

# Supporting Transitions In and Out of Parental Leave in the NSW Construction Industry

*Industry Scan*



## Work and Organisational Studies The University of Sydney Business School

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# 1. Introduction

Australia's construction sector continues to struggle to attract and retain women workers. A key area of strategic importance is how women are supported in the workplace before, during and after parental leave. Research has found that these periods are pivotal in a woman's decision to remain in or return to work. To date, there has been little research into the experiences of women in construction during these transitions, or how to support employers and workers to navigate this critical time.<sup>1</sup> The *Boosting retention of women in construction: Improving transitions in and out of parental leave project* sets out to investigate how to assist women to remain in frontline construction roles in NSW during pregnancy and parental leave, and after taking parental leave.

This industry scan, which forms Stage 2 of the project, maps the current construction industry landscape in pregnancy, parental leave and return to work, including leading practice and critical gaps, drawing on the available sector-wide data on this topic.

## 1.1 The policy ladder

To map the policy and practice landscape, we use the framework of the 'policy ladder'<sup>2</sup> in which policies at different levels intersect to produce the landscape in which women navigate transitions in and out of parental leave. In the context of the NSW construction sector, the four rungs of the policy ladder are:

1. Public policies and statutory provisions: relevant legislation and modern awards
2. Collective bargaining: federal enterprise agreements (EAs)
3. Organisational policies: formal employer policies
4. Discretionary arrangements: implementation of policies 'on the ground' by managers

In many instances these levels or 'rungs' overlap in supporting workers in the construction industry, but in some instances, different levels provide support to different groups of workers. For example, public policies generally cover all workers including long term casuals (except in some instances) and EAs generally cover workers on wages/hourly rates. Employer policies usually apply to all permanent workers, with access by casual workers more mixed.

This scan, which is focused on patterns in policy making across the construction sector, is organised according to the first three rungs of policymaking that shape transitions in and out of parental leave in the construction sector. Discretionary arrangements will be addressed in the report emerging from Stage 3 of the study, based on interviews with policy stakeholders and women working in construction.

## 1.2 Approach

To map the landscape, the scan draws on the following methods:

1. Mapping of legislative/public policy provisions relevant to pregnancy, parental leave and return to work in the construction sector.

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<sup>1</sup> Hanna-Osborne, S; Galea, N; Hamilton, M (2025) *Boosting retention of women in construction: Improving transitions in and out of parental Leave: Rapid literature review*, University of Sydney, Sydney.

<sup>2</sup> Baird, M; Williams, A; Hamilton, M. *The policy ladder: Understanding organisational policies for multigenerational workforces Chapter 4* in Baird, M; Hamilton, M; Williams, A (eds) (2024) *The Multigenerational Workforce: Managing Age and Gender at Work*, Palgrave Macmillan, UK; Berg P, Kossek E, Baird M & Black R (2013). *Collective bargaining and public policy: Pathways to work-family policy adoption in Australia and the United States. European Management Journal*, 31(5), 495-504

2. Identification of modern awards governing conditions in the construction sector and their role in shaping EAs in the sector.
3. A review of all registered enterprise agreements pertaining to the construction sector in NSW that are listed in the Fair Work Commission's Workplace Agreements Database (WAD) and included at least one clause relevant to pregnancy or parental leave transitions (provided they met certain conditions – 623 agreements in total, and 1785 relevant clauses)<sup>3</sup>
4. Detailed analysis of the 2025 release of the Workplace Gender Equality Agency (WGEA) data on parental leave and related policies in companies reporting to WGEA (i.e. companies with 100 employees or more).

As this scan is focused on a holistic snapshot of the whole construction industry landscape, specific examples of good practice that have arisen in interviews with policy stakeholders and women working in the sector will be included in the next report in Stage 3 of the project.

## 2. Public policy: Legislation and modern awards

### 2.1 Legislation

Legislative provisions relating to support for pregnancy, parental leave and post-parental leave transitions in the NSW construction industry are included in six main pieces of legislation.<sup>4</sup> The National Employment Standards (NES), contained in the Fair Work Act 2009 (FW Act), provide most of these entitlements. Several provisions concern the safety and wellbeing of pregnant employees – see Box 'Support for pregnant employees'

#### Support for pregnant employees

- **Anti-discrimination protections for pregnancy:** Employers must not discriminate against an employee or treat an employee less favourably on the basis of their pregnancy (Commonwealth Sex Discrimination Act 1984 (s.7AA)).
- **Special unpaid parental leave:** Eligible pregnant employees who are unfit for work, or whose pregnancy has ended between 12- and 20-weeks' gestation without the birth of a living child, can take unpaid leave for up to 12 months (FW Act, s.80).
- **'No safe job' leave:** Pregnant employees can request a transfer to a suitable safe job. Employees who are entitled to parental leave can take paid 'no safe job' leave until parental leave commences (FW Act, s.81A). Employees not entitled to parental leave (i.e. casuals with less than 12 months' service) can take unpaid no safe job leave (FW Act, s. 82A).
- **Flexible work due to pregnancy:** Pregnant employees are entitled to ask their employer for flexible working arrangements (i.e. changes to hours, patterns, or location of work) (FW Act, s.65).

Once a child is born, parents are entitled to unpaid job protected leave coupled with the government-funded Parental Leave Pay<sup>5</sup> that provides a payment to employees while on leave from work – see Box 'Support during parental leave'.

<sup>3</sup> A customised request was made on 15 January 2025 to the Department of Employment and Workplace Relations EB Trends team to search the WAD for enterprise agreements that contained clauses that assisted women with parental leave transitions. The search of the database returned 623 enterprise agreements that fit the following criteria: Currently in force; Registered between 1 January 2023 and 30 September 2024 (the most recent date that could be provided by the Department); Relating to enterprises in NSW; That are in, or related to, the construction industry; and Containing clauses related to parental leave, work/life balance, work flexibility and gender equality.

<sup>4</sup> They include: Fair Work Act – National Employment Standards; Paid Parental Leave Act 2010; Superannuation Guarantee Administration Act 1992 (Cth) – relevant if employer pays superannuation to employees taking parental leave; Sex Discrimination Act 1984 (Cth); Anti-Discrimination Act 1977 (NSW); Apprenticeship and Traineeship Act 2001 (NSW)

<sup>5</sup> The unpaid parental leave provisions and parental leave pay are enshrined in the National Employment Standards and Paid Parental Leave Act (2010) respectively.

## Support during parental leave

- **Unpaid parental leave:** Employees, including casual employees, are entitled to up to 12 months of unpaid, job-protected parental leave after the birth or adoption of a child, subject to an eligibility period of 12-month's service with the employer (FW Act s.70). Parents can take up to 110 days of the unpaid parental leave period flexibly rather than in one continuous block<sup>6</sup>.
- **Leave in the case of stillbirth:** Employees who would have been eligible in the case of a live birth retain the entitlement to unpaid parental leave in the case of a stillbirth.
- **Extension to unpaid leave:** Employees can request an extension of unpaid parental leave up to another 12 months; although employers are not required to grant the request (refusal must be based on reasonable business grounds).
- **Parental Leave Pay:** Parents who meet certain eligibility conditions including work, income and residency tests<sup>7</sup> are entitled to 22 weeks of parental leave pay, payable at the rate of the national minimum wage.<sup>8</sup> Within couples, two weeks of leave is reserved for each parent on a 'use it or lose it' basis. Parental leave pay can be taken flexibly, in one continuous block, smaller blocks, or periods of one day at a time.
- **Superannuation on parental leave pay:** From 1 July 2025, the government will pay superannuation of 12% on parental leave pay

Employees returning to work after parental leave are entitled to several statutory provisions to support the transition – see Box 'Returning to work – statutory provisions'.

## Returning to work – statutory provisions

- **Anti-discrimination protections for breastfeeding or family responsibilities:** Employers must not discriminate against an employee or treat an employee less favourably because they are breastfeeding or expressing milk and must not impose a condition or practice likely to have the effect of disadvantaging such women (SDA (s.7AA)). Breastfeeding is a 'protected attribute' of an employee<sup>9</sup>, meaning it is unlawful for employers to treat these employees differently because they are breastfeeding<sup>10</sup>. Employers must not discriminate against an employee due to of family responsibilities.
- **Flexible working arrangements:** Employees have a right to request flexible working arrangements based on their childcare responsibilities (s.65).
- **Paid personal/carers leave:** Employees are entitled to 10 days per year (pro rata) that can be used when they are sick or when a child (or other close family member) is sick or injured or affected by an unexpected emergency (s.96).
- **Unpaid carers leave:** Employees are entitled to two days per occasion that an employee's close family or household member is sick, injured or there is an emergency (s.102). Casual employees are entitled to unpaid carers leave only, not paid leave.

Public policy, therefore, offers supportive provisions fairly evenly spread across pregnancy and transitions into parental leave, during parental leave, and returning to work after parental leave. Policies are concentrated in the


6 Baird, M., Hamilton, M., Heron, A., Stevens, E (2025) 'Australia country note', in Dobrotić, I., Blum, S., Kaufman, G., Koslowski, A., Moss, P. and Valentova, M. (eds.) *International Review of Leave Policies and Research 2025*. Available at: <https://www.leavenetwork.org/annual-review-reports/>

7 Eligibility tests: A parent must have worked 10 of the 13 months before the birth or adoption of the child for at least 330 hours (approximately one day a week) during that time (the work test) and can earn up to \$175,788 individually, or \$364,350 in a couple (the income test). Claimants must be an Australian citizen or permanent resident or hold a special visa (the residency test).

8 This is legislated to rise to 24 weeks on 1 July 2025 and 26 weeks on 1 July 2026 and the portion reserved for each parent will be increased by one week each year. From 1 July 2025 it will be 3 weeks and from 1 July 2026 it will be 4 weeks reserved for each parent.

9 Fair Work Act (2009)

10 Baird, M., Hamilton, M., Heron, A., Stevens, E (2025) 'Australia country note', in Dobrotić, I., Blum, S., Kaufman, G., Koslowski, A., Moss, P. and Valentova, M. (eds.) *International Review of Leave Policies and Research 2025*. Available at: <https://www.leavenetwork.org/annual-review-reports/>



areas of protection from discrimination, leave for pregnancy, infant care and care for older children, and flexible working arrangements during pregnancy, in parental leave use, and upon returning to work. This forms the ‘foundational rung’ of the policy ladder on top of which awards, enterprise agreements and organisational policies build their supportive activities.

## 2.2 Modern awards

Australia’s modern award system underpins many of the conditions of employment in the construction industry. For example, modern awards prescribe working arrangements, working hours including overtime, and pay rates, health and safety, as well as industry-specific conditions such as redundancy schemes. Gender equality is set to become a bigger part of the Award system as the federal government recently legislated to require all Awards to contain this an objective.<sup>11</sup> There are many Awards, with key Awards being the Building and Construction General On-site Award 2020, Electrical, Electronic and Communications Contracting Award and Plumbing and Fire Sprinklers Award 2020.<sup>12</sup>

Awards are particularly important for the employees of smaller employers who do not have the resources to bargain collectively or develop formal human resources policies. In one such example, parents whose work is covered by the Construction General On-site Award (covering a large number of small employers) can access a number of Award entitlements relating to parental leave, flexible work, and leave for caring.

### **Award conditions that assist parents**

The Construction General On-site Award 2020 draws on the NES conditions for unpaid parental leave, requests for flexible working arrangements, and personal/carer’s leave. It specifies hours of work, including part-time hours, and requires consultation with employees if the employer seeks to make changes to rosters or hours of work of the impact on their family or caring responsibilities.

All Awards must contain a clause providing for individual flexibility arrangements, which allow an employer and employee to negotiate terms that are specific to an employee and vary the award if the employee is ‘better off overall’. A standard term that can be varied is ‘arrangements about when work is performed’, which theoretically entitles more flexible working hours to be negotiated.

However, obtaining additional conditions of employment beyond the Award minima, or conditions that are more employer-specific, will require further steps up the policy ladder. The next rung on the ladder is collective bargaining between unions and the employer. The Award is always the starting point for collective bargaining and the Fair Work Commission must be satisfied that employees covered by the resulting instrument are ‘better off overall’ than the Award. It is up to the unions, employees and employers to decide whether to bargain over conditions that can assist women to transition into and out of parental leave, for example conditions such as gender equality, job sharing, paid parental leave, additional paid carers’ leave, childcare, breastfeeding facilities, and additional flexible working arrangements beyond the minimum. Whether such conditions can be found in NSW construction industry collective agreements is explored in the next section.

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<sup>11</sup> Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022.

<sup>12</sup> A full list of awards relevant to the construction industry is provided in Appendix A.

### 3. Collective bargaining and enterprise agreements

In Australia's national Fair Work system, collective bargaining<sup>13</sup> is usually known as 'enterprise bargaining' with the resulting formal enterprise agreements (EAs) providing for additional conditions of employment beyond the Award minima. To map the enterprise bargaining context in the construction sector, this industry scan drew on the Workplace Agreements Database (WAD), the repository of all federal enterprise agreements maintained by the Department of Employment and Workplace Relations, to identify relevant enterprise agreements and their clauses pertaining to parental leave transitions.<sup>14</sup>

A search of the WAD was conducted for EAs in the NSW construction industry that were actively engaging with issues concerning parental leave and transitions into and out of this leave – 623 EAs were identified that had at least one clause relating to these issues. These agreements form the sample of 'relevant EAs' for this report (Appendices B and C outline how the sample was formed). EAs with no clauses pertaining to pregnancy or transitions in and out of parental leave were excluded from the sample.

The most common clauses pertaining to transitions in and out of parental leave were:

- 1. Personal/carers' leave:** providing paid and/or unpaid leave for a person's individual or family care needs (present in 611 agreements)
- 2. Part time employment regular hours/days rostered:** providing for part time work with regular hours (present in 317 agreements)
- 3. Hours of work may be negotiated:** providing the ability to negotiate the hours of work with the employer (present in 213 agreements)
- 4. Family friendly responsibilities:** providing acknowledgement of family responsibilities when changes are made to rosters and hours of work (present in 159 agreements)
- 5. Gender equality:** providing acknowledgement of the need for gender equality and/or measures to improve gender equality (present in 143 agreements)
- 6. Government paid parental leave:** providing for the employer to top-up government paid parental leave from the Australian national minimum wage rate to the employee's existing wage (present in 76 agreements)
- 7. Government paternity leave:** providing for the employer to top-up government paternity leave from the minimum wage to the employee's existing wage (present in 75 agreements).

