
**OEA Case Study – Peabody
Resources (Ravensworth Mine)**

**The Development and
Implementation of Australian
Workplace Agreements**

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World Competitive Practices

Level 7, 21 Victoria St
Melbourne Vic 3000

Tel: (03) 9663 2944
Fax: (03) 9663 2525
Email: wcp@wcp.com.au






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Executive summary

Ravensworth coal mine, in the Hunter Valley of NSW, is operated by Peabody Resources. It supplies a domestic energy corporation that is located adjacent to the Mine. The mine employs 54 staff and 197 production and engineering employees, with ten of the latter covered by an Australian Workplace Agreement (AWA). The other 187 operational employees are members of either the Construction, Forestry, Mining and Energy Union (Mining and Energy Division) (CFMEU) or the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) and are covered by a members-only certified agreement.

The first AWA was implemented when one worker left the union and needed alternative coverage. The others that chose to adopt an AWA were attracted by word-of-mouth, as, deliberately, there was little formal promotion of AWAs by Peabody. The most common reason cited by these employees for choosing AWA coverage was the ability that it gave them to directly influence their own employment conditions and decisions.

Despite this limited coverage, AWAs have been a benchmark for conditions and productivity improvements against which the most recent certified agreement was forced to match. In that respect, the Ravensworth certified agreement compares favourably to other collective agreements in the Hunter Valley. The AWA employees' ability to work while the union members were on strike during negotiations over this agreement also provided leverage to Peabody, as supplies of coal continued despite union strike action.

In short, the presence of AWAs has facilitated a significant improvement in the employee relations environment at the mine.

Research process

An initial meeting was held with Peabody Resources to explain the proposed methodology and to establish a timeline of key steps. After gathering and scoping relevant background material, one day was spent conducting primary research. Interviews were held with the mine manager, industrial relations officer, human resources manager, two senior plant managers and two supervisors of teams that included AWA employees. Two focus groups were held with the employees covered by AWAs (a total of nine participants, one person on an AWA was absent), and one focus group was held with employees who were union members and covered by the certified agreement (seven participants).

Background

Peabody Resources Limited operates an open cut coal mine at Ravensworth in the Hunter Valley of New South Wales. Ravensworth is a 24-hour operation, producing approximately six million tonnes per annum. At the Ravensworth mine site, nearly four million tonnes are produced from the Ravensworth South Mine, and two million tonnes are produced from the Narama Mine. In 2001, the output from Ravensworth will reduce to two million tonnes per annum, once the Ravensworth South mine is completely exhausted.

In preparation for this decrease in production, Peabody reduced the number of operational employees at the mine in February 1999 from 253 to 197 through voluntary redundancy. Peabody plans to reduce this level further to approximately 70-85 employees by 2001. This is the projected number of employees needed to continue to meet Peabody's current supply contracts.

The mine serves only one customer, a domestic corporation that meets more than 40% of the demand for electricity in NSW. Peabody is one of several suppliers of coal to this customer, and is contracted to meet approximately half of the corporation's coal requirements until 2001. After that time, when the Ravensworth South mine is no longer in production, Peabody will supply less than one-fifth of the corporation's coal requirements. The run-of-mine coal is delivered to the corporation via a conveyor belt that runs to the New England Highway in the Hunter Valley.

The parties at the mine site consist of the employer (Peabody Resources Limited), 54 staff and 197 operational employees. All of the staff are employed under individual common law contracts based on the concept of a salary for a position. Approximately 25 staff are members of the Australian Collieries' Staff Association (ACSA). Of the operational employees, ten are employed under an Australian Workplace Agreement (AWA) while the remaining 187 employees are covered by a certified agreement. Of those 187 employees, 180 are members of the CFMEU and seven are members of the CEPU. Five unions operated on site until they amalgamated into two during 1992-93.

Mine employees perform roles such as electrician, plant mechanic, boilermaker/welder and plant operator. Until the first AWA was implemented, all employees were members of a union and employed under a members-only agreement. This situation was reflective of the coal industry more

generally, which can be characterised as one of the most highly unionised industries in Australia.

Several economic, political and international factors influence Peabody's operation of the mine and its employee relations strategy. A key economic factor is the domestic and international price of coal. This can have a significant impact on the mine given output levels are relatively fixed over the short term. Should prices fall dramatically, the mine must adjust by reducing costs, which can prove difficult if employment conditions must remain relatively fixed. Other economic factors include shifts in foreign exchange markets and the effect of the Asian crisis on exports of coal to buyers in the region. These factors do not have a direct impact on Peabody at this point in time, given its only buyer is a domestic corporation. However, an indirect impact results from the effect that these changes have on wider industry norms and thus on Peabody's operational decisions. For example, lower international coal prices may make the domestic market more competitive.

The change of government at a Federal level was a political factor that had a significant influence on both the industry and on Peabody Resources, as a result of the Coalition Government's attempts to free up industrial relations via the introduction of the *Workplace Relations Act 1996*.

