



## 2020 Log of Claims

### Clause 2 Statement of Intent

- 1 Introduce a new first dotpoint commitment to provide *“fair employment practices, employment security and protections against unfair termination for all employees in the industry”* and consistent with that commitment agree to:
- 2 Take all steps necessary to provide access Industrial Relations Commission on unfair terminations and other industrial matters for employees currently identified as *“senior staff other than general managers”* by the deletion of section 340 of the Local Government Act and
- 3 Providing greater certainty and transparency in employment arrangements for general managers with similar access to the IRC and/or continuing employment under term contracts with a 52-week termination provision for *“any other reason”*, including the future of any purported *“standard contract”*, and using the assistance of the IRC.

Sections of the Local Government Act 1993 which will require review/deletion include:

- 332(1) third dot point,
- 332(2)(a) and (b),
- 334(2),
- 337,
- 338,
- 339,
- 340,
- 348 2) and (3)(a),
- 351(1),
- 354 various

### Clause 5 Skill Descriptors

- 4 Mandate either the Local Government Job Evaluation System as enhanced by Mastertek or 00-Soft (or both) with a suitable clause about job evaluation systems, like:  
  
*Where an employer proposes to use a job evaluation system to evaluate positions under the Award to be placed in the Salary System, then the employer shall use the Local Government Job Evaluation System (Mastertek) or 00-Soft job evaluation system in agreement with the council’s Consultative Committee.*
- 5 Arrange presentations by Mastertek and 00-Soft to allow the parties to be satisfied that the systems evaluate jobs based on appropriate current factors, weightings, etc.

## **Clause 6      Rates of Pay**

- 6      Annual increases in rates of pay to provide economic stimulus to local government areas, consistent with and acknowledging the protections already afforded to rural centres in s218CA of the *Local Government Act 1993*.

## **Clause 7      Salary System**

- 7      Add new clause on market rates, as follows:

*Where an employer has advertised, but failed to attract suitably qualified candidates, the employer shall establish a market rate of pay and package of employment conditions sufficient to advertise the position to attract suitably qualified candidates to allow an appointment to be made.*

## **Clause 16      Vehicle Leaseback**

- 8      Add a new and second paragraph in 16B(ii)(a) as follows:

*If an employee can establish that a vehicle was offered as an incentive to attract and/or retain the employee and if the employee has had a motor vehicle under those arrangements for a minimum period of five years, then the motor vehicle shall be regarded as a condition of employment, and shall override any assertion made that it was not provided as a condition of employment.*

- 9      Amend 16B(iii)(b) to prevent increases of leaseback fees beyond the percentage movement in the “Eight Capitals” index, by deleting the first two paragraphs and substituting the following:

***Variations to leaseback fees*** - *an employer may only increase leaseback fees an employee is required to pay in any twelve (12) month period by the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, private motoring sub- group (Cat No 6401.0)*

## **Clause 21 Leave Provisions**

- 10      Incorporate Family and Domestic Violence Leave

### **Clause 21 A      Sick Leave**

- 11      Insert current clause 24(i) prefacing sick leave entitlements as follows:

*The parties to the Award recognise that health and wellbeing can lead to positive outcomes such as improved employee work performance and productivity, improved employee recruitment and retention, reduced absenteeism, and other benefits. Councils managing sick leave must address this principle consistent with opportunities available under clause 24 Health and Wellbeing.*

### **Clause 21D Annual Leave**

- 12 Introduce the option, at the employee's discretion, of taking annual leave at half pay or double pay as provided as an option for the LSL and take all steps and politically to secure the agreement of Government to make the required legislative amendments.

### **Clause 21E Long Service Leave**

- 13 Delete "*with the consent of the employer*" in 21E(ii)(a).

### **Clause 21J Bereavement Leave**

- 14 amend 21 J (iv) to add the following words:
- (ii)(f) may include a child of an ex-spouse or de facto partner,*
- (g) may include a parent of an ex-spouse or de facto partner,*
- (h) may include a sibling of an ex-spouse or de facto partner,*
- (i) may include a grandchild of an ex-spouse or defacto partner,*
- (iii)(f) may include a grandparent of an ex-spouse or de facto partner,*
- (g) may include an ex-spouse or de facto partner of a sibling of the employee, and*
- (h) may include an ex-spouse or de facto partner of the employee's child (former son-in-law or daughter-in-law).*

### **Clause 22 Flexibility for Work and Family Responsibilities**

- 15 Introduce as a default that a reasonable business case presented by an employee for flexible working arrangements, which is not consented to within the 21 days required pursuant to clause 21G Requests for Flexible Working Arrangements, shall constitute an agreement by the employer for those arrangements to be introduced.
- 16 Introduce as a clearly expressed default position that an application by an employee for flexible working arrangements where the employee has