There were signs of these clauses appearing across multiple EAs as a result of pattern bargaining (i.e. whereby unions use a new entitlement from one employer as the basis for future negotiations from other employers).<sup>15</sup> Notably, while the above clauses were the most common, they were still low in prevalence across the sector.

There was a clear lack of bargaining activity in the period of pregnancy and transitions into parental leave, and in areas such as breastfeeding provisions and support for childcare. Notably, no NSW construction industry agreements contained clauses pertaining to the following conditions of employment:

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<sup>13</sup> Collective bargaining takes place when a group of employees, or their representatives, bargain with the employer over terms and conditions of employment.

<sup>14</sup> Our approach to selecting and analysing relevant enterprise agreements is set out in Appendix D.

<sup>15</sup> A table is provided in Appendix C, summarising each individual clause, the number of agreements that contained each of the clause, the modern awards that the agreement replaced, the unions involved in bargaining and whether pattern bargaining was observed.



- Stillbirth leave (paid)
- Final payment on return to work
- Simultaneous parental leave
- Additional unpaid leave entitlements for parents
- Paid breastfeeding breaks
- Breastfeeding facilities
- Right to request flex work arrangements beyond minimum
- Salary sacrifice for childcare.

The enterprise agreement clauses that support parents during transitions into parental leave, parental leave itself, and transitions back to work after parental leave are reviewed in the following section.

### 3.1 Pregnancy and transitions into parental leave

There was very little pertaining to pregnancy and transitions to parental leave in enterprise agreements across the sector. No clauses pertaining to fertility treatment were identified. While the Part time Employment/Hours of Work clauses in principle pertain to pregnancy and transitions into parental leave, as employees may opt to change or reduce their working hours while pregnant, the clauses on working hours do not generally acknowledge pregnancy and are therefore dealt with in the section on returning to work after parental leave. The only clauses broadly pertaining to pregnancy and transitions into parental leave, though not explicitly mentioning them, were the Gender Equality clauses.

#### Gender equality

Gender equality clauses were present in 143 agreements. The purposive sample of clauses that was reviewed showed a high degree of similarity and provided generalised commitments to reducing gender-based discrimination, reducing sexual harassment, and providing a gender inclusive workplace environment. These general commitments, however, rarely mentioned pregnancy and parental leave. For example, the DELTEC Groups Pty Ltd & ETU NSW/ACT Construction Union Agreement 2022-2025 includes the clause:

*(xi) It is recognised by the parties that the Electrical and Communications construction industry would benefit from an increase in female participation. The parties commit to work on developing and implementing measures with a view to encouraging and assisting women to seek and maintain employment in the Electrical and Communications contracting construction industry. Those measures will endeavour to have sustainable and measurable positive influence on female participation in the Electrical and Communications contracting Industry. The parties are committed to achieving the targets set by State, Territory or Federal governments in respect to female participation in the Construction industry.*

Another agreement, the Core Talent Pty Ltd & ETU NSW/ACT Construction Union Agreement 2022-2025, provides the same key objectives as the DELTEC agreement, but also expressly commits the employer to supporting women to complete their apprenticeships.

*54. Apprentices ... (m) The parties covered by this Agreement shall endeavour to ensure that the appropriate support is provided to enable women to successfully complete their apprenticeships.*



## 3.2 During parental leave

Paid and unpaid parental leave have a strong statutory basis in the Commonwealth Government Parental Leave Pay Act and the unpaid parental leave provisions in the National Employment Standards. In the construction industry, some enterprise agreements provide additional entitlements beyond the legislative minima such as:

1. Employer-funded paid parental leave (in addition to the statutory Parental Leave Pay)
2. Employer top-up of the statutory Parental Leave Pay to full wage replacement
3. Employer superannuation paid on parental leave

Parental leave in enterprise agreements applies to 'primary' and 'secondary' carers, who are usually (but not always) the mother and father of the child respectively.<sup>16</sup>

### Paid parental leave

Paid parental leave clauses provide paid leave for the primary and secondary carer for a specified period after the birth or adoption of the child. The Workplace Agreements Database recorded only 18 agreements providing for paid parental leave for primary caregivers (usually available to both parents but used almost exclusively by mothers) – only 3% of the enterprise agreements in our sample of relevant EAs. This is significantly lower than the proportion of all agreements in the WAD (Australia-wide and across all industries) with a paid parental leave for primary carer clause, which sits at around a third.<sup>17</sup> In these 18 agreements, the leading clauses, seen in about half the agreements, provided for 18 weeks paid parental leave at full wage replacement, with the remainder varying between 1-15 weeks (see Appendix E for the breakdown of these clauses by bargaining agent).

Almost all agreements required the primary caregiver/mother to have worked for the employer for at least 12 months. Two employers provided shorter qualifying periods but also provided shorter periods of leave so cannot be considered as leading practice.

The Workplace Agreements Database recorded 16 agreements providing for paid parental leave for secondary caregivers (usually fathers), less than 3% of the enterprise agreements in our sample. This is significantly lower than the proportion of all agreements in the WAD (Australia-wide and across all industries) with a paid parental leave for secondary carer clause, which sits at just over a quarter.<sup>18</sup> Most agreements with a secondary carer leave clause in the NSW construction sector provided either 2 or 4 weeks of paid leave.

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<sup>16</sup> The 'gender-neutral' carer model, whereby the amount of leave taken by the mother, father, primary or secondary carer is not pre-determined but left up to families to decide was not seen in any enterprise agreements.

<sup>17</sup> Baird, M; Hamilton, M; Constantin, A (2021) Gender equality and paid parental leave in Australia – A decade of giant leaps or baby steps?, *Journal of Industrial Relations*, 63(4), 546-567.

<sup>18</sup> Baird, M; Hamilton, M; Constantin, A (2021) Gender equality and paid parental leave in Australia – A decade of giant leaps or baby steps?, *Journal of Industrial Relations*, 63(4), 546-567.

## Explicit gender inclusion

An exemplar of an agreement providing 18 weeks' paid leave, with explicit inclusion of surrogacy, adoption and parents in same-sex and/ or non-binary relationships, and a concomitant period of 4 weeks' paid leave for secondary caregivers, is in the Ferrovial Construction Australia Coffs Harbour Bypass AWU & CFMMEU Civilworks Greenfield Agreement 2023-2027:

### 7.4 Parental Leave

a) Employee(s) will be entitled to Parental Leave in accordance with the Ferrovial Leave Policy and the applicable legislation (e.g. the FW Act, and the Paid Parental Leave Act 2010 (Cth)).

b) Employees are eligible for **eighteen (18) weeks** paid parental leave, if they have completed at least 12 months of continuous and unbroken service with the company. Paid parental leave is only available to employees who have or will have responsibility for the primary care of a child immediately following the birth or within 12 months of the birth, or placement of a child in the case of **adoption or surrogacy**.

c) Superannuation payments and leave entitlements will continue to accrue whilst an employee is on a period of parental leave.

d) Employees who are secondary carer's or partners (including **adopting** parents and parents in **same-sex and/ or non-binary relationships**) who share the role of caring for a child and have a minimum of 12 months continuous service will be entitled to a maximum of **twenty (20) days** paid parental leave to be taken within 2 months of the birth of their child or placement in the case of adoption or surrogacy. Union(s): AWU & CFMMEU

Only two agreements included opportunities to use paid parental leave flexibly. For example, the Ventia Project Services Enterprise Agreement 2023 specifies that an Individual Flexibility Arrangement can be made between the employer and employee about paid parental leave, allowing the employee to take the leave in several blocks or extend it for a longer period at half pay.<sup>19</sup>

## Employer top-up of government paid parental leave

As the government parental leave pay scheme only pays parents at the rate of the national minimum wage, some employers top-up the government scheme to the wage rate that their employees ordinarily receive.

Seventy-six (76) agreements (12% of the enterprise agreements in our sample of relevant EAs, or EAs with at least one clause relevant to pregnancy or parental leave) provided for the employer to top-up government parental leave pay. While agreements in the NSW construction industry were more likely to provide an employer top up to the government scheme than fully employer funded paid parental leave, top ups were still uncommon. The most generous clauses provided a top up for 18 weeks, with some organisations providing a top-up for 10 weeks. Employees were usually required to have worked for the employer for 12 months before being eligible. For example, the Heyday5 Pty Ltd & ETU NSW/ACT Construction Union Agreement 2022-2025 stipulates:

<sup>19</sup> The Keolis Downer Hunter Bus Engineering and Maintenance Enterprise Agreement 2023 also specifically states that paid maternity leave may be taken on half pay.

## 26. PARENTAL LEAVE

*a) In addition to unpaid leave provided for in the NES, if an Employee is entitled to paid parental leave under the Paid Parental Leave Act 2010 (Cth) (PPL Act) as the primary carer of the child The Company will provide 18 weeks' Paid Parental Leave in any period of unpaid parental leave provided for in the NES.*

*b) Paid Parental Leave will be paid in amounts equivalent to the difference between the Employee's entitlement to paid parental leave under the PPL Act (based on the minimum wage) and the Employee's weekly minimum wage rate prescribed by this agreement as varied from time to time applicable to the Employee's classification. For the purposes of this clause the minimum wage rate will be the employees hourly rate multiplied by thirty-six hours. No other allowances or payments shall apply...*

Seventy-five (75) agreements (12% of enterprise agreements in our sample) also provided for the employer to top-up the 2-week government Dad and Partner Pay, such as, for example, the Stowe Australia Sydney Projects Division & ETU NSW/ACT Construction Union Agreement 2022-2025. However, these clauses will need to be updated now that the 2-week Dad and Partner Pay has been absorbed into the broader Parental Leave Pay period.

### Superannuation on paid/unpaid parental leave

Career interruptions arising from pregnancy and care of children contribute to reduced superannuation balances in later life. This disadvantage can be reduced by employers continuing to contribute to the superannuation accounts of women (and men) taking parental leave. Fifty-four (54) agreements (9% of enterprise agreements in our sample) contained a clause providing for superannuation to be paid to employees taking paid parental leave, either the employer-funded parental leave or employer funded top up to the government scheme. Forty-two (42) of these agreements (7%) were more generous, containing an additional provision for superannuation to be paid to employees taking unpaid parental leave. The standard ETU-negotiated clause is set out in the FLC Electrical PTY LTD & ETU NSW/ACT HVAC Union Agreement 2024-2026:

#### **Superannuation on Parental Leave**

*g) For those Employees who have completed 12 months continuous service, the Company will make additional Company contributions to an Employee's nominated superannuation fund for any period of parental leave, whether paid or unpaid. Such contributions will be made at the rate defined as the superannuation guarantee percentage in superannuation legislation, as though the Employee were paid at their all-purpose hourly rate for their ordinary hours of work for the duration of parental leave.*

## 3.3 Returning from parental leave

Most common in support of return to work were clauses concerning carers leave and flexible working arrangements or reduced working hours.

### Carers leave

Nearly all (611) agreements (98% of the sample of EAs with at least one clause pertaining to pregnancy or parental leave) contained a clause providing for paid and/or unpaid leave to care for young children in the case of sickness, injury or emergency. However, in almost all cases, the clause merely restated the statutory NES provision of 10 days paid personal/carer's leave – providing no added benefit than if an agreement did not include a personal/carers' leave clause.



The Workplace Agreements Database recorded only five agreements (less than 1% of agreements in our sample) that included a clause providing paid or unpaid carers leave in excess of the statutory minimum.<sup>20</sup> All agreements with this clause replaced the Building and Construction General On-site Award and were negotiated by the CFMEU with the same wording. The clause, providing an additional 24 hours of paid leave per year, is as follows:

### **Family Leave**

*In recognition of the family responsibility of Employees, the Company makes provision for paid family leave. This is an entitlement in addition to that contained in the National Employment Standards. Employees are eligible to a maximum of 24 hours paid family leave per year of service. The time can be used to care for sick family/household members. The same notification and medical certificate requirements of the relevant personal leave provisions contained in the Agreement will apply in respect of this family leave provision.*

The entitlement is to hours, not days, of leave, and thus would provide approximately three days of family leave for workers working a standard 7.5-hour day.

## **Part time employment and job share**

Clauses providing for part time employment were present in half of the agreements in the sample (317, or 51%). In the review of a purposive sample of these agreements, most of these clauses restate the clauses in the respective awards, stating that part time work is available and that the employer and employee will agree to the hours that are worked. However, they include no mention of how this may facilitate work/family balance.

Notably, some agreement clauses on part time work could potentially create less favourable employee outcomes than the corresponding award, if the employee seeks predictable part-time work (as many parents do). For example, whereas the Asphalt Industry Award 2010 [MA000054] provides certainty of part time hours worked per week, the Downer EDI Works Pty Ltd Pavement Preservation Business Enterprise Agreement 2022 only states that hours must be 'reasonably predictable'. As a result, these clauses may not always improve outcomes for parents.

In an exception, one agreement providing for part time work and job sharing was explicitly focused on mothers returning from parental leave. The Keolis Downer Hunter Bus Engineering and Maintenance Enterprise Agreement 2023, negotiated by the CEPU and AMWU, states:

*48.6 An Employee who has been granted Maternity Leave in accordance with this clause may apply to return from a period of full time Parental Leave on a part time basis or on a job share arrangement. Applications must be made in writing as soon as practicable, preferably before commencing Parental Leave, or at least four (4) weeks before the proposed return date.*

*48.7 The Company shall consider any request for a Full Time Employee to return to work from their period of Maternity Leave on a part time or job share arrangement having regard to the Employee's circumstances and the effect on the workplace and/or the Company's business.*

*[Note: the provision is also available to people returning from adoption leave].*

<sup>20</sup> A sixth agreement (the Multiplex Australasia Pty Ltd / CFMEU Collective Agreement 2024-2027) provided an additional one paid week in excess of the statutory minimum for family leisure time. However, the leave appears to more closely resemble annual leave, the additional week is linked to performance and managerial discretion and therefore is not guaranteed, and the leave can be cashed out, which can be a disincentive to using the leave for its intended purpose.

## Hours of work may be negotiated

Clauses providing for variation in working hours were present in 213 agreements (or just over a third, 34% in our sample). While in principle, this has the potential to provide flexibility for parents seeking it, many clauses state that the whole work team determines the variation in hours which means that in practice, the benefit may not be accessible to a request made by a woman in a male dominated team. Like the previous category, therefore, these clauses may not result in improvements for parents.