The changes brought by the Act created windows of opportunity for employers such as Peabody in heavily unionised industries. The ability to provide alternative employment contracts in an endeavour to better align the interests of employees and employers has resulted in significant changes occurring in some parts of the coal mining industry.

Another factor that has had a considerable impact on the mining industry is the growth in the international ownership of Australian mines. Ravensworth Mine is one example of this change, as Peabody Resources Limited is part of the Peabody Group, a company based in Missouri, USA. This development has led to a more concerted effort being made to enhance the efficiency and productivity of domestic mines, to bring Australian operations up to the standards set by their overseas counterparts.

Starting point

Over the past decade, agreement making at the Ravensworth Mine has been characterised by lengthy periods of negotiation and disputation (see Table 1 overleaf). The failure of the CFMEU and CEPU to share a set of common goals with Peabody management was cited by the company as the key reason for such prolonged processes.

The first enterprise agreement (Mark I) was implemented on 1 September 1992 after 10 months of negotiation. This agreement emphasised team based structures. In revising this agreement, negotiations over the Mark II agreement took twenty months (the agreement was implemented on 22 April 1996). Negotiations over the current agreement, Mark III, took 19 months and the Agreement was implemented on 17 May 1999.

Both management and employees acknowledge that the conclusion of negotiations over the Mark III agreement was expedited because ten employees signed AWAs during this negotiation period. When strike action was implemented during the negotiations, these ten AWA employees, together with the mine's staff, were able to ensure continuity of supply. This significantly increased the company's leverage in the negotiations. This is because it was the first time that staff numbers had been sufficiently supplemented to allow supply to continue. Another contributing factor was the method of supply; the use of a conveyor belt to deliver coal to the customer prevented the union from gaining power by using a picket line to impede the physical supply per se.

The limited life of the Ravensworth South mine (only 18 months until December 2000) was a third factor that expedited the conclusion of negotiations over the Mark III agreement (and also contributed to the ten employees choosing to sign AWAs). This was because employees were concerned that they only had a short time to make money, that they could not afford to take strike action for too long as it was taking away the time available to mine the coal, given the remaining life of the Ravensworth South mine. In addition, the presence of AWA employees meant that production could continue and thus the closure date would not need to be extended to reflect the time that was lost when the unions were on strike.

Table 1: Key employment relations events at the Ravensworth Mine

Month	Certified Agreement	AWAs	Comment
September 1992	Mark I productivity agreement Award is the coal Mining Industry (Production and Engineering) Interim Consent Award 1990	–	Negotiations took 10 months
April 1996	Mark II productivity agreement Award is the Coal Mining Industry (Production and Engineering) Interim Consent Award 1990	–	Negotiations took 20 months
September 1997		–	Mark III negotiations commenced
December 1997		First AWA approved	Negotiations took 8 months to conclude the first AWA
June 1998		Five more AWAs approved	
July 1998		Two more AWAs approved	
October 1998		AWA revised after consultation, second version approved for all eight employees	
December 1998		Two more AWAs approved (second version)	Mark III negotiations continuing
February 1999			56 employees and six staff take voluntary redundancy
March 1999		One more AWA approved (second version)	Mark III negotiations continuing
May 1999	Mark III productivity agreement Award is the Coal Mining Industry (Production and Engineering) Consolidated Award, 1997	Ten AWAs on site of a total of 195 employees (one AWA resigned)	Mark III negotiations concluded, after 19 months Agreement reached in part because of existence of AWAs and remaining mine life of only 18 months

Before the first AWA was developed, all employees were covered by the Mark II enterprise agreement, which was a members-only agreement. Peabody's implementation of the first AWA was initially a response to circumstance rather than a deliberate strategic move. In 1997, one employee resigned from the union and thus was no longer covered by this enterprise agreement. As a result, Peabody placed this employee on a common law contract that was a duplicate of the Mark II agreement.

However, the use of this employee on a dragline during a monthly union meeting led the CFMEU to lodge a dispute with the Australian Industrial Relations Commission (AIRC). The CFMEU argued that there was a breach of the minimum manning requirements as specified in the Mark II certified agreement, and that the employee was also bound by these requirements given the conditions in the individual contract were identical to the Mark II agreement.

Commissioner Harrison discussed the matter in a conference with Peabody and the CFMEU. He did not bring down a ruling but encouraged Peabody to adopt an alternative employment arrangement with the non-union employee, to prevent a similar issue arising again. Peabody then turned to the new option unveiled recently by the Federal Government, that of an AWA.

Intent

The company acknowledges that before the first AWA was put in place, it did not have a firm idea what outcomes would result. While there was a broad understanding that it would help to free up work practices for those covered by the AWA, there was little awareness of the broader impact that AWAs could have on the company or unions.

