcode:	2710
If the Applicant is a company or organisation:					
Contact person:	Graham Taylor	ABN:	23 067 197 933		
Contact details for the Applicant or contact person (if one is specified):					
Telephone:	(03) 58983310	Mobile:			
Fax:		Email:	graham.taylor@murrayirrigation.com.au		

Applicant's representative (if any)

Name:	Shane Coyne, First IR Consultancy P/L				
		ABN:	53 122 318 076		
Address:	Level 3, 92 Pitt St.,				
Suburb:	SYDNEY	State:	NSW	Postcode:	2000
Contact person:					
Telephone:	(02) 9231 2088	Mobile:			
Fax:		Email:	shane@firstir.com.au		

Respondent(s)

Name:	Australian Workers' Union (Greater NSW Office)				
		ABN:	<i>[If known]</i>		
Address:	16-20 Good St.				
Suburb:	Granville	State:	NSW	Postcode:	2142
Contact person:	Stephen Crawford				
	<i>[If known]</i>				
Telephone:	(02) 9615 9212	Mobile:			
Fax:		Email:	scrawford@awu-nsw.asn.au		

Respondent(s)

Name:	Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales				
		ABN:	<i>[If known]</i>		
Address:	160 Clarence St.,				
Suburb:	Sydney	State:	NSW	Postcode:	2000
Contact person:	Simon VanVeghel				
	<i>[If known]</i>				
Telephone:	(02) 9220 0900	Mobile:			
Fax:		Email:	svanvegchel@psa.asn.au		

Name:	Transport Workers' Union of Australia, New South Wales Branch			
	ABN: [If known]			
Address:	31 Cowper St.,			
Suburb:	Parramatta	State:	NSW	Postcode: 2150
Contact person:	State Secretary			
	[If known]			
Telephone:	(02) 9912 0700	Mobile:		
Fax:			Email:	

Name:	Construction, Forestry, Mining and Energy Union of Australia, New South Wales Branch			
	ABN: [If known]			
Address:	Gr. Floor, 11 George St			
Suburb:	Parramatta	State:	NSW	Postcode: 2150
Contact person:	State Secretary			
	[If known]			
Telephone:	(02) 8898 6900	Mobile:		
Fax:			Email:	

The Applicant applies, pursuant to the provision(s) in part 1, for the order or relief set out in part 2 on the grounds specified in part 5.

1. **Provision(s) under which application is made:**
Part 2 of Schedule 6 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*
2. **Order or relief sought:**
The making of a modern enterprise award in terms to be provided at a later date following consultations with staff and their representative(s)
3. **What is the industry of the employer?**
Operation and maintenance of irrigation infrastructure
4. **Relevant industrial instrument(s) (if any):**
Murray Irrigation Limited Consent Award 2004
Award ID: AN120355
5. **Grounds:**
 - 5.1 The Murray Irrigation Limited Consent Award 1996 was published on 2 August 1996 in the NSW Industrial Gazette (294 I.G. 42). Subsequent variations were made to that award, which ultimately became the 2004 version referred to in point 4 above ("the Consent Award").
 - 5.2 Prior to the Commonwealth Work Choices commencement date of 27 March 2006, the NSW Parliament passed the Industrial Relations Amendment Act 2006. This had the effect, among others, of inserting a new Schedule 4, Part 8A, Section 44C into the Industrial Relations Act 1996 (NSW). These provisions meant that the Consent Award became an enterprise agreement on the day prior to the Work Choices amendments commencing.
 - 5.3 The Workplace Relations Act 2006 ("WR Act") created instruments called *preserved collective State agreements* (defined in Schedule 8 to the WR Act). The Consent Award became a preserved collective State agreement. Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* at Item 2 defines and continues the existence of WR Act instruments as transitional instruments. Sub-item 2(5) classifies certain preserved State agreements as

agreement-based transitional instruments. The Consent Award is an enterprise instrument for the purposes of the relevant legislation under which this application is made. (Ref: Part 2, Division 1, Schedule 6 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.)

5.4 The Scope and Application of the Consent Award is specific to MIL, identifying the company and its employees for whom job descriptions and employment conditions are contained in the Consent Award, as the persons to whom the Consent Award applies. It has comprehensive coverage of the business and the employees' work.


5.5 MIL operates in its own unique business in a distinct location. Its operations are primarily concerned with managing and maintaining irrigation infrastructure assets. MIL's core services include providing access for farmers to MIL's channels and canals, for which access, the farmers pay fees to MIL. Those services are provided by MIL in a specified locality, namely the Murray Irrigation Area. No other operator can provide those core services in that Area.

5.6 The Consent Award contains enterprise specific provisions designed to accommodate the particular needs of the enterprise in its day to day operations. These include, but are not limited to, seasonal work rosters and job descriptions/titles with specific functions relevant only to irrigation infrastructure operation.

5.7 The Consent Award and its antecedents were developed taking into account the operational needs of MIL and the particular skills and occupations employed by MIL. There was no award of general application which applied to the business or the employment of irrigation infrastructure operation and maintenance. MIL came into existence in the mid-1990s following privatisation of irrigation infrastructure.

5.8 No modern award made under the *Fair Work Act 2009* applies to the operations or business of MIL, nor is one likely to be made.

5.9 Such other matters that may arise in the course of proceedings.

Date:	13 th December 2013
Signature:	
Name:	Shane Coyne
Capacity/Position:	Applicant's Representative
[If not signed by the Applicant.]	

Service requirements

This application must be served on the named Respondent(s) as soon as practicable after the application is lodged with FWC.

This application must also be served on other persons as directed by FWC if and when such direction(s) are given.

Note: Rules 9 and 10 deal with service.