In contrast, in one non-union agreement, Select Plant Hire National Enterprise Agreement 2023 (see below), the employer specifically notes that agreement with a team to change ordinary working hours on a worksite does not preclude arrangements made with individual employees. Such a clause may work better for women seeking individual flexibility associated with childcare.

### **13.6 Methods of arranging ordinary working hours**

*(a) Subject to the Company's right to fix the daily hours of work for day workers from time to time within the spread of hours referred to in clause 13.2(d) and the Company's right to fix the commencing and finishing time of shifts from time to time, the arrangement of ordinary working hours may be altered by agreement between the Company and the majority of Employees at the work site concerned. This does not preclude the Company reaching agreement with individual Employees about how their working hours are to be arranged. Any change to regular rosters or ordinary hours of work is subject to the consultative provisions in clause 32.2.*

*(b) The matters on which agreement may be reached include:*

- (i) a roster system providing that the weekly average of 36 ordinary hours is achieved over a period which exceeds 28 consecutive days but does not exceed 12 months;*
- (ii) the duration of the work cycle for day workers provided that the duration does not exceed 3 months;*
- (iii) rosters which specify the starting and finishing times of working hours;*
- (iv) any operation, accrual and/or arrangement of rostered days off; and*
- (v) any arrangements of ordinary hours which exceed 8 hours in any day.*

## Flexibility and Family Friendly Responsibilities

One hundred and fifty-nine (159) enterprise agreements (around 26% of agreements in the sample) contained a clause that related to the obligation of employers to take family responsibilities into account when arranging work hours. A review of a purposive sample of these agreements found that, typically, these clauses restate the National Employment Standards provisions allowing workers to request (but not be guaranteed) flexible working arrangements. A common clause either included, or was based on, the Fair Work Regulations (reg. 2.09) model consultation clause which provides that an employer must consider an employee's family responsibilities when consulting about change including to rosters. Consequently, in most instances these clauses did not offer greater support for parents of young children than those already existing in the statutory minima.

There were a few exceptions that went further than the statutory minima. For example, agreements negotiated by the CFMEU and the CEPU Plumbing Division contained a clause that enabled employees to refuse to work on the basis of family responsibilities on scheduled RDOs and designated long weekends.

## Family responsibilities

The most interesting clauses were found in an ETU-negotiated agreement (Electrogroup & ETU NSW/ACT Apprentice Construction Union Agreement 2023 - 2025) that contains an explicit acknowledgement in three working hours clauses on the conflict that can arise between family responsibilities and work demands, along with employer commitments to take employees' circumstances into account. Given the novelty of the clauses, they are quoted at length below. There is also a change consultation clause, including consultation about family responsibilities (not reproduced here).

### 20. Rostered Days Off

*j) **An Employee may refuse to work on a scheduled RDO (or any substituted day) if the requirement to do so is **plainly unreasonable having regard to:*****

- (i) the hours of work that will be worked by that Employee in the week of the scheduled RDO;*
- (ii) the number of scheduled RDOs worked by the Employee within the previous six weeks;*
- (iii) **the Employee's family responsibilities;** and*
- (iv) any other special circumstances peculiar to the Employee.*

### 21. Shift Work

*c) Introduction of Shift work*

***The Parties acknowledge that the placing of existing employees onto a permanent, ongoing and/or long-term shift can detrimentally affect the employees' family obligations and responsibilities, resulting in problems for the employees at home, and their relationships with their partners and children.***

***The Parties also acknowledge that it is a real concern that employees feel pressure to abide by directions to work shift, even though it is against their family interests to do so. Accordingly, an existing employee will not be placed onto a permanent, ongoing and/or long-term shift unless it is agreed to by the employee. Prior to seeking agreement, the Employer must provide at least 7 days (or lesser if agreed) written notice to the employee of the request for agreement. The written notice must also state:***

- (i) All details of the shift, including hours of work, starting, and finishing times, days to be worked, shift loadings and allowances, and any other relevant entitlements;*
- (ii) a description of any potential adverse effects on the employees (not including lifestyle related consequences e.g., loss of leisure time);*
- (iii) the right for the employee to not agree to work the shift and that no action will be taken against them if they do; and*
- (iv) the right for the employees to have the Union or other representative of their choice represent them in respect of the issue and that no action will be taken against them if they do...*

### 22. Reasonable Additional Hours & Overtime

*a) The nature of the Company's business necessitates out of hours work due to shutdowns, changeovers, breakdowns or maintenance and overtime due to construction programmes.*

*b) Employees will be required to work reasonable additional hours to meet the operational requirements of the Company and the staffing and productivity requirements of each job, project and/or client. **In determining whether additional hours that an Employee is required or requested by the Company to work are reasonable additional hours, all relevant factors must be taken into account. Those factors may include, but are not limited to, the following:***

- (i) any risk to the Employee's health and safety that might reasonably be expected to arise if the Employee worked the additional hours;*
- (ii) **the Employee's personal circumstances (including family responsibilities); ...***



## 3.4 Summary

In sum, there was no activity in enterprise agreements in the NSW construction sector in the area of pregnancy and transitions into parental leave. However, the gender equality clauses present in around 23% of agreements in our sample (of EAs that include at least one clause on pregnancy and parental leave) acknowledged gender-based discrimination in the sector and aimed to address it, which may have the potential at a general level to produce more gender-inclusive contexts for women who are pregnant or transitioning to parental leave but are not directly related to pregnancy. The statutory provisions, therefore, continue to provide the only tangible protections for this phase.

During parental leave, while there is considerably more activity in the enterprise agreements than the pregnancy phase, the activity remains very limited and well below the average level of activity in enterprise agreements across all industries in the Workplace Agreements Database. Less than 3% of enterprise agreements in the sample provide for fully employer-funded parental leave for primary or secondary carers. Another 12% include a top-up to the government parental leave pay from the national minimum wage to full wage replacement but these two approaches combined still left activity in the more gender inclusive sample of EAs in the construction sector well below the average across all industries in Australia, where prevalence of parental leave provisions sits at between a quarter (secondary carer leave) and a third (primary carer leave). Examples of practice leading the way in the agreements in the sector were fully-funded employer provided parental leave for 18 weeks for primary carers (present in nine agreements) and 4 weeks for secondary carers, payment of superannuation during paid and unpaid parental leave, and flexibility in how parental leave could be used, such as for a longer period at half pay. But these examples were rare and remain below leading practice in the enterprise agreements of other sectors, which sits at 26 weeks or more paid parental leave with similar superannuation and flexibility provisions (these leading practice examples are concentrated in the higher education, financial services, and public administration and safety industries).

While ostensibly, the most activity in enterprise agreements is in the third phase – returning to work after parental leave – a closer analysis suggests limited benefits for women returning from parental leave. While a considerable proportion of agreements include clauses on carers leave, almost all the agreements that were reviewed simply restate the National Employment Standards statutory minima and do not provide any additional benefits. Only five agreements included a clause providing an entitlement in excess of the statutory minima – an extra 3-4 days of paid carers leave. The part time work provisions present in about half of the agreements were not designed with facilitating work/family balance in mind and, in a few instances, could potentially leave employees worse off. There was one exception – a clause specifically designed to support women returning from parental leave to combine paid work and childcare responsibilities, a clause that was leading the sector. The provisions on changing hours of work present in around a third of agreements in almost all instances involved a negotiation between a manager and a team of workers on a site, which diminish the opportunities for an individual woman on a worksite to negotiate variable hours of work based on her individual circumstances. Again, there was one exception that provided for both team-based and individual negotiations about hours of work. Finally, the clauses setting out obligations of employers to take family responsibilities into account when allocating work, present in about 9% of agreements, mostly restated the right to request provisions in the National Employment Standards, with a few exceptions that provided more extensive obligations on employers to consider family responsibilities when rostering and more extensive rights for workers in negotiating work hours that are aligned with their family responsibilities.

The EAs suggest, therefore, that the formation of clauses on pregnancy and parental leave in the industry relies heavily on the statutory minima and there is little that extends the minima in a substantive way, with the exception of the fully-funded or employer top-up parental leave provisions that exist in 5% of agreements. Leading practice is scattered and isolated and there are few signs of patterns emerging in good practice, with the exception perhaps of an emergence of nine EAs that included 18 weeks of fully-funded parental leave at full wage replacement. There is therefore substantial scope for organisational policies to extend what is available in the EAs.

## 4. Organisational policies

This section maps patterns in organisational policymaking in the area of transitions into and out of parental leave in the NSW construction sector. The Workplace Gender Equality Agency (WGEA) is the most comprehensive source of information on company policies in the industry. Unfortunately, this data is limited to organisations with 100 employees or more and does not capture company policies in smaller employers, who make up the majority of the industry.<sup>21</sup> There are also limitations in the detail of some parts of the dataset. However, it is the only source of industry-level data that provides insights into policy patterns and trends across the industry. In addition, larger organisations in any industry often provide insights into leading practice as they have greater investment in human resources and diversity, equity and inclusion teams and greater resources to absorb costs associated with policies such as workplace leave. The policies of smaller employers and the different barriers they experience in building gender-inclusive workplaces, and more nuanced examples of leading practice in larger organisations, will be explored in the report for Stage 3 of this project, based on interviews with policy stakeholders and women working in the sector.

Organisations reporting to WGEA provide information on their activities in specific areas: parental leave for primary and secondary carers, the availability of paid and unpaid carers leave, access to flexible working arrangements, and other workplace supports such as breastfeeding facilities. We present data for the construction industry as a whole to provide a review of the industry landscape, followed by data for certain subgroups to provide insights into intra-industry variation, including:

4. The whole construction industry
5. Two subsectors – residential building and plumbing services
6. A selection of leading practice employers

Our full methodological approach to analysing the WGEA data is set out in Appendix E.

### 4.1 Pregnancy and transitions into parental leave

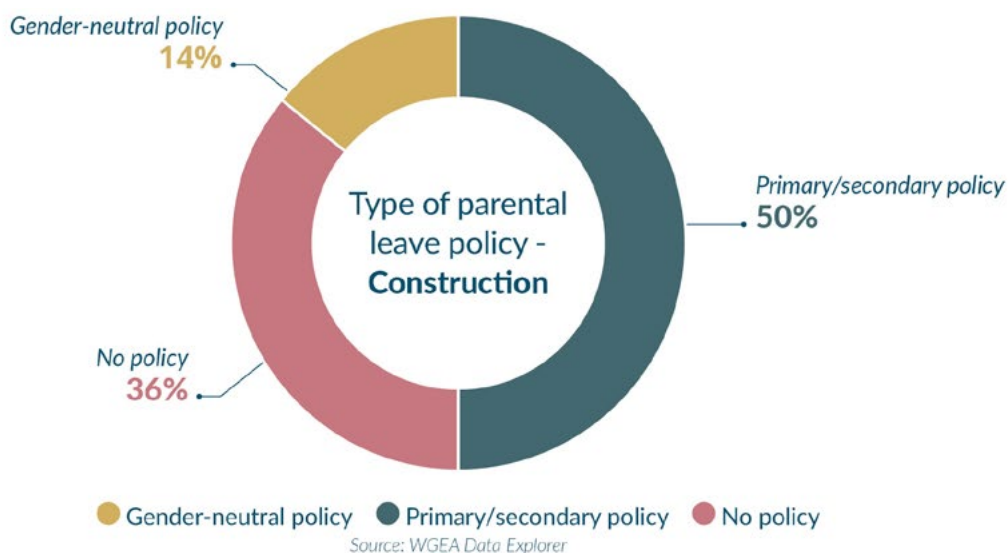
Unfortunately, employers do not report to WGEA on specific policies that provide support during pregnancy and transitions into parental leave, such as support for fertility treatment or adjustments to the organisation of work due to pregnancy. It is possible that some employers reporting on items such as job design and flexibility (see diagram 1) may have policies that make provision for women who are pregnant or transitioning to parental leave, but the data does not have that level of detail. However, given the silence on pregnancy in the enterprise agreements, it is also possible that there is little organisational activity in the area of pregnancy.

### 4.2 During parental leave

In the WGEA-reporting organisations in the **Construction Industry**,<sup>22</sup> 64% offer some form of employer-funded paid parental leave (36% do not offer any form of parental leave). Fifty percent of these parental leave policies are primary/secondary types and 14% are neutral (that is, do not make a distinction between primary or secondary carer and are available to all carers) (see Diagram 1).

<sup>21</sup> Employers with under 20 employees make up the majority of the construction industry, see Australian Bureau of Statistics (ABS) (2018) 8155.0 - Australian Industry, 2016-17, 25 May 2018, <https://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/8155.0Main+Features12016-17>

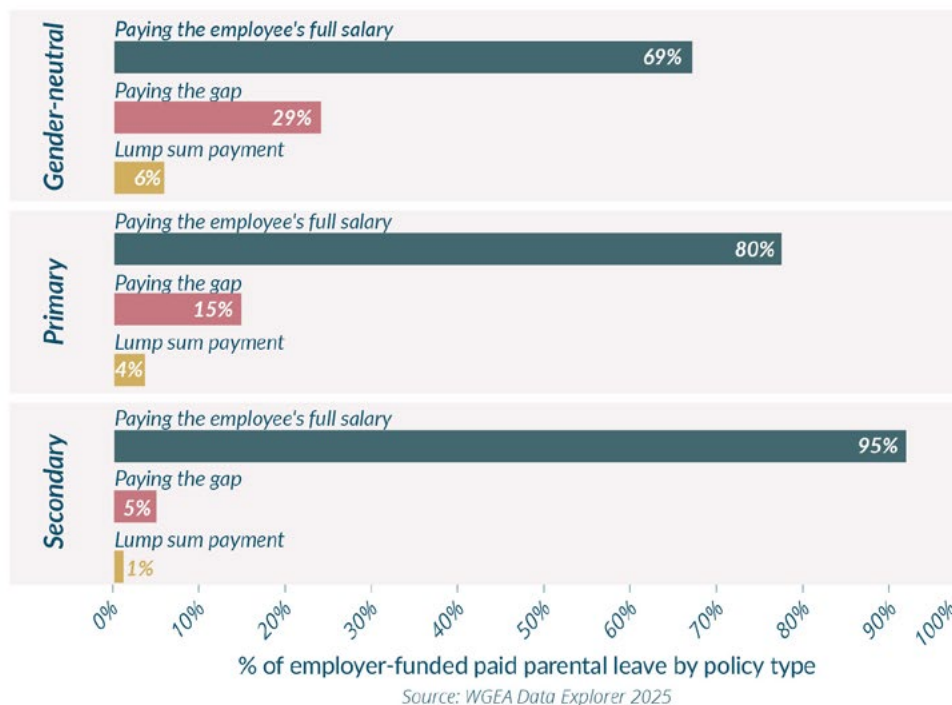
<sup>22</sup> For a discussion of how we defined the construction industry based on the available data, see Appendix E.