After the first AWA had been implemented, Peabody management became more fully aware of the benefits that could be offered in terms of increasing flexibility and thus productivity and efficiency. These benefits arose from the fact that the AWA reduced restrictions placed on work practices, such as manning levels, demarcation boundaries, seniority and the use of contractors. Management also saw AWAs as an opportunity to align workers' needs with those of the company because workers were more able to influence their own pay, conditions and development. In addition, the AWAs provided Peabody with an enhanced ability to continue to deliver coal during industrial action.

The AWA was also seen as an opportunity to change the culture of the workplace by reducing workers' antagonism towards company management in an attempt to achieve Peabody's longer-term aim of a more cooperative workplace. The opportunity for cultural change was seen to be facilitated by the flexibility offered in the AWA regarding work and pay arrangements and the closer alignment of individual performance (rather than team performance) to the mine's production targets. Change also resulted from the time spent by AWAs working with staff to supply coal when the union was on strike during the Mark III negotiations; and from the company's attempts to discuss management issues more freely and frankly with the employees under AWAs.

Those who chose to adopt an AWA after the first one had been implemented primarily did so because they were dissatisfied with the union's handling of the Mark III negotiations. In particular, the employees disliked the loss of income resulting from the frequent strike action being taken via overtime bans and 24 hour stoppages. These employees felt that the Union was trying to fight in vain for certain conditions that were unsustainable, such as seniority. In addition, these employees felt that the impending decrease in production at the mine meant that time was at a premium and lengthy delays in negotiating the agreement were unwise.

Thus these employees saw an AWA as an opportunity to exercise greater control over their employment conditions and to ensure continuity of income. One employee said that

it represented a “chance to make a difference to my future”. Some said that they signed for the company’s sake, not just for themselves, as evidence of their loyalty and flexibility. They wanted to show that they were keen to be part of the smaller group of employees to remain at the Narama Mine.

Other reasons cited for signing an AWA included employees having the opportunity to provide more direct input to management via the system of regular monthly meetings held between managers and the AWA employees.

In contrast, union employees perceive AWAs as a way for Peabody management to reduce union influence and thus increase the company’s power in the employment relationship. Members also feel that the AWA’s individual performance bonus is likely to lead to a reduction in safety as AWA workers attempt to cut corners to increase output. The bonus system was also perceived as a vehicle for the company to reduce pay rates over time, as the methods used to measure performance were seen as unreliable by the unions.

Union members also see the AWA as a less secure form of employment contract than the certified agreement, particularly given the redundancies planned for the future at the site. This is because union members perceive the AWA, incorrectly, as a fixed term agreement that could leave the AWA workers in a vulnerable position when it expires.

Process

Negotiations over the first AWA took eight months, from the first meeting to the signing of the agreement (March to September 1997).

These negotiations were held between the mine manager, the industrial relations officer and the employee, who also had a bargaining agent during part of this process. The bargaining agent was a current employee at the mine who was a union member. According to the first employee to take up an AWA, he did not utilise any other source of advice or information during this negotiation process. Peabody Resources sought advice from an external consultant in industrial law and also drew upon documentation from the Office of the Employment Advocate (OEA). Verbal advice was sought by the company from the OEA during the ratification process.

Peabody management described the development of the first AWA as a difficult and time-consuming process. The company wanted to maximise the opportunity provided to rewrite the employment contract from the ground up and to create an extremely favourable agreement, but this also demanded significant care and consideration in developing a viable proposal for the employee's and OEA's consideration. In particular, the company grappled with determining whether various provisions would pass the no-disadvantage test.

All further AWA agreements were also negotiated between management and the employee. No bargaining agents were involved in any of these negotiations. After the first AWA had been agreed in September 1997, seven more agreements were signed in June and July 1998.

The nine-month delay between the first and second round of AWA signings stemmed from the fact that the negotiations over the Mark III certified agreement commenced shortly after the first AWA had been signed. The expiry date of the Mark II agreement was 3 July 1998. Thus the second group of employees who signed AWAs in June and July 1998 did so because they were dissatisfied with the union's handling of the negotiations over the certified agreement, which had been underway for several months by that time.

Shortly afterwards, management held a meeting off-site to discuss improvements to the agreement. The company invited participation from all AWA employees and those employees interested in signing an AWA. The AWA was revised as a result of this process of employee input. All eight existing AWA employees signed the second version.

Three more employees adopted this second version, two in December 1998 and the last in March 1999.

Peabody management did not formally promote to employees the benefits of switching from certified agreements to AWAs. Instead, information about the availability of AWAs was disseminated by word of mouth. This approach was chosen because management did not want the option of moving to an AWA to become a significant issue amongst employees on the site.

Those employees who were interested in adopting an AWA approached management on an individual basis. The process of an employee considering and signing an AWA at Ravensworth involved the following:

1. Employee expresses interest in AWA to the Team Leader or Section Manager
2. Employee receives a copy of the AWA to read (must wait 14 days before signing)
3. An initial meeting is held between the employer (the section manager and the industrial relations officer) and employee to discuss key content and process issues
4. Further consideration is given to the AWA by the employee
5. A meeting is held between the employer and employee to discuss content further
6. Signing of the AWA by the employee
7. Approval by the OEA (14 days to ratification. In some instances employees applied to waive the 14 day delay before their agreement was ratified).

As part of this process, the written information that was provided to employees about AWAs consisted of the following:

- a letter of offer from Peabody management, which was sent after employees requested a copy of the AWA;
- a copy of the AWA;
- an explanatory letter outlining the key features of the AWA; and
- the OEA's *Australian Workplace Agreement Information Kit – Employee Guide*.

Some employees also clarified issues with employees already covered by an AWA. All reported that they did not seek information from any other source.

The AWA employees also noted that the union exerted significant pressure on those who were considering whether or not to sign an agreement. This intimidation was so strong that one employee requested that his AWA be withdrawn

after it had been lodged with the OEA. After some members had signed AWAs, they received letters from the union asking them to explain why they should not be expelled as a result of “allegations of signing an AWA”. All resigned from the union before being expelled.

Some management representatives commented that those who adopted AWAs were relatively similar to mine staff in terms of work attitude and flexibility in adapting to changes in work practices. One manager reported that most AWAs were from the top 15% of performers on the site. In addition, the AWA employees expressed a high degree of confidence in their own ability both on the job and in finding employment generally. Several had worked in industries other than mining and as such were less concerned about the Company providing them with long term job security.

Content

Table 1 sets out the key provisions in the AWA, and compares them to the Mark III certified agreement, which came into effect on 17 May 1999. The provisions of the Mark II certified agreement are also included to illustrate the differences between it and the Mark III agreement.

As can be seen in the Table, the Mark III agreement incorporates many of the features of the AWA and its adoption has meant that all employees at Ravensworth are now covered by relatively similar conditions. Key features of the AWA that are not, however, included in the Mark III productivity agreement are:

- a bonus based partially on individual performance;
- pay rates that are CPI adjusted on an annual basis (those under the certified agreement receive a 1.5% increase on the first anniversary of the agreement). The CPI indexation is seen as an important feature of the agreement by the AWA employees;
- employees have an individual development plan that allows them to identify and pursue training and career progression needs that are aligned with the company's objectives; and
- the salary continuance plan is more valuable than that offered by the union's plan and its cost is favourable when compared with the cost of annual union fees.

In addition, the AWA employees noted that they feel that the AWA's dispute resolution procedures are more favourable than those provided by the certified agreement. The AWA procedures allow disputes to be negotiated without going to the AIRC, the employer funds all costs involved and the AWAs continue to be paid while disputes are being negotiated.

Peabody management also noted that the AWA provided the opportunity for greater flexibility in rostering staff, although this gain is difficult to realise at the moment given that the ten workers covered by AWAs belong to different work teams that predominantly comprise employees under the certified agreement.

Management and AWA employees have reviewed the content of the AWA on two occasions. As a result of this process, management feels that there is now little scope to renegotiate the AWA as it currently stands. If further employees express interest in adopting an AWA, they will be offered the latest version.

The key provisions shared by the AWA and the Mark III agreement are designed to achieve the company's objectives of increasing productivity, decreasing manning requirements for equipment, decreasing downtime and increasing the ability to base retention on performance.

There are no additional employment arrangements at the mine (for example, informal arrangements) given the unionised nature of the workplace.

When considering the highly collective nature of the mining industry more generally, Peabody's AWA represents a significant advance in terms of securing an individual employment contract. The majority of companies in the industry continue to offer collective agreements and face considerable resistance to any attempts to move towards individual arrangements.

Peabody's certified agreement and AWA also represent an advance over other employment contracts because seniority is no longer a determining factor when arranging rosters and making other work-related decisions at the Mine. In addition, contractors can be used at Ravensworth without restriction, unlike at other mines. These differences, along with the emphasis on individual performance and additional reward, make the Ravensworth AWAs (and the certified agreement based on them) significantly different from other companies' certified agreements, as Table 3, comparing Ravensworth with Drayton Coal and Mt Owen Mine, shows. For these reasons, Peabody management feels that they have the "best agreement in the Valley".