**Diagram 1 – Type of Parental Leave Policy: Construction**

Within this 64%, 80% of reporting employers provide fully funded paid parental leave, 15% top up the government parental leave pay from the national minimum wage to full wage replacement, and 5% provide a one-off parental leave payment as a lump sum. In all three policy target groups (primary, secondary and neutral), fully funded employer schemes are more common, followed by top ups. However, fully-funded schemes are the most common for secondary carer leaves, presumably because of their shorter duration than primary/neutral carer leaves (see Diagram 2).

**Access to employer-funded paid parental leave - Construction**



**Diagram 2 – Type of Parental Leave Policy: Construction**

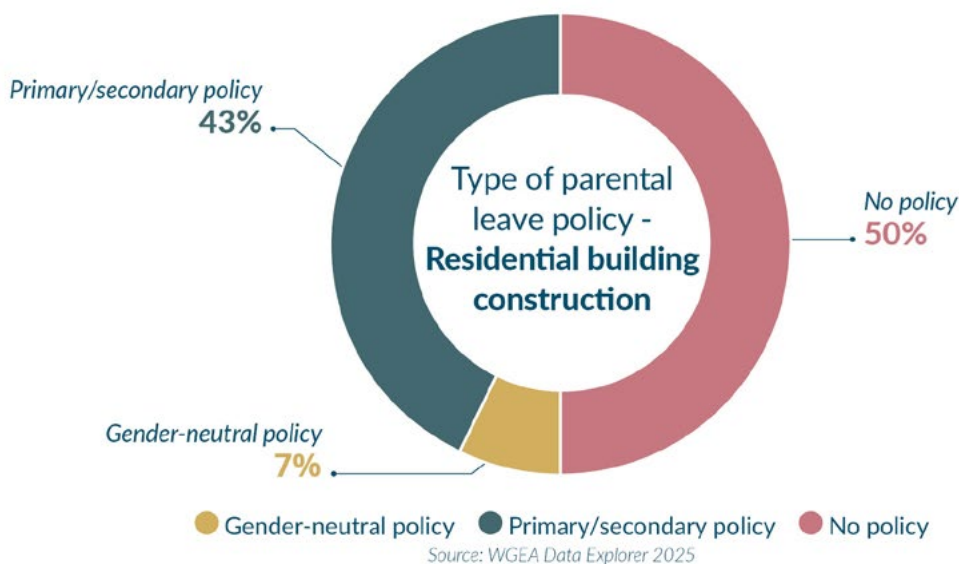


The average duration of the available paid parental leave across the **construction industry** is 12.4 weeks for primary carers, 2.3 weeks for secondary carers, and 10.3 weeks for policies that are neutral (or do not differentiate between primary and secondary carer).<sup>23</sup>

In the **construction industry**, approximately 85% of paid parental leave policies include a super contribution, though this is slightly more common in secondary carer schemes (90%) than primary carer (84%) and neutral (82%) schemes. Some employers provide a super contribution while the employee is on unpaid parental leave.

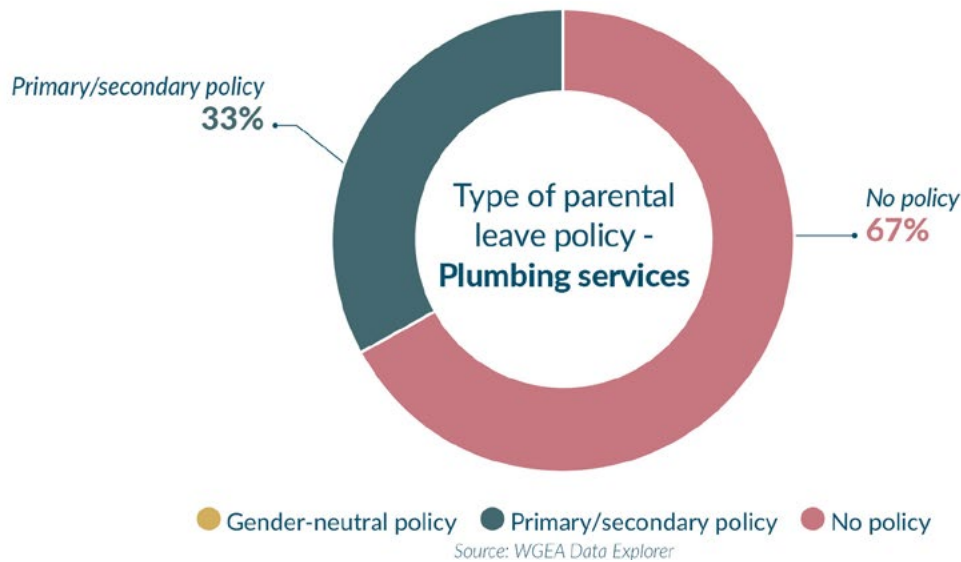
Looking more closely at two construction subsectors, the parental leave provisions in **residential building** and plumbing were less generous than the construction sector as a whole. In residential building, 50% have no paid parental leave policies, 43% have paid primary/secondary types, and 7% are the neutral type (see Diagram 3). **Plumbing services** was worse still, with 67% of employers reporting no paid parental leave policy. The 33% of those with a policy had parental leaves for primary or secondary carers, with none reporting neutral schemes (see Diagram 4).

In **residential building**, of the 50% with a policy, approximately 90% fully fund the payment while the other 10% top up the government scheme. In **plumbing services**, in the 33% with a policy, 50% fully fund the payment, while the other 50% top of the government scheme. This is a much higher proportion topping up the government scheme than the construction industry average.



**Diagram 3 – Type of Parental Leave Policy: Residential Building Construction**

<sup>23</sup> The average duration of paid leave reported by WGEA is likely to be inclusive of both fully funded and top up parental leave schemes.



**Diagram 5 – Type of Parental Leave Policy: Plumbing Services**

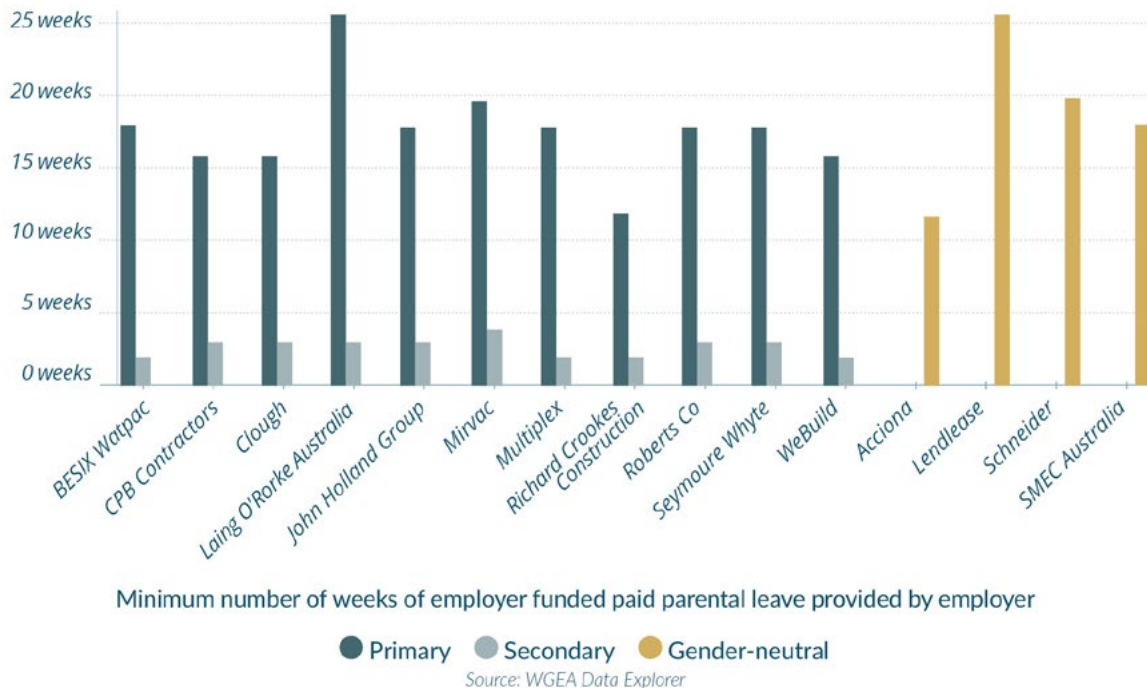
In **residential building**, the average leave for primary carers is 7.7 weeks, for secondary carers is 2 weeks, and neutral leave is 6 weeks. Both the neutral and primary carers' leave weeks are well below the construction industry averages. In **plumbing services**, the average durations were closer to the industry average, sitting at 12.4 weeks for primary carers, and 2 weeks for secondary carers (there were no neutral policies reported in plumbing services). The payment of superannuation contributions was also lower in residential building and plumbing services than the industry average.

In contrast, in our purposively selected sample of **leading practice construction companies**, 73% (11 companies) have primary/secondary policies and 27% (4 companies) have neutral policies. All neutral-type policies are accessible to everyone, regardless of gender. Of the eleven companies with primary/secondary-type policies, all but one have primary carer entitlements available to all, regardless of gender. Only one made primary carer leave available only to women. These primary/secondary-type policies demonstrate a potential and positive shift toward the neutral-type policy of being accessible to all, regardless of gender.

Within the sample of leading practice employers, all policies pay the employee's full salary during parental leave, rather than topping up the government scheme. The average duration of fully funded parental leave among this group of employers was 19 weeks (see Diagram 6, below), with Lendlease and Laing O'Rourke leading with 26 weeks.



### Minimum number of weeks of leave provided



**Diagram 6 – Number of weeks of Employer-funded parental leave**

All companies provided employer-funded superannuation on their leave periods. Fifty-three percent companies also provided superannuation contributions on unpaid parental leave. Among the companies explored, there was widespread access to flexibility in the use of paid parental leave. Half of the gender-neutral policies could be used at any time in the first 12 months after the birth or adoption of a child, while the other half could be used in the first 24 months. For primary/secondary policies, the range spans from 6 months to 24 months, with secondary carer policies imposing more restrictions. The longer period of 24 months can be particularly important in enabling men’s take up of leave, as some men opt to take parental leave after their partner has finished their parental leave and returned to work.

Understanding the different components of the parental leave policy is useful, but it is equally important to examine how these categories intersect within companies to produce leading practice parental leave policies. Leading policy combinations in the industry are set out in the box 'Leading practice parental leaves'.

### Leading practice parental leaves

Lendlease offers 26 weeks of neutrally accessible leave for all employees, regardless of gender, pays full salary and superannuation contributions, and provides flexibility over 24 months for taking leave after birth, adoption, surrogacy, or stillbirth.

Laing O'Rourke provides 26 weeks for primary carers, accessible to all regardless of gender (3 weeks for secondary carers), pays full salary and superannuation contributions, and allows flexibility over 12 months for primary carers and 6 months for secondary carers.

Mirvac offers 20 weeks for primary carers, accessible to all regardless of gender (4 weeks for secondary carers), pays full salary and superannuation contributions, and allows flexibility over 24 months for both primary and secondary carers.

SMEC offers 18 weeks of neutrally accessible leave, pays full salary and superannuation contributions, and allows flexibility over 24 months.

Schneider offers 20 weeks of neutrally accessible leave at full salary but does not pay superannuation, and leave must be taken within a 12-month period.

These leading practices in the construction industry are well above the industry average (i.e. 12.4 weeks for primary carers, 10.3 weeks in neutral schemes) and the most generous are aligned with leading practice in other industries, which is 26 weeks of leave for all employees regardless of gender or primary or secondary carer status, fully funded by the employer with superannuation contributions and opportunities to take it flexibly.<sup>24</sup>

Notably, the existence of the leading practices themselves does not necessarily result in employees accessing the scheme. For example, while most permanent staff members have access to the paid parental leave policies in leading practice companies, only around a third of contract/fixed term staff have access and fewer than one in five casual staff. In addition, despite their leading practice policies, take up was low in some companies. For example, no employees at Lendlease used the policies during the last WGEA reporting period. This may be due to a low proportion of women in the company, to workplace cultures that make it difficult to use the leave, or a lack of support for take up by managers. The practices associated with policies form the 'discretionary' layer on the policy ladder and will be outlined in the next report on Stage 3 of this project.

## 4.3 Returning from parental leave

WGEA also collects data on **employer policies** and **employer support mechanisms** that provide assistance to employee parents after returning from parental leave. **Employer policies** include extended or additional carer leaves to care for a sick or injured child (or other relative), flexible work arrangements, and job redesign to support family or caring responsibilities (which means amending an employee's role requirements such as reorganising start and finish times or role tasks to suit caring responsibilities). **Employer support mechanisms** include breastfeeding facilities, return to work incentives and career support (i.e. bonuses and coaching), parenting support (i.e. parents at work networks and parenting workshops), and support for childcare (i.e. support with the cost of childcare, provision of on-site childcare).

<sup>24</sup> Hanna-Osborne, S; Galea, N; Hamilton, M (2025) *Boosting retention of women in construction: Improving transitions in and out of parental Leave: Rapid literature review*, University of Sydney, Sydney.



However, there are limitations to the data. Employers indicate if they have a policy or support mechanism in place. The data does not tell us about the quality, consistency, or actual uptake of the policy or support mechanism in the company. Employers implement these policies in widely different ways, vary in the level of support they provide, and differ in how accessible or culturally encouraged these supports are. For instance, some employers offer only the statutory minimum right to request flexible work provisions, while others provide more generous or flexible arrangements, yet they both would simply appear as 'having a policy' in the flexible work item in the WGEA data. The data nonetheless provides a high-level snapshot of the prevalence of at least some activity in areas of employer policy and support for returning to work in the industry.