Table 2: Comparison of AWA with Certified Agreements Mark II and III

Area	Mark II Certified Agreement	AWAs	Mark III Certified Agreement
General Conditions	<p>Company has access to all skills held within the production or engineering streams (no demarcation)</p> <p>Minimum manning requirements (eg three people on a dragline)</p> <p>Contractors can be used – manning rates and conditions applied</p> <p>No man for man requirement</p> <p>Seniority shall play no role in the day-to-day selection of skills only</p> <p>Disputes leading to stop work permitted</p> <p>Weekly employment</p>	<p>Company has access to all skills held (no demarcation)</p> <p>Commitment to train in any skill if required</p> <p>Employee has input into skill development</p> <p>No minimum manning requirements</p> <p>No restrictions on use of contractors</p> <p>No seniority</p> <p>No participation in industrial disputes (ie strikes)</p> <p>Monthly employment instead of award employment (one week)</p> <p>Annual roster value, plus bonus, plus additional overtime, paid weekly.</p> <p>% of bonus linked with individual performance assessment</p> <p>Single wage rate</p> <p>Annual increases in roster payment based on CPI, subject to satisfactory performance</p> <p>Roster system payments based on 35 ordinary hours Monday to Friday</p> <p>Range of shift systems – up to 12 hours plus change over</p> <p>One month's notice required for change of roster</p> <p>Additional alternative shift systems may be agreed</p> <p>No tolerance time or 'smoko'</p> <p>One rest break per shift for all shifts up to 10 hours</p> <p>Nominal reasonable minimum overtime is sixteen hours per month</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 3 sick days pa (of casual, single day absences)</p> <p>Ability to cash-out existing sick leave and salary sacrifice future accruals</p>	<p>Company has access to all skills held (no demarcation)</p> <p>Commitment to train in any skill if required</p> <p>No minimum manning requirements</p> <p>No restrictions on use of contractors</p> <p>No seniority</p> <p>No participation in industrial disputes (ie strikes)</p> <p>Weekly employment</p> <p>Weekly pay, plus bonus and additional overtime, also paid weekly.</p> <p>No link with individual performance assessment</p> <p>Single wage rate</p> <p>Annual increase set at 1.5% after the first year anniversary</p> <p>Roster system payments based on 35 ordinary hours Monday to Friday</p> <p>Range of shift systems – up to 10 hours plus change over</p> <p>One month's notice required for change of roster</p> <p>Additional alternative shift systems may be agreed</p> <p>10 minute tolerance time for first 12 months, then discontinued</p> <p>No 'smoko'</p> <p>No agreement reached on reasonable minimum overtime</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 6 sick days pa (of casual, single day absences)</p>
Wages, hours and shift system	<p>Weekly pay, plus bonus and additional overtime, also paid weekly.</p> <p>Skill-based pay (initially with 3 levels, reducing to 2 levels in the final year)</p> <p>No annual increases in payment</p> <p>Roster system payments based on 35 ordinary hours Monday to Friday</p> <p>Range of shift systems – up to 8.5 hours plus change over</p> <p>One month's notice required for change of roster</p> <p>No mention of alternative shift systems</p> <p>10 minutes tolerance time</p> <p>'Smoko' to be taken on the run</p> <p>No agreement reached on reasonable minimum overtime</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 6 sick days pa (of casual, single day absences)</p>	<p>Annual roster value, plus bonus, plus additional overtime, paid weekly.</p> <p>% of bonus linked with individual performance assessment</p> <p>Single wage rate</p> <p>Annual increases in roster payment based on CPI, subject to satisfactory performance</p> <p>Roster system payments based on 35 ordinary hours Monday to Friday</p> <p>Range of shift systems – up to 12 hours plus change over</p> <p>One month's notice required for change of roster</p> <p>Additional alternative shift systems may be agreed</p> <p>No tolerance time or 'smoko'</p> <p>One rest break per shift for all shifts up to 10 hours</p> <p>Nominal reasonable minimum overtime is sixteen hours per month</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 3 sick days pa (of casual, single day absences)</p> <p>Ability to cash-out existing sick leave and salary sacrifice future accruals</p>	<p>Weekly pay, plus bonus and additional overtime, also paid weekly.</p> <p>No link with individual performance assessment</p> <p>Single wage rate</p> <p>Annual increase set at 1.5% after the first year anniversary</p> <p>Roster system payments based on 35 ordinary hours Monday to Friday</p> <p>Range of shift systems – up to 10 hours plus change over</p> <p>One month's notice required for change of roster</p> <p>Additional alternative shift systems may be agreed</p> <p>10 minute tolerance time for first 12 months, then discontinued</p> <p>No 'smoko'</p> <p>No agreement reached on reasonable minimum overtime</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 6 sick days pa (of casual, single day absences)</p>
Wages, hours and shift system (cont)	<p>No agreement reached on reasonable minimum overtime</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 6 sick days pa (of casual, single day absences)</p>	<p>No tolerance time or 'smoko'</p> <p>One rest break per shift for all shifts up to 10 hours</p> <p>Nominal reasonable minimum overtime is sixteen hours per month</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 3 sick days pa (of casual, single day absences)</p> <p>Ability to cash-out existing sick leave and salary sacrifice future accruals</p>	<p>10 minute tolerance time for first 12 months, then discontinued</p> <p>No 'smoko'</p> <p>No agreement reached on reasonable minimum overtime</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 6 sick days pa (of casual, single day absences)</p>
Overtime	<p>No agreement reached on reasonable minimum overtime</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 6 sick days pa (of casual, single day absences)</p>	<p>Nominal reasonable minimum overtime is sixteen hours per month</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 3 sick days pa (of casual, single day absences)</p> <p>Ability to cash-out existing sick leave and salary sacrifice future accruals</p>	<p>No agreement reached on reasonable minimum overtime</p> <p>Ability to work overtime on RDOs</p> <p>Certificate required after 6 sick days pa (of casual, single day absences)</p>
Sick leave	<p>Certificate required after 6 sick days pa (of casual, single day absences)</p>	<p>Certificate required after 3 sick days pa (of casual, single day absences)</p> <p>Ability to cash-out existing sick leave and salary sacrifice future accruals</p>	<p>Certificate required after 6 sick days pa (of casual, single day absences)</p>