Data for employer policies and employer support are presented separately as policies are generally company-wide but supports have greater variability within companies and are therefore presented according to whether they are on all worksites, some worksites or no worksites.

Among employers reporting to WGEA in the **construction industry** on **employer policy**, flexible work was the most common area of activity (with 95% of employers reporting at least some policy activity in this area), followed by extended carers and other family leaves (53% and 15% employers respectively reported at least some policy activity in this area), followed by job redesign (49% of employers reported activity in this policy area) (see Diagram 6, below). This was fairly consistent with activity across all industries reporting to WGEA, where flexible work was also the most common focus (with 94% of employers implementing initiatives in this area) followed by provided extended carers leave (61%), and job redesign (44%).

### Formal policy/strategy to support employees with family or caring responsibilities inclusions - Construction



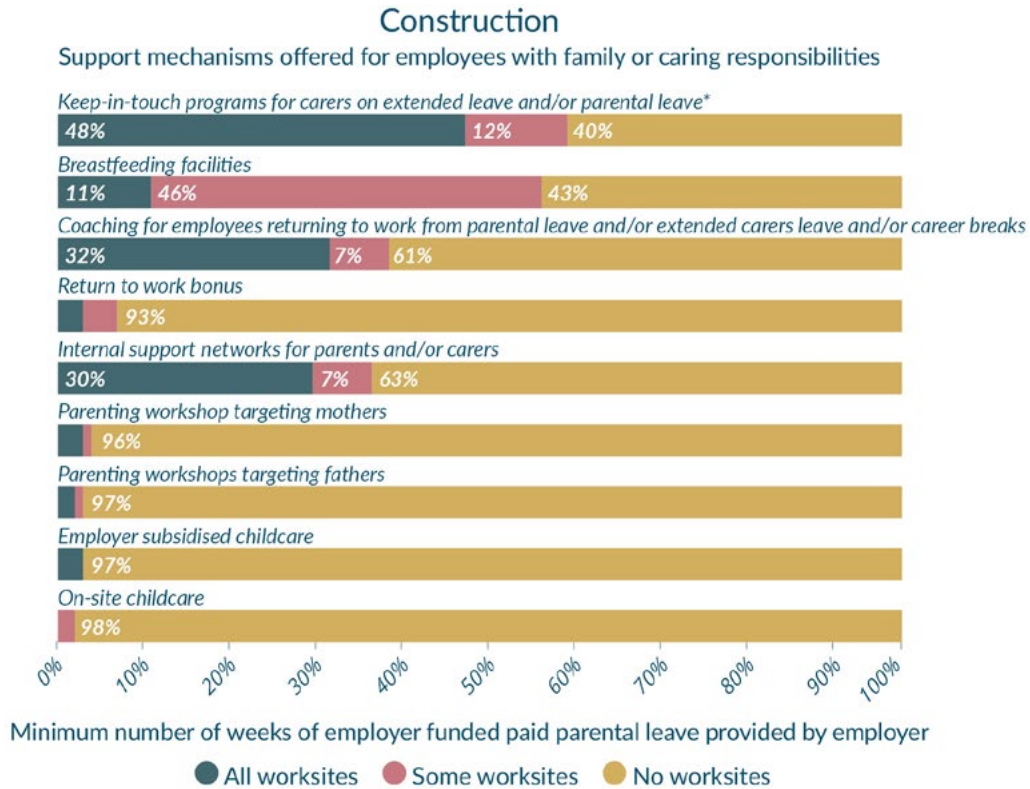
Source: WGEA Data Explorer 2025 · We removed the following reporting criteria because they are not related to returning from parental leave: gender inclusive when referring to carers, other leave available to employees with family or caring responsibilities, paid parental leave, support for all carers.

**Diagram 7 – Support for Carers Policy and/or Strategy: Construction**

In contrast, employers in the **construction industry** reported less activity when it came to **employer support mechanisms** (see Diagram 7)<sup>25</sup>. In contrast to the area of enterprise bargaining, where there were no clauses on breastfeeding in the NSW construction industry, breastfeeding was the area with the highest reported level of activity in organisational support mechanisms, with just over half (57%) of employers reporting having breastfeeding facilities in at least one worksite, although this area of support had the greatest variability across worksites, with 46% of employers reporting that these facilities were only in some sites (not all). Return to work bonuses were very uncommon (7% reported bonuses on at least some worksites) but return to work coaching was more common

<sup>25</sup> Keeping in touch provisions, or opportunities for parents to return to paid work for short periods during their parental leave, are included in the diagrams as they were reported on in the WGEA data. However, keeping in touch provisions were a legal requirement of the previous government parental leave pay and are no longer relevant given the changes to the scheme making it possible to use the leave flexibly in blocks of one day. Employers may offer keeping in touch provisions in their own employer schemes, but it is unclear if this is included in the numbers reported.

(39% reported return to work coaching on at least one worksite, with most reporting coaching across all worksites). Parenting support was more commonly offered through providing opportunities to connect with other parents (37% reported access to parent networks in at least one worksite) than through providing access to parenting workshops (only 3% reported this activity). Finally, support for childcare was extremely low across the sector (3% reported subsidised childcare and 2% reported on-site childcare).



Source: WGEA Data Explorer 2025 - We removed the following reporting criteria because they are not related to returning from parental leave: Support for all carers, access to counselling and external support for carers, information packs for those with family and/or caring responsibilities, targeted communication mechanisms, referral services for care facilities, referral services to support employees with family and/or caring responsibilities, support for employees with securing care, support in securing school holiday care  
 \*Keep-in-touch programs are related to support mechanisms during parental leave.

**Diagram 8 – Support Mechanisms for Carers: Construction**

These trends in the prevalence of these activities were slightly higher than the **WGEA industry-wide averages** (i.e. across all industries, though again, data does not exist on the extent or quality of these activities, which is likely to vary across industries). For example, 41% of employers reported breastfeeding facilities at some worksites (only 25% providing them across all worksites). Return-to-work bonuses were rare with only 4% of employers offering them on all worksites (1% at some worksites) and 35% provided return-to-work coaching across all worksites (8% at some). Parenting support more often came through internal parent networks (25% across all worksites and 8% at some) than through parenting workshops (5%). Childcare support was very limited, with just 3% offering subsidies or on-site care.

There was variation within the construction industry. In **employer policies**, employers in **residential building** reported less activity in flexible work (80%) and job redesign (25%) than the construction industry as a whole and similar levels of activity on carer and other leaves. In contrast, employers in **plumbing services** reported similar activities to the construction industry average across all areas except other leaves for family responsibilities, where employers reported higher levels of activity (30%). Leading practice employers were also aligned with the industry average, with the exception of more employers reporting activity on other leaves (40%).

In employer support mechanisms, employers in residential building were broadly aligned with practice in the construction industry as a whole, with the exception of a little more activity in breastfeeding facilities and less



activity in the area of parenting networks (see Diagram 8 in Appendix F). Employers in plumbing services reported similar activities to the industry average across all areas except breastfeeding facilities (a little more prevalent but still very variable across worksites), return to work coaching and bonuses (a little less prevalent), and parenting networks (substantially more prevalent at 50%) (see Diagram 9 in Appendix F). **Leading practice employers** reported considerably more activity across most areas of return to work support, including higher prevalence of breastfeeding facilities (93% of employers reported breastfeeding facilities at some or all worksites), 60% of employers reported return to work coaching at some or all worksites (compared to 39% in the industry more broadly), access to parenting networks was 10% more prevalent, parenting workshops were much more prevalent, especially those targeted at fathers (33% of employers reported parenting workshops for fathers at some or all of their worksites, compared to only 3% of employers at the industry level) and 13% of employers reported offering subsidised childcare across all worksites (compared to only 3% across the industry) (see Diagram 10 in Appendix F).

## 4.4 Summary

In sum, the limitations of the data mean that there is limited information about the support for pregnancy and transitions into parental leave in the construction industry. As with enterprise agreements, organisational policy activity was concentrated in the areas of parental leave, flexibility/hours of work, and carers leave.

In the area of parental leave, the industry as a whole could be described as mixed. Almost two thirds of reporting companies have a paid parental leave policy, a large majority of these provide a fully employer funded rather than a top up policy, and most provide superannuation on top of the paid parental leave scheme (and a few on unpaid leave as well). These are positive signs. However, the average duration (12.4 weeks for primary carer leave, 10.3 weeks for policies that are neutral) is less than half that of leading company practice in the construction industry and beyond, of 26 weeks. In contrast, leading practice employers in the industry provided parental leaves well above the industry averages, in excess of leading practice in enterprise agreements, with the most generous being aligned with leading practice in other industries: 26 weeks of leave for all employees regardless of gender or primary or secondary carer status, fully funded by the employer with superannuation contributions with opportunities to take it flexibly.

These findings must be situated within the broader sector: these are the practices of companies with 100 employees or more, that is, companies with the greatest resources to invest in parental leave schemes. One third of large employers in the sector do not have a paid parental leave policy, and some subsections of the industry are faring much more poorly than others, with residential and plumbing services having much poorer access to paid parental leave (only 50% and 33% of employers respectively). It is likely that SMEs, which comprise a much bigger proportion of the sector, have activities well below the average of the large organisations reporting to WGEA.

In the area of support for transitions back to work after parental leave, employers in the construction industry reported similar levels of activity in employer policies and employer support mechanisms for pregnancy and parental leave transitions to the average levels reported by employers across all industries. There was much higher incidence of policymaking in flexibility, job redesign and carer/family leaves than support mechanisms in areas such as return to work support and childcare. As the data was limited to whether the organisation had a policy or practice rather than the extent or quality of that policy, it is not clear to what extent the policies exceeded the statutory minima.

Support mechanisms were more difficult to assess given the lack of detail about what each category entailed but were suggestive of greater or lesser awareness of, or support for, different mechanisms in the industry, with greatest reported activity in breastfeeding facilities, return to work coaching and parenting networks and negligible activity in return-to-work bonuses and support for childcare. It is unclear, however, how the presence of such an activity is experienced by women in practice. Interviews with policy stakeholders and women working in construction presented in the Stage 3 report will shed further light on this discretionary 'rung' of the policy ladder.



# Conclusion

This scan revealed important statutory provisions to support women who are **pregnant and/or transitioning to parental leave** in the industry, particularly legislative protection from pregnancy related discrimination, access to a safe job and early use of parental leave, but limited evidence of support for pregnancy and transitions to parental leave beyond these statutory minima.

The most substantive provisions across multiple levels of policymaking exist for the period **during parental leave**. The statutory provisions form a basis of extended job protected unpaid leave accompanied by 22 weeks of government funded parental leave pay. While there is little activity at the enterprise bargaining level beyond a tiny proportion of EAs, parental leave policymaking appears to be more concentrated at the organisational policy level. Around two thirds of employers are supplementing the government scheme either by topping up the government payment to wage replacement or providing a fully funded period of leave (albeit a short period in most instances) that employees can draw on in addition to the government scheme. However, there is widespread variability across the industry (or across the large employers reporting to WGEA) in terms of paid parental leave entitlements, and leading practice is present but rare. Access to employer funded parental leave in the much larger proportion of the construction industry with fewer than 100 employees is likely to be much lower.

The provisions supporting women to **return to work after parental leave** are much more variable and broadly divided into two groups: those that are more extensively addressed in the National Employment Standards such as carer leave and flexibility (and related provisions concerning working hours, job share, and job redesign), and those without a firm statutory basis such as support for breastfeeding, return to work support, support for parenting, and childcare. Those areas with a strong statutory minimum also have fairly high levels of reported activity at both the EAs and organisational policy levels. However, the EAs rarely go further than the statutory minima and while there is a lot of reported organisational policy activity in these areas, the extent to which this activity delivers positive support for women in excess of the statutory minima remains unclear. Those without a firm statutory basis saw almost no activity in the EAs and some activity in several areas of organisational practice such as breastfeeding and return to work career coaching. But without a foundation in legislation, awards or enterprise agreements, they are likely to be more variable and idiosyncratic, with the data suggesting variation of these practices even within organisations across worksites. Stage 3 of this project, the findings of which will be presented in the next and final project report, will examine the perspectives and experiences of policy stakeholders and women working in construction to understand how policies work in practice in the construction industry.



# Appendix A – Modern awards

The major modern awards that underpin employee conditions of employment in the construction industry include:

- Architects Award [MA000079]
- Building and Construction General On-site Award 2020 [MA000020]
- Cement, Lime and Quarrying Award [MA000055]
- Clerks Private Sector Award 2020 [MA000002]
- Concrete Products Award [MA000056]
- Electrical, Electronic and Communications Contracting Award [MA000025]
- Joinery and Building Trades Award 2020 [MA000029]
- Mobile Crane Hiring Award [MA000032]
- Plumbing and Fire Sprinklers Award 2020 [MA000036]
- Premixed Concrete Award [MA000057]
- Professional Employees Award [MA000065]
- Surveying Award [MA000066]

Workers in the construction industry may also work under other awards, including:

- Asphalt Industry Award 2010 [MA000054]
- Black Coal Mining Industry Award 2010 [MA000001]
- Cleaning Services Award 2010 [MA000022]
- Concrete Products Award 2010 [MA000056]
- Electrical Power Industry Award 2010 [MA000088]
- Gardening and Landscaping Services Award 2010 [MA000101]
- Gas Industry Award 2010 [MA000061]
- Manufacturing and Associated Industries and Occupations Award 2010 [MA000010]
- Mining Industry Award 2010 [MA000011]
- Miscellaneous Award 2010 [MA000104]
- Road Transport and Distribution Award 2010 [MA000038]
- Security Services Industry Award 2010 [MA000016]
- Storage Services and Wholesale Award 2010 [MA000084]
- Vehicle Manufacturing, Repair, Services and Retail Award 2010 [MA000089]



# Appendix B – Workplace agreements database clauses

A search was conducted on 16 January 2025 of NSW construction industry enterprise agreements in the Workplace Agreements Database, maintained by the Department of Employment and Workplace Relations, for clauses related to parental leave, work/life balance, work flexibility and gender equality.

The search of the database returned 623 enterprise agreements that included relevant clauses and fit the following criteria:

- Currently in force
- Registered between 1 January 2023 and 30 September 2024 (the most recent date that could be provided by the Department)
- Relating to enterprises in NSW,
- That are in, or related to, the construction industry.