Area	Mark II Certified Agreement	AWAs	Mark III Certified Agreement
Job security	No retrenchments	Retention criteria - safety, attendance, punctuality, quality and quantity of work, team work, and initiative	Retention criteria - safety, attendance, punctuality, quality and quantity of work, team work, and initiative
Disputes procedure	Award Disputes' Handling Procedure	Special arrangements, company to pay reasonable costs, payment to continue during resolution	Five step procedure ultimately involving AIRC
Salary sacrifice	Extended sacrifice provisions subject to ATO limits	Extended sacrifice provisions subject to ATO limits	Extended sacrifice provisions subject to ATO limits
Anti discrimination	Not specifically mentioned	Model clause inserted	Not specifically mentioned
Other	Sick leave payout scheme	Sick leave payout scheme	Sick leave payout scheme
	Cash sickness benefit available through union (not part of agreement)	Salary Continuance Plan superior to that offered by union Provision for employer contribution	Cash sickness benefit available through union (not part of agreement)
	No individual bonus scheme	Individual bonus scheme	No individual bonus scheme

Table 3: Peabody agreements compared to other coal industry agreements

Area	Peabody Certified Agreement	Peabody AWA	Drayton Coal Industrial Agreement 1999	Mt Owen Mine Industrial Agreement 1996
General Conditions	Staff training based on business needs	Staff training based on business needs Each employee has individual career development plan	Staff training based on business needs	Training priorities focused on the needs of the work team
	No demarcation	No demarcation	No demarcation	No demarcation
	No minimum manning	No minimum manning	Minimum manning still enforced	-
	No restrictions on use of contractors	No restrictions on use of contractors	No restrictive work practices Contract labour restricted to absences and unplanned events	-
Wages, hours and shift system	No seniority	No seniority	Seniority applies when hiring former employees who were forced retrenchments	-
	No participation in industrial action	No participation in industrial action	-	Industrial action "...against spirit and intent of this Agreement.." Exemption from CFMEU campaigns may be granted
	Weekly employment	Monthly employment	Monthly employment	-
	Weekly pay, plus bonus and additional overtime, also paid weekly. Overtime paid at double time (Mon-Fri) and at treble time (public hols)	Annual roster value, plus bonus, plus additional overtime, paid weekly.	Overtime paid at double time (Mon-Fri), 2.2 times (Sat and Sun) or treble time (public holidays)	Bonus scheme exists
Wages, hours and shift system (cont)	No link with individual performance assessment	% of bonus linked with individual performance assessment	Individual performance monitoring	-
	Single wage rate	Rates determined by roster	Rates determined by roster	Skill based pay
	Roster system payments based on 35 ordinary hours Monday to Friday	Roster system payments based on 35 ordinary hours Monday to Friday	Pay based on 35 ordinary hours Monday to Friday	-
	One month's notice required for change of roster	One month's notice required for change of roster	One week's notice required for change of roster Variation to shift roster can go to Grievance Resolution Procedure	-
Wages, hours and shift system (cont)	No 'smoko'	No 'smoko'	'Smoko' to be taken on the run	-
	Tolerance time of 10 minutes for first 12 months then discontinued	No tolerance time One rest break per shift for all shifts up to 10 hours	Tolerance time provided Flexible crib arrangements	-

Area	Peabody Certified Agreement	Peabody AWA	Drayton Coal Industrial Agreement 1999	Mt Owen Mine Industrial Agreement 1996
Sick leave	Certificate required after 6 days Accumulated sick leave without limitation 15 days pa	Certificate required after 3 days Accumulated sick leave without limitation 15 days pa Ability to cash out existing sick leave and salary sacrifice future accruals	Certificate required after 5 days Accumulated sick leave without limitation 15 days pa Salary sacrifice of accrued sick leave into superannuation	
Job Security	No forced retrenchments before December 2000 Retention criteria - safety, attendance, punctuality, quality and quantity of work, team work and initiative	Retention criteria - safety, attendance, punctuality, quality and quantity of work, team work and initiative	No forced retrenchments as a result of the agreement. Continuity of employment is dependent on Drayton meeting yearly targets Retrenchments are merit based with 3 weeks pay for each year served. If agreement on retrenchments can't be reached Last On, First Off will apply within separate streams of employees	No employee made redundant or retrenched during agreement life except in extraordinary economic or other circumstances such as mine/plant closure
Disputes procedure	Five step procedure ultimately involving the AIRC	Special arrangements, company to pay reasonable costs, payment to continue during resolution	Five step procedure ultimately involving the AIRC	Parties commit to process grievances through the Disputes Procedure

Implementation

The implementation of AWAs at Ravensworth has been a gradual one and fairly small in scale. This stems from the fact that Peabody management has followed an informal process of primarily one-on-one discussions with interested employees, rather than a concerted effort to encourage adoption by all employees.