Table 1 shows each of these clauses, the number of agreements containing the clause, the unions involved in bargaining and whether pattern bargaining was observed.

More detail on each of the clauses can be found at Appendix D.

## List of abbreviations used in Table 1

Unions are listed in Table 1 by their acronyms. Their names in full are:

**AMWU** – Australian Manufacturing Workers Union

**ARTBIU** – Australian Rail, Tram and Bus Industry Union

**AWU** – Australian Workers Union

**CEPU** – Communications, Electrical and Plumbing Union

**CFMEU** – Construction, Forestry and Maritime Employees Union

**CFMMEU** – Construction, Forestry, Maritime, Mining and Energy Union

**ETU** – Electrical Trades Union

**UWU** – United Workers Union



**Table 1 Workplace Agreements Database clauses reviewed**

<b>Name of clause</b>	<b>Number of agreements containing the clause</b>	<b>Unions involved in bargaining</b>	<b>Pattern bargaining, Y/N</b>
Personal/carer's leave	611	Broad range of unions and non-union.	Y
Part time employment regular hours/days rostered	317	<ul style="list-style-type: none"> <li>• AWU</li> <li>• AWU &amp; AMWU (joint)</li> <li>• AWU &amp; ARTBIU (joint)</li> <li>• CEPU</li> <li>• CFMEU</li> <li>• CFMMEU</li> <li>• CFMMEU &amp; AMWU (joint)</li> <li>• ETU</li> <li>• Non union</li> <li>• UWU</li> </ul>	Y
Hours of work may be negotiated	213	<ul style="list-style-type: none"> <li>• ETU</li> <li>• CFMEU</li> <li>• CEPU</li> <li>• Non union</li> <li>• AWU</li> </ul>	Y
Family friendly responsibilities	159	<ul style="list-style-type: none"> <li>• Non-union</li> <li>• CEPU</li> <li>• AWU</li> <li>• CFMEU</li> <li>• AMWU</li> <li>• AWU &amp; CFMMEU</li> <li>• ETU</li> <li>• TWU</li> </ul>	Y
Gender equality	143	<ul style="list-style-type: none"> <li>• CFMEU</li> <li>• ETU</li> <li>• CEPU Plumbing Division</li> <li>• Non-union</li> <li>• AWU</li> <li>• AWU &amp; ETU</li> <li>• CFMMEU; AMWU</li> <li>• UWU</li> </ul>	Y
Employer top-up of government paid parental leave (PPL) (number of weeks)	76	<ul style="list-style-type: none"> <li>• CFMMEU/AWU, joint bargaining representatives</li> <li>• CFMEU NSW</li> <li>• ETU</li> <li>• CEPU</li> </ul>	Y
Employer top-up of government paternity leave (number of weeks)	75	<ul style="list-style-type: none"> <li>• CFMMEU/AWU, joint bargaining representatives</li> <li>• CFMEU NSW</li> <li>• ETU</li> </ul>	Y
Superannuation is paid during paid parental leave	57	<ul style="list-style-type: none"> <li>• AWU</li> <li>• AWU; CFMMEU</li> <li>• AWU; ETU</li> <li>• ETU</li> </ul>	Y
Superannuation is paid during unpaid parental leave	42	<ul style="list-style-type: none"> <li>• ETU</li> </ul>	Y
Part time employment flexible/facilitative	26	<ul style="list-style-type: none"> <li>• CFMEU</li> <li>• AMWU; CEPU</li> <li>• Non-union</li> </ul>	Y



Name of clause	Number of agreements containing the clause	Unions involved in bargaining	Pattern bargaining, Y/N
Paid parental leave, primary care giver or maternity leave, number of weeks	18	<ul style="list-style-type: none"> <li>• AMWU</li> <li>• AWU</li> <li>• AWU &amp; CFMEU</li> <li>• AWU &amp; ETU</li> <li>• CEPU</li> <li>• CEPU &amp; AMWU</li> <li>• CFMEU</li> <li>• Non-union</li> </ul>	Y
Paid parental leave, secondary care giver or paternity leave, number of weeks	16	<ul style="list-style-type: none"> <li>• AMWU</li> <li>• AWU</li> <li>• AWU &amp; CFMMEU</li> <li>• AWU &amp; ETU</li> <li>• CEPU</li> <li>• CFMMEU</li> <li>• Non-union</li> </ul>	Y
Paid adoption leave, number of weeks	13	<ul style="list-style-type: none"> <li>• AMWU</li> <li>• AWU &amp; CFMMEU</li> <li>• AWU &amp; ETU</li> <li>• CFMEU</li> <li>• Non-union</li> </ul>	Y
Paid family carers leave, number of days	5	<ul style="list-style-type: none"> <li>• CFMEU</li> </ul>	Y
Flexible paid parental leave	2	<ul style="list-style-type: none"> <li>• AWU, AMWU &amp; CFMMEU</li> <li>• CEPU &amp; AMWU</li> </ul>	Sample too small
Return to work from parental leave provisions	2	<ul style="list-style-type: none"> <li>• CEPU &amp; AMWU</li> <li>• Non-union</li> </ul>	Sample too small
Childcare provisions	1	<ul style="list-style-type: none"> <li>• Non-union</li> </ul>	N
Job sharing	1	<ul style="list-style-type: none"> <li>• CEPU &amp; AMWU</li> </ul>	
Breastfeeding facilities*	0	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
Stillbirth leave (paid) - number of weeks	0	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
Final payment on return to work	0	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
Simultaneous Parental Leave	0	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
Additional unpaid leave entitlements for parents	0	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
Paid breastfeeding breaks	0	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
Right to request flex work arrangements beyond minimum	0	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
Salary sacrifice for childcare	0	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	

\* The initial data report listed one agreement containing a clause related to breastfeeding facilities, however no such clause was found to be contained in the agreement, and this was deleted from the tally.



# Appendix C – Methodology, sampling of enterprise agreement clauses

In instances where there were less than 30 enterprise agreements that contained a particular clause, all agreements were reviewed. For clauses for which there were more than 30 enterprise agreements, a random sample was selected using the following criteria:

1. Replacing each relevant award, and
2. Representing each union bargaining agent, and
3. All major employers included, and an additional random sample in each of categories 1 and 2; or
4. Where only one award was involved, a random sample.

The exception was the personal/carer's leave clause where, due to the large number of agreements, a small sample was reviewed, selected from enterprise agreements that were already being reviewed in relation to other clauses.

# Appendix D – Individual clauses

This Appendix provides details of the sample of agreements that were reviewed in relation to individual clauses, including the types of agreements, the unions involved and the awards that the agreements replaced.

## Gender Equality

A sample of 16 from 143 agreements with a gender equality clause was reviewed, with two non-union agreements and 14 agreements represented by seven combinations of different bargaining agents (shown in Table 2).

Agreements with this clause replaced the following eight awards:

- MA000010-Manufacturing and Associated Industries and Occupations Award 2010
- MA000025-Electrical, Electronic and Communications Contracting Award 2010
- MA000020-Building and Construction General On-site Award
- MA000025-Electrical, Electronic and Communications Contracting Award 2010
- MA000032-Mobile Crane Hiring Award 2010
- MA000025-Electrical, Electronic and Communications Contracting Award 2010
- MA000036-Plumbing and Fire Sprinklers Award 2010
- MA000084-Storage Services and Wholesale Award 2010

**Table 2 Gender equality – Number of agreements by bargaining agent**

CFMEU	5
ETU	3
CEPU Plumbing Division	2
Non-union	2
AWU	1
AWU & ETU	1
CFMMEU; AMWU	1
UWU	1
<b>TOTAL</b>	<b>16</b>

## Paid parental leave, primary care giver/maternity leave, number of weeks

The Workplace Agreements Database recorded 18 agreements providing for paid parental leave for primary caregivers or mothers. Agreements with this clause replaced these three awards:

- MA000010-Manufacturing and Associated Industries and Occupations Award 2010
- MA000020-Building and Construction General On-site Award
- MA000025-Electrical, Electronic and Communications Contracting Award 2010

All agreements with this clause were reviewed and the breakdown of the number of agreements in the sample via bargaining agent is shown in Table 3, with two non-union agreements and the remaining 16 agreements represented by seven combinations of bargaining agents. There was significant commonality between the clauses, despite the different unions involved – pattern bargaining was observed, and the clauses began operating from 28 April 2023.



**Table 3 PPL, primary caregiver – Number of agreements by bargaining agent**

AMWU	1
AWU	5
AWU & CFMEU	3
AWU & ETU	2
CEPU	1
CEPU & AMWU	1
CFMEU	3
Non-union	2
<b>TOTAL</b>	<b>18</b>

Table 4 shows the number of weeks paid parental leave provided in an agreement, along with the number of agreements containing that amount and the bargaining agent(s). Agreements negotiated by the AWU provided the greatest number of weeks (18).

**Table 4 Primary care giver or maternity leave, number of weeks of paid leave**

Number of weeks	Number of agreements	Bargaining agent
18 weeks	8	AWU; AWU & CFMMEU
15 weeks	2	CFMEU
12 weeks	3	AWU & ETU
9 weeks	1	CEPU & AMWU
8 weeks	1	Non union
6 weeks	1	AMWU
2 weeks	1	Non union
1 week	1	CEPU

**Table 5 PPL, secondary caregiver – Number of agreements by bargaining agent**

AMWU	1
AWU	6
AWU & CFMMEU	2
AWU & ETU	1
CEPU	1
CFMMEU	4
Non-union	1
<b>TOTAL</b>	<b>16</b>

Table 6 shows the number of weeks paid parental leave for secondary carers provided in an agreement, along with the number of agreements containing that amount and the bargaining agent(s). Agreements negotiated by the CFMMEU and the AWU, either singly or as joint bargaining agents, provided the greatest number of weeks (4).

**Table 6 Secondary caregiver or paternity leave, number of weeks of paid leave**

Number of weeks	Number of agreements	Bargaining agent
4 weeks	7	CFMMEU; AWU; AWU & CFMMEU (joint)
2 weeks	7	CFMMEU; AMWU; AWU; AWU & ETU (joint); non union
1 week	2	CEPU; CFMMEU

## Paid adoption leave, number of weeks

The Workplace Agreements Database recorded 13 agreements providing for paid parental leave for adoption. Agreements with this clause replaced these three awards:

- MA000010-Manufacturing and Associated Industries and Occupations Award 2010
- MA000020-Building and Construction General On-site Award
- MA000025-Electrical, Electronic and Communications Contracting Award 2010

All agreements with this clause were reviewed and the breakdown of the number of agreements in the sample via bargaining agent is shown in Table 7, with two non-union agreements and the remaining 11 agreements represented by four combinations of bargaining agents. Pattern bargaining was observed, and the clauses began operating from 23 May 2023. All the agreements included paid adoption leave as part of a broader parental leave clause required for newborn children.

**Table 7 PPL, adoption – Number of agreements by bargaining agent**

AMWU	6
AWU & CFMMEU	1
AWU & ETU	1
CFMEU	2
Non-union	2
<b>TOTAL</b>	<b>16</b>

Table 8 shows the number of weeks' paid adoption leave provided in an agreement, along with the number of agreements containing that amount and the bargaining agent(s). Agreements negotiated by the CFMMEU and the AWU, either singly or as joint bargaining agents, provided the greatest number of weeks (18).

**Table 8 Paid adoption leave, number of weeks of paid leave**

Number of weeks	Number of agreements	Bargaining agent
18 weeks	5	AWU; AWU & CFMMEU
15 weeks	1	CFMEU
12 weeks	3	AWU; AWU & ETU
8 weeks	1	Non union
4-8 weeks (depending on length of service)	1	AMWU; AWU; CFMMEU
6 weeks	1	AMWU
2 weeks	1	Non union



## Employer top-up of government paid parental leave

76 agreements provided for the employer to top-up the government paid parental leave for their employees taking primary parental leave. Table 9 shows the most common number of weeks top-up is 18 weeks, followed by 10 weeks.

*Table 9 Employer top-up of primary parental leave*

Number of weeks top-up provided	Number of agreements
18 weeks	43
12 weeks	1
10 weeks	32
8 weeks	1

Agreements with this clause replaced the following eight awards:

- MA000010-Manufacturing and Associated Industries and Occupations Award 2010
- MA000010-Manufacturing and Associated Industries and Occupations Award 2010
- MA000020-Building and Construction General On-site Award
- MA000038-Road Transport and Distribution Award 2010
- MA000020-Building and Construction General On-site Award
- MA000025-Electrical, Electronic and Communications Contracting Award 2010
- MA000032-Mobile Crane Hiring Award 2010
- MA000036-Plumbing and Fire Sprinklers Award 2010

The agreements were negotiated with the following unions and pattern bargaining was observed:

- CFMMEU/AWU, joint bargaining representatives
- CFMEU NSW
- ETU
- CEPU

## Paternity leave, employer top-up of government PPL (number of weeks)

75 agreements provided for the employer to top-up the government paid parental leave for their employees taking secondary parental leave.

Agreements with this clause replaced the following five awards:

- MA000010-Manufacturing and Associated Industries and Occupations Award 2010
- MA000020-Building and Construction General On-site Award
- MA000025-Electrical, Electronic and Communications Contracting Award 2010
- MA000032-Mobile Crane Hiring Award 2010
- MA000036-Plumbing and Fire Sprinklers Award 2010)

The agreements were negotiated with the following unions and pattern bargaining was observed:

- CFMMEU/AWU, joint bargaining representatives
- CFMEU NSW
- ETU



## Superannuation paid on unpaid parental leave

42 agreements contained a clause providing for superannuation to be paid to employees taking unpaid parental leave. All the agreements with this clause replaced the Electrical, Electronic and Communications Contracting Award 2010 [MA000025] and were negotiated by the ETU. A random sample of 14 agreements, equating to one third, was reviewed. Pattern bargaining was observed, and the clause began operating from 1 July 2023.

## Superannuation paid on paid parental leave

54 agreements<sup>26</sup> contained a clause providing for superannuation to be paid to employees taking paid parental leave (PPL). The great majority of these agreements (47) replaced the Electrical, Electronic and Communications Contracting Award 2010 [MA000025], with six agreements replacing the Building and Construction General On-site Award 2010 [MA000020]. One agreement, negotiated jointly by the AWU and the ETU, replaced both these awards.