However, as mentioned earlier, both employees and employers agree that the introduction of AWAs enabled the Mark III Agreement to be implemented more rapidly. This is because the existence of AWAs provided management with the ability to continue to supply coal under strike conditions for the first time in the mine's operation, thus reducing the coercive power of industrial action.

This suggests that the availability and implementation of AWAs has had a major impact on the way in which work is done on a day-to-day basis. This is because the content of the Mark III agreement is fairly similar to the AWA, notwithstanding the fact that the number of employees covered by AWAs is relatively small. Currently only 10 employees are covered by an AWA out of 195 employees; before the redundancies occurred in February 1999 the proportion was even smaller at 10 out of 261. It was the move from the Mark II agreement to the Mark III that led to a greater direct change in work practices, facilitated in part by the introduction of, and the conditions specified in, the AWA.

Union members have a poor opinion of employees on AWAs. They perceive that the AWA employees receive preferential treatment because of their access to training and their opportunity to discuss issues with management on a regular basis. Members also feel that the AWA employees have 'sold out' to management.

As at the time of writing, the dispute resolution procedure in the AWA has not been used, and it does not appear likely to be used in the near future. While not conclusive, this suggests that employment under AWAs does not lead to feelings of dissatisfaction, quite the opposite.

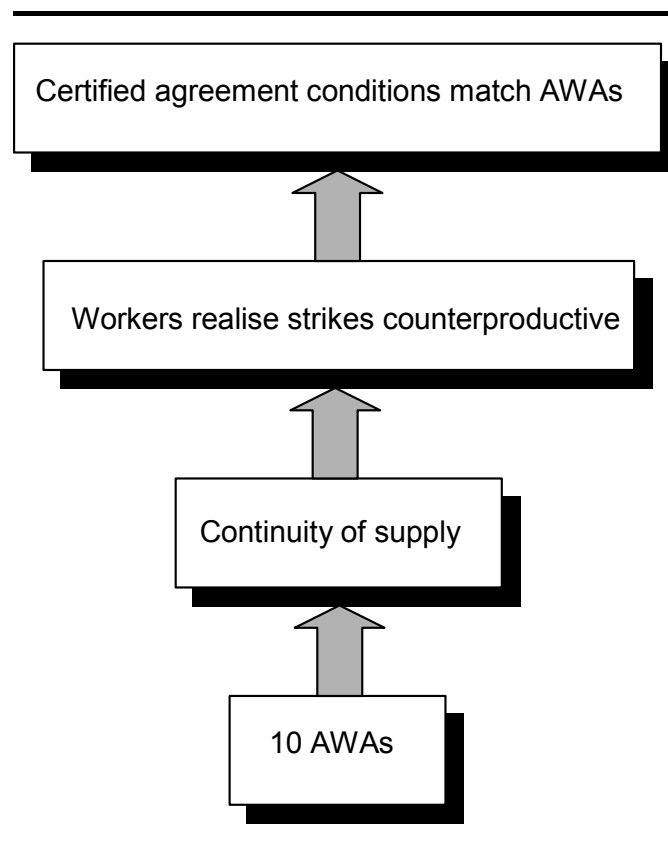
Outcomes

It is difficult to ascertain the exact extent to which the implementation of AWAs has led to improvements in productivity and efficiency at Ravensworth. This is because:

- only 10 out of 197 operational employees are covered by AWAs;
- during the time in which the AWAs were implemented, the operations workforce decreased by 22% (from 253 to 197) yet the level of production was maintained; and
- the system for measuring performance on key indicators such as productivity and efficiency was refined in early 1999.

However, the implementation of AWAs has contributed directly to an increase in productivity and efficiency because it has acted as a catalyst to introduce more flexible working arrangements throughout the organisation via the Mark III agreement (this is illustrated in Figure 1 below).

Figure 1: Impact of AWAs



The workplace culture has also changed in several ways as a result of the introduction of AWAs. In particular, the process has created a third group at the worksite, that of the AWAs, who appear to be in transition from conventional collective employment arrangements to arrangements more akin to staff. As discussed above and below, this is having a major impact on the way work is done at the site.

Employment under an AWA has led to some positive changes for the ten employees. Some commented that they feel their relationship with their immediate supervisor is closer and more direct, reflecting less of an 'us-them' attitude. They also enjoy the opportunity that has been provided to discuss issues with management at a monthly meeting. One employee noted that adopting an AWA reduced the confrontational nature of work.

These employees have also appreciated having the ability to continue working (together with staff) when the unions are on strike. Both managers and AWA employees perceived such opportunities for AWAs to work more closely with staff as positive.

The AWA employees said they appreciated being involved in the refinement of the AWA. They see this negotiation process as important. However, they expressed awareness that there may be less opportunity for negotiation over future agreements, something which they see as undesirable.

There was no real sense from AWA employees that the AWA led to changes in work practices (particularly given the similarity between the AWA and Mark III conditions). The only real difference that employees could cite was that they were available to work at short notice if requested by management. Management noted that the rostering system in the AWA offers more flexibility than the certified agreement, but is hard to implement because the majority of workers are covered by the latter agreement.

However, employees also felt that Peabody management has not taken full advantage of the opportunities posed by AWAs. They feel that there are still occasions when management considers them as part of the same group as the union members. This is of concern to the ten given the AWA employees' perception that they have shown good faith in leaving the union despite considerable harassment from their colleagues.

The harassment and intimidation by the union, which continues even after signing an AWA, has been the largest disadvantage for employees electing to adopt an AWA. AWA employees feel that the workplace is much less

pleasant as a result of the negative behaviour towards them. This behaviour includes

- a letterbox drop in the local area of some AWA workers, protesting an employee's adoption of an AWA;
- vandalism of the cars of AWA workers;
- ostracism in the work place and in the local community; and
- telephone calls to their homes (including to their children).

Both the AWA employees and Peabody management agree that more employees would be willing to adopt AWAs if the harassment by the union stopped. AWA employees said they knew of several people who were interested in signing AWAs but who did not proceed because of intimidation. One person signed and then withdrew his AWA as a result of harassment. A representative from the OEA was to visit the site to address the issue but the meeting never eventuated, reportedly because a legal adviser from the OEA was not available to attend. Management has sent letters via registered mail to two particularly bad offenders, asking them to desist and warning that their behaviour could lead to disciplinary action.

Peabody management feels that the main change resulting from AWAs has been as a catalyst for changes in work practices. In addition, the delays and union action experienced in negotiating the Mark III agreement significantly influenced the men to sign an AWA. In turn, this led to the negotiations being concluded more expeditiously. Management believes that the process has changed the way in which the unions may approach future negotiations.

There do not appear to be any employees in a disadvantaged position under the certified agreement or AWA. Management feels that the existence of AWAs provides employees with considerable flexibility in the negotiation process, as it leaves open the option of returning to a certified agreement if the AWA is not adopted.

Next time

Peabody management sees AWAs as just one part of its industrial relations strategy, which aims to achieve a direct employment relationship with all employees within the next five years. AWAs represent a necessary intermediate step in its attempts to gradually move employees from certified agreements to staff contracts. One concern expressed by management, however, was the potential for the group of staff under AWAs to become an 'alternative union' as the number of AWA employees increased.

Peabody management would like more employees to sign up to AWAs now, but sense that this is unlikely to happen because of the level of intimidation in the workplace. This is compounded by the fact that any further employees wishing to sign an AWA must leave the union. This is because the Mark III certified agreement does not make provision for an employee to remain in the union *and* be covered by an AWA instead of the collective agreement. The AWA employees also noted that the heavily unionised nature of the towns in the area, such as Cessnock, Singleton and Muswellbrook, means that there are strong community barriers to the adoption of AWAs given the likelihood of intimidation.

For this reason, the current AWA employees feel that they should become staff now so that their disassociation with the union is more formally acknowledged by management. They believe that this may reduce the stigma suffered as a result of leaving the union. In their current state, the AWA employees feel that they are part of a third, minority group and that there is still an "us-versus-them" attitude expressed by management towards them. They believe that if this could be reduced, it would help to attract more employees to an AWA.

The fact that two-thirds of the employees will be made redundant over the next 18 months as production is reduced is also perceived as a barrier to getting more AWAs in place. This is because many employees do not see themselves staying with the company long after 2000 and so are happy to remain under the Mark III agreement (particularly given the 18 month negotiation process came to an end only recently). Ultimately management believes that a direct relationship with the majority of the workforce will only be achieved once the staffing level at the mine is reduced due to the closure of Ravensworth South.

Conclusion

The implementation of AWAs at Peabody's Ravensworth mine has helped to increase the flexibility of the mine's operations. While the option of implementing AWAs was not deliberately pursued by management in an attempt to enhance productivity, efficiency or workplace culture, it has led to an outcome whereby all employees are now covered by an agreement that has the potential to lead to significant gains.

The impending closure of Ravensworth South and the gradual reduction of employees at the site have had an impact on employment negotiations over the Mark III certified agreement. It also was a contributing factor in the adoption of AWAs by some employees.

The creation of a third group in the form of the AWA employees has started to change the culture at the site. It has enhanced the relationship between management and the AWA workers and staff, with a greater alignment of each group's goals with the other. However, it has also been accompanied by considerable harassment and intimidation, which has been a disincentive to the adoption of more AWAs.

AWAs are an important element in achieving management's aim of a non-union workforce. To fully reap the benefits of the existing AWA and to encourage greater adoption by other employees, Peabody now appears faced with a need to develop further ways of working with this group of non-union employees and raising awareness of the benefits for those who remain under the Mark III agreement.