A random sample of 22 agreements was reviewed. The sample consisted of roughly one-third of all ETU-negotiated agreements with the addition of a random sample of agreements negotiated by other unions. Pattern bargaining was observed, and the clauses began operating from January 2023.

The breakdown of the number of agreements in the sample via bargaining agent is shown in Table 10, with most (17) agreements negotiated by the ETU. Two other unions negotiated these clauses, in one instance in conjunction with the ETU.

**Table 10 Superannuation paid on PPL – Number of agreements by bargaining agent**

AWU	3
AWU; CFMMEU	1
AWU; ETU	1
ETU	17
<b>TOTAL</b>	<b>22</b>

<sup>26</sup> There were originally 57 agreements contained in the data download from the FWC's Workplace Agreements Database. Three (3) agreements, all non-union negotiated agreements, were removed from the sample, as the review determined that they did not contain such a clause. In fact, the superannuation clause expressly stated that superannuation was paid on all leave except paid parental leave.



## Personal/carer's leave

Of 611 agreements, only 12 did not contain a personal/carers' leave clause. These 12 agreements were reviewed, and all referenced the standard NES personal/carers' leave as applying to workers. As it was not possible to review all of the remaining 611 agreements, a small sample of agreements was reviewed, covering each union and some non-union agreements that had already been reviewed in relation to other clauses.

Agreements with this clause replaced a wide range of awards:

- MA000001-Black Coal Mining Industry Award 2010
- MA000002-Clerks - Private Sector Award 2010
- MA000004-General Retail Industry Award 2010
- MA000009-Hospitality Industry (General) Award 2010
- MA000010-Manufacturing and Associated Industries and Occupations Award 2010
- MA000011-Mining Industry Award 2010
- MA000016-Security Services Industry Award 2010
- MA000020-Building and Construction General On-site Award
- MA000022-Cleaning Services Award 2010
- MA000025-Electrical, Electronic and Communications Contracting Award 2010
- MA000029-Joinery and Building Trades Award 2010
- MA000032-Mobile Crane Hiring Award 2010
- MA000036-Plumbing and Fire Sprinklers Award 2010
- MA000038-Road Transport and Distribution Award 2010
- MA000040-Silviculture Award 2010
- MA000043-Waste Management Award 2010
- MA000054-Asphalt Industry Award 2010
- MA000055-Cement and Lime Award 2010
- MA000056-Concrete Products Award 2010
- MA000057-Premixed Concrete Award 2010
- MA000061-Gas Industry Award 2010
- MA000062-Hydrocarbons Industry (Upstream) Award 2010
- MA000065-Professional Employees Award 2010
- MA000084-Storage Services and Wholesale Award 2010
- MA000085-Dredging Industry Award 2010
- MA000088-Electrical Power Industry Award 2010
- MA000089-Vehicle Manufacturing, Repair, Services and Retail Award 2010
- MA000101-Gardening and Landscaping Services Award 2010
- MA000104-Miscellaneous Award 2010

## Paid family carers leave, number of days

The Workplace Agreements Database recorded only five agreements providing for paid family/carers leave. All agreements with this clause replaced the Building and Construction General On-site Award and were negotiated by the CFMEU. Pattern bargaining was observed – all the agreements had the same wording – and the clauses began operating from 1 January 2023.



## Flexible paid parental leave

The Workplace Agreements Database recorded two agreements providing for flexible paid parental leave.

The Ventia Project Services Enterprise Agreement 2023 was negotiated by the AWU, AMWU and CFMMEU, replacing the Building and Construction General On-site Award 2010 and in effect from 10 July 2023.

The Keolis Downer Hunter Bus Engineering and Maintenance Enterprise Agreement 2023 was negotiated by the CEPU and AMWU, replacing the Manufacturing and Associated Industries and Occupations Award 2010 and in effect from 15 April 2024.

## Family Friendly Responsibilities

One hundred and fifty-nine (159) enterprise agreements contained a clause that related to family friendly responsibilities. As with other categories with large number of agreements, a sample was reviewed, in this instance 24 agreements selected according to the same criteria set out above (see Appendix C). Some pattern bargaining was observed, and the earliest clause began operating from 12 January 2023.

Agreements with this clause replaced the following eight awards:

- Manufacturing and Associated Industries and Occupations Award 2010 [MA000010]
- Building and Construction General On-site Award [MA000020]
- Electrical, Electronic and Communications Contracting Award 2010 [MA000025]
- Mobile Crane Hiring Award 2010 [MA000032]
- Plumbing and Fire Sprinklers Award 2010 [MA000036]
- Road Transport and Distribution Award 2010 [MA000038]
- Asphalt Industry Award 2010 [MA000054]
- Concrete Products Award 2010 [MA000056]

The breakdown of the number of agreements in the sample via bargaining agent is shown in Table 11, with 12 non-union agreements and 12 agreements represented by seven combinations of different bargaining agents. As pattern bargaining was seen in the agreements negotiated by unions, a sample of agreements negotiated by each union was reviewed. There are thus a greater number of non-union agreements in the sample, included to ensure a greater chance of finding non-‘standard’ entitlements.

**Table 11 Family Friendly Responsibilities – Number of agreements by bargaining agent**

Non-union	12
CEPU	4
AWU	2
CFMEU	2
AMWU	1
AWU & CFMMEU	1
ETU	1
TWU	1
<b>TOTAL</b>	<b>24</b>



## Part time employment, regular hours/days rostered

This clause was contained in large number of enterprise agreements (317). As there were too many agreements to be reviewed individually, a sample of 43 agreements was reviewed, selected as follows:

1. Replacing each relevant award, and
2. Representing each union bargaining agent, and
3. All major employers and an additional random sample in each of categories 1 and 2.

Agreements with this clause replaced the following 22 awards:

- Black Coal Mining Industry Award 2010 [MA000001]
- Clerks - Private Sector Award 2010 [MA000002]
- Manufacturing and Associated Industries and Occupations Award 2010 [MA000010]
- Mining Industry Award 2010 [MA000011]
- Security Services Industry Award 2010 [MA000016]
- Building and Construction General On-site Award [MA000020]
- Cleaning Services Award 2010 [MA000022]
- Electrical, Electronic and Communications Contracting Award 2010 [MA000025]
- Joinery and Building Trades Award 2010 [MA000029]
- Mobile Crane Hiring Award 2010 [MA000032]
- Plumbing and Fire Sprinklers Award 2010 [MA000036]
- Road Transport and Distribution Award 2010 [MA000038]
- Asphalt Industry Award 2010 [MA000054]
- Cement and Lime Award 2010 [MA000055]
- Concrete Products Award 2010 [MA000056]
- Premixed Concrete Award 2010 [MA000057]
- Gas Industry Award 2010 [MA000061]
- Storage Services and Wholesale Award 2010 [MA000084]
- Electrical Power Industry Award 2010 [MA000088]
- Vehicle Manufacturing, Repair, Services and Retail Award 2010 [MA000089]
- Gardening and Landscaping Services Award 2010 [MA000101]
- Miscellaneous Award 2010 [MA000104]

The breakdown of the number of agreements in the sample via bargaining agent is shown in Table 12, with 19 non-union agreements and the remaining 24 agreements represented by 10 different combinations of bargaining agents. There was significant commonality between the clauses, despite the different unions involved. The earliest clause began operating from 3 January 2023.



**Table 12 Part time employment, regular hours/days rostered – Number of agreements by bargaining agent**

Non union	19
ETU	6
AWU	5
CFMEU	5
CFMMEU	2
CFMMEU & AMWU	1
AWU & AMWU	1
AMWU & CEPU	1
AWU & ARTBIU	1
CEPU	1
UWU	1
<b>TOTAL</b>	<b>43</b>

## Part time employment flexible/facilitative

The data download from the FWC's Workplace Agreements Database contained 26 agreements ostensibly providing flexible or facilitative part time employment. Agreements with this clause replaced the following eight awards:

- MA000004-General Retail Industry Award 2010
- MA000010-Manufacturing and Associated Industries and Occupations Award 2010
- MA000020-Building and Construction General On-site Award
- MA000032-Mobile Crane Hiring Award 2010
- MA000036-Plumbing and Fire Sprinklers Award 2010

The great majority (24) of the agreements were negotiated by the CFMEU, one by the AMWU and CEPU, and one was a non-union agreement. A random sample of five agreements, including all unions and the non-union agreement was reviewed.

## Hours of work may be negotiated

Many (213) enterprise agreements contained this clause. The ability to negotiate hours of work to suit personal circumstances is beneficial to women returning from parental leave. As there were too many agreements to be reviewed individually, a sample was selected using the same criteria describe above (see Appendix C). Most agreements in this category were non-union agreements or negotiated with the ETU.

Agreements with this clause replaced the following 29 awards:

- Black Coal Mining Industry Award 2010 [MA000001]
- Clerks - Private Sector Award 2010 [MA000002]
- General Retail Industry Award 2010 [MA000004]
- Manufacturing and Associated Industries and Occupations Award 2010 [MA000010]
- Mining Industry Award 2010 [MA000011]
- Security Services Industry Award 2010 [MA000016]
- Building and Construction General On-site Award [MA000020]
- Cleaning Services Award 2010 [MA000022]
- Electrical, Electronic and Communications Contracting Award 2010 [MA000025]
- Mobile Crane Hiring Award 2010 [MA000032]

- Plumbing and Fire Sprinklers Award 2010 [MA000036]
- Road Transport and Distribution Award 2010 [MA000038]
- Asphalt Industry Award 2010 [MA000054]
- Concrete Products Award 2010 [MA000056]
- Premixed Concrete Award 2010 [MA000057]
- Professional Employees Award 2010 [MA000065]
- Electrical Power Industry Award 2010 [MA000088]
- Vehicle Manufacturing, Repair, Services and Retail Award 2010 [MA000089]
- Gardening and Landscaping Services Award 2010 [MA000101]
- Miscellaneous Award 2010 [MA000104]

## Return to work provisions from parental leave

The Workplace Agreements Database recorded only two agreements providing return to work provisions from parental leave.

Keolis Downer Hunter Bus Engineering and Maintenance Enterprise Agreement 2023 was negotiated by the CEPU and AMWU, replacing the Manufacturing and Associated Industries and Occupations Award 2010 and in effect from 15 April 2024.

The A-1 Concrete Services Pty Ltd Enterprise Agreement 2024-2027 is a non-union agreement, replacing the Building and Construction General On-site Award 2010 and in effect from 19 July 2024.

## Childcare provisions

The Workplace Agreements Database recorded one agreement with childcare provisions. However, a check of the Pro Design Projects Pty Ltd Enterprise Agreement 2023 (replacing the Building and Construction General On-site Award 2010 and registered on 6 September 2023) considered the clause to be not relevant as it related to the insurance and income protection clause, providing for childcare expenses following the death of an employee.

## Job sharing

The Workplace Agreements Database recorded only one agreement providing for job sharing. The Keolis Downer Hunter Bus Engineering and Maintenance Enterprise Agreement 2023 was negotiated by the CEPU and the AMWU, replacing the Manufacturing and Associated Industries and Occupations Award 2010 and in effect from 15 April 2024.



# Appendix E – Approach to WGEA Data Explorer

The Australian Government agency, the Workplace Gender Equality Agency (WGEA), works to help employers create more inclusive and equitable work environments for all genders. The WGEA Data Explorer is an online tool created by the WGEA offering public access to a wide range of gender equality data collected from Australian employers. It provides valuable insights into key gender equality metrics across various industries and organisations.

The WGEA Data Explorer is based on reports submitted by employers under the Workplace Gender Equality Act 2012. The data covers gender pay gaps, workplace composition by gender workplace policies on flexibility and parental leave, and employee experiences regarding inclusion and support. Employers with 100 or more employees must report their data to WGEA each year. This legal requirement under the Workplace Gender Equality Act 2012 ensures that these employers provide information on gender equality metrics.

## Parental Leave Reporting

The parental leave section of the WGEA Data Explorer presents data on how Australian employers provide parental leave benefits and support to employees. It includes information about the number of employees eligible for parental leave and the policies employers have for both primary and secondary carers. The section also highlights the availability and duration of paid parental leave, showing whether employers offer paid leave beyond the government-mandated minimum and the gender distribution of employees taking paid leave.

The carer support section of the WGEA Data Explorer is closely related to the parental leave section, as both address the needs of employees balancing work with caregiving responsibilities. The parental leave section focuses on supporting employees who take leave for the birth, surrogacy or adoption of a child, while the carer support section highlights whether employers assist employees with caregiving responsibilities more generally.

The carer support section includes information on the availability of carer's leave, covering both paid and unpaid leave for employees who need to care for a family member or loved one due to illness, injury, or disability. The section also highlights whether employers offer flexible working arrangements, such as part-time work, job-sharing, remote work, or flexible hours, to help employees manage their caregiving duties. Additionally, it provides insights into other supportive workplace policies, such as employee assistance programs (EAPs), counselling services, or special accommodations for caregivers.

The parental leave and carer support sections of the WGEA Data Explorer exclude certain types of information. It does not provide specific personal or individual employee data, such as the reasons for taking parental leave or personal circumstances. It also omits detailed financial information, such as salary figures or specific financial aspects of parental leave benefits, beyond general details on paid leave duration and availability. For example, some employers offer different parental leave packages to certain groups of employees based on factors such as service time, occupation, worksite, or specific employment agreements or workplace policies. Additionally, while the Data Explorer offers data on parental leave trends, it does not cover specific organisational policies or any exceptions within employers' leave structures. Finally, although it provides return-to-work rates, it does not include details on career progression after parental leave, such as promotions, redundancies, or pay increases.

## WGEA Definitions

### Parental Leave

*“Employer-funded parental leave is typically outlined in an applicable employment award, agreement, contract or workplace policy. Entitlements may be the same for all eligible employees or may be different for some parents than others, depending on a categorisation of ‘primary’ and ‘secondary’ carer, with secondary carers typically receiving a shorter duration of paid leave from the employer than the primary carer. Exact definitions of these terms may vary between employers or across workplace awards, agreements or contracts” (WGEA, 2024, p. 18).*

### Gender-neutral Policy

*“Equally shared parental leave policies offer the same type, length and conditions to employees of all genders, who require parental leave, with no distinction between primary and secondary carers.” (WGEA, 2024, p. 19)*

### Primary / Secondary Policy

*“A **primary carer** is often described as the person who most meets the child’s physical care and needs, including feeding, dressing bathing and otherwise supervising the child on a daily basis” (WGEA, 2024, p. 19)*

*“A **secondary carer** may be the current partner of the primary carer, the other legal parent of the child or the current partner of the other legal parent of the child” (WGEA, 2024, p. 19)*

### Support for Carers

*“A **carer** refers to, but is not limited to, an employee’s role as the parent (biological, step, adoptive or foster) or guardian of a child, or carer of a child, parent, spouse or domestic partner, close relative, or other dependent or friend” (WGEA, 2024, p. 25)*

## WGEA Employer Citation of Choice


The WGEA Employer of Choice for Gender Equality (EOCGE) Citation is awarded by WGEA, to companies in Australia that demonstrate leadership in promoting gender equality in the workplace. The citation has minimum requirements and recognises employers who have implemented effective strategies and policies to address gender equality issues, such as closing the gender pay gap, increasing women’s representation in leadership roles, and offering workplace flexibility.

Private sector organisations, public sector organisations, and non-government organisations with over 100 employees are eligible to apply for the EOCGE citation. To apply, organisations must have submitted their gender equality data to WGEA through the annual Employer Census and demonstrate they meet the minimum criteria.

The citation recognises two levels: Employer of Choice for Gender Equality and Employer Committed to Gender Equality. WGEA grants the citation for three years, after which companies can reapply. Currently, 115 employers hold the Employer of Choice for Gender Equality recognition. Of the 115 employers, 5 construction-based companies hold a WGEA Employer of Choice Citation: Clough, CPB Contractors, John Holland Group, Laing O’Rourke and SMEC Australia.

### WGEA Employer Citation of Choice – Parental Leave Criteria

Employers applying for the WGEA EOCGE citation must meet specific criteria for employer-funded paid parental leave. These requirements include offering gender-neutral employer-funded paid parental leave or leave for primary carers, with the same amount of leave available to all eligible employees, regardless of gender. The leave must last at least 8 weeks, with the employer providing a top-up to the employee’s replacement wage for at least 8 weeks of the government-funded parental leave pay scheme. Superannuation must be paid on the top-up amount, and the leave should be available once the employee’s probationary period ends. The policy must cover all circumstances involving a new baby (birth, adoption, surrogacy, stillbirth) and be available to all permanent employees, including partners in partnership structures. Additionally, the leave must offer flexibility in how it is taken.



If an employer does not offer gender-neutral employer-funded paid parental leave, they must provide employer-funded paid parental leave for secondary carers, with similar conditions. This includes a minimum of 3 weeks of paid leave, a top-up to the employee's replacement wage for at least 3 weeks, and payment of superannuation on the top-up amount. As with primary carers, the leave should be available to all permanent employees and partners in partnership structures, and flexibility in how the leave can be taken.

## Literature Review Leading Practice

In comparison to the WGEA Employer Citation of Choice criteria, our literature review on leading practice<sup>27</sup> suggests 26 weeks of paid parental leave at full salary with superannuation contributions on top, is leading practice in other industries. The review also highlights that leading practice policies are gender-neutrally accessible and should also offer flexibility in how and when parental leave is taken, with 12 months or more as a minimum. Consequently, the WGEA Citation of Choice – Parental leave minimum criteria appear to be very low.

## WGEA Data Explorer-By Industry Snapshot

The WGEA Industry Data Explorer enables users to view employer results by industry and also allows users to break down the data further by employer size, division, sub-division, group, and class.

The Industry Division E-Construction in the WGEA Data Explorer includes data from 646 employers in the construction industry, representing a total of 167,328 employees. Division-E encompasses a range of construction activities, including head-contractors, sub-contractors, and companies focused on construction services, management, and maintenance. It also includes businesses that build, repair, and maintain infrastructure such as residential, commercial, and industrial buildings, along with civil engineering projects like roads, bridges, and other infrastructure.

Some construction companies report in Division M-Professional, Scientific, and Technical Services because certain businesses also provide specialised professional services, such as architectural design, engineering consulting, or project management. There are 1,329 companies, with a total of 414,532 employees, reporting to Division M, which includes data from employers in a diverse range of industries such as legal, accounting, architectural, engineering, scientific research, and many other professional services.

We have based the Construction Industry Snapshot on Division- E-Construction only for a number of reasons. First, Division M, which covers Professional, Scientific, and Technical Services, includes a wide range of industry groups unrelated to the construction sector. Second, the construction sector's workforce is predominantly male. In Division E-Construction, men make up 79% of the workforce, while in Division M, men account for 46% of the workforce in reporting companies.

The data is presented in aggregate for Division E-Construction. However, there is variation within Division E-Construction by sector (heavy and civil engineering, construction services, and building construction) and a variety of subsectors such as (concreting services, electrical services, plumbing services and house construction). To provide insights into some of this variation, we selected two subsectors for further elaboration: the Plumbing Services sub-class, which falls within construction services, and residential building, which falls under building construction. We selected plumbing services and residential building construction because they highlight contrasting levels of women's representation—one falls below the industry average, while the other exceeds it. These sub-sectors are also clearly defined and easy to distinguish, unlike broader categories such as Other Residential Building Construction or Hire of Construction Machinery with Operator in the WGEA data explorer. They also represent opposite ends of the construction spectrum, with plumbing services employing significantly fewer workers than the residential building construction sub-sector.

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<sup>27</sup> Hanna-Osborne, Sally., Galea, Natalie., and Hamilton, Myra. (2025) *Boosting retention of women in construction: Improving transitions in and out of parental leave: Rapid literature review*, University of Sydney, Sydney.



## Construction Company Snapshot

In addition to industry averages presented in the earlier sections, we also sought to provide insights into patterns of leading practices in the sector. In order to provide a snapshot of companies with leading practices, we identified seventeen companies with likely examples of leading practice. The seventeen construction companies were identified as WGEA Employer of Choice citation holders, and/or referenced as organisations having leading practices in the Group A and B interviews for this research project. We also cross-checked this select list of leading practice construction companies against the WGEA public data set of companies listed under Division E-Construction. We then analysed the WGEA data explorer on parental leave and support for carers across seventeen companies. These companies include: Acciona, BESIX Watpac, CPB Contractors, Clough, Laing O'Rourke Australia, Lendlease, John Holland Group, Mirvac, Multiplex, Richard Crookes Construction, Roberts Co, Schneider, Seymour Whyte, SMEC Australia, and WeBuild.

It is important to note, that WGEA Employer of Choice benchmarks are below the average for the sector on many measures (i.e. 8 weeks paid parental leave) and are therefore merely indicative of some activity in the field of parental leave rather than leading practice. It is also important to note that WGEA data only includes organisations with 100 employees or more. While we know that very large organisations more often have HR and EDI teams and greater resources to draw upon that increase likelihood of leading practice policies, the data does not include leading practice among SMEs. Examples of leading practice from SMEs that have been raised in our interviews with policy elites and women working in construction will be discussed in the third project report.

## Limitations

The WGEA reporting period ran from 2023 to 2024. Some companies may have made changes since then, which will not appear in the data. Additionally, some companies may have received their WGEA Citation of Choice after this reporting period.

We identified some inconsistencies across the WGEA Division reporting criteria. For example, Laing O'Rourke is listed as Division M-Professional and Scientific Services in the WGEA Employer Citation of Choice and WGEA public data set. However, in the WGEA Data Explorer by Company, it appears under Division E-Construction.

Some companies use multiple trading names or ABNs when reporting to WGEA. The data collected selected one of the ABN's per company to analyse. This could be a limitation to the data analysis because it may not always reflect the full scope of the company's operations or the different entities under which it operates.

# Appendix F – Employer support mechanisms in the construction industry

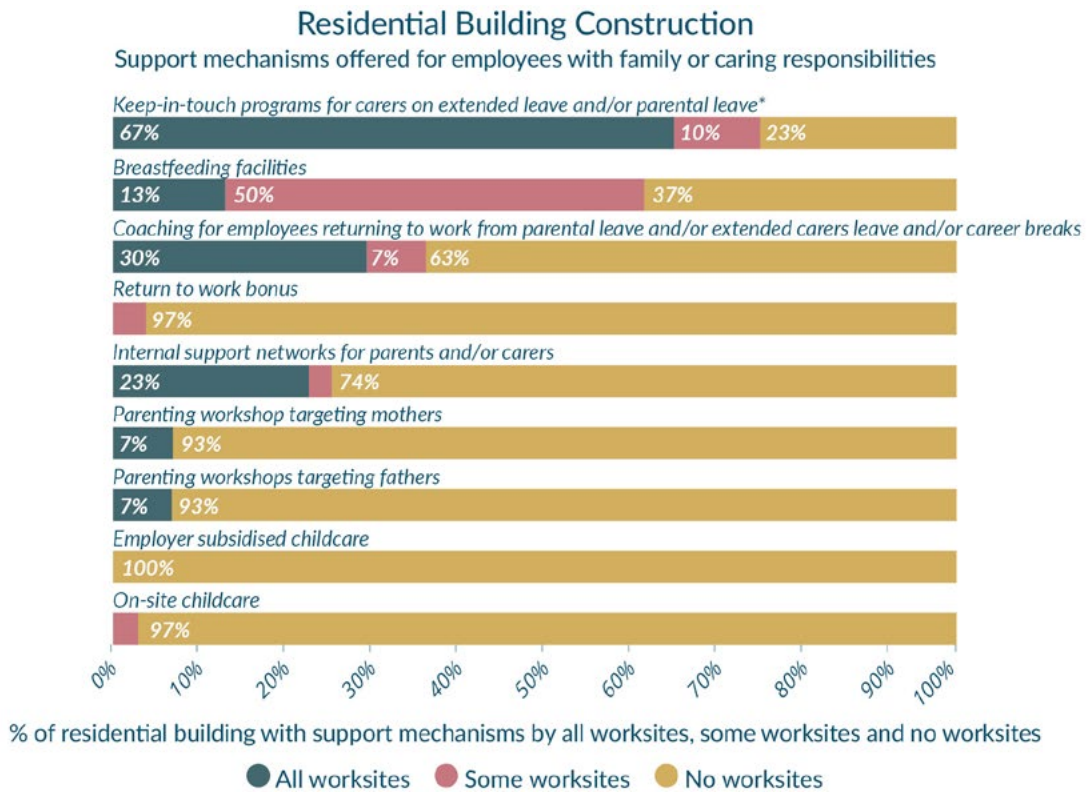


Diagram 8 – Employer support mechanisms: Residential Building

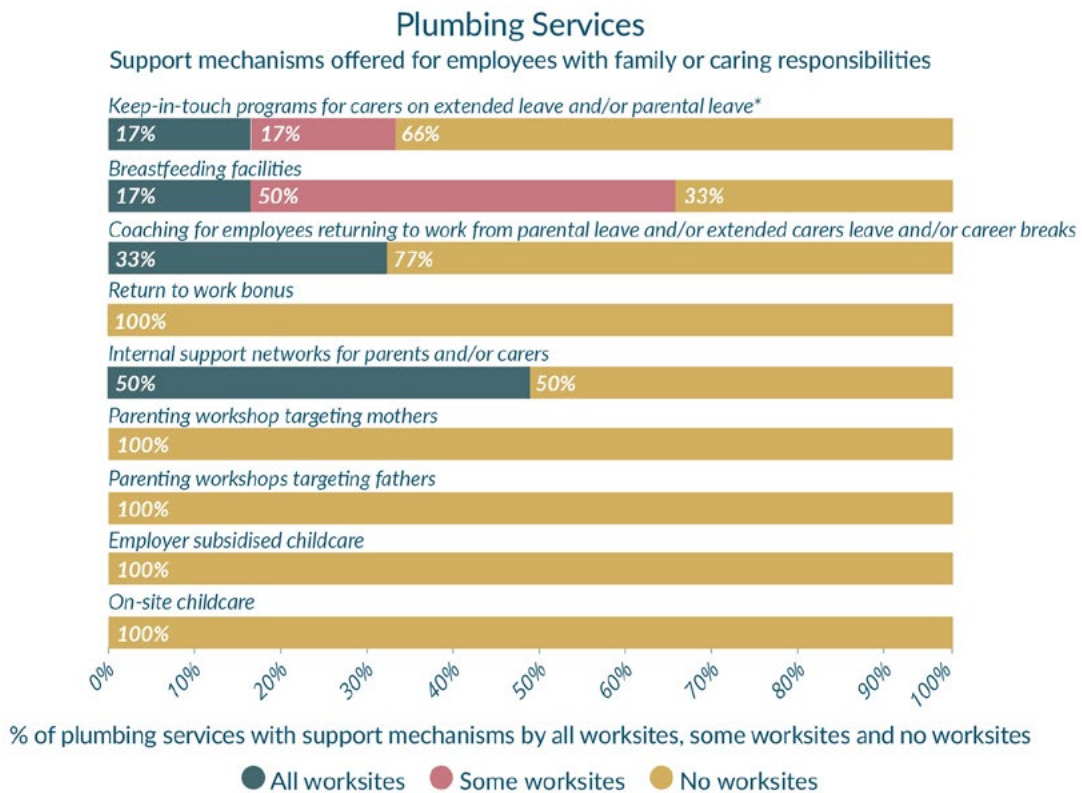


Diagram 9 – Employer support mechanisms: Plumbing Services



## Leading Practice Employers

Support mechanisms offered for employees with family or caring responsibilities

*Keep-in-touch programs for carers on extended leave and/or parental leave\**



*Breastfeeding facilities*



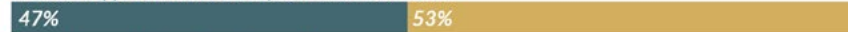
*Coaching for employees returning to work from parental leave and/or extended carers leave and/or career breaks*



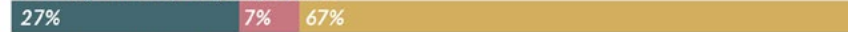
*Return to work bonus*



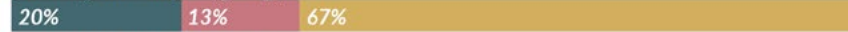
*Internal support networks for parents and/or carers*



*Parenting workshop targeting mothers*



*Parenting workshops targeting fathers*



*Employer subsidised childcare*



*On-site childcare*



% of employers with support mechanisms by all worksites, some worksites and no worksites

- All worksites
- Some worksites
- No worksites

*Diagram 10 – Employer support mechanisms: Leading practice organisations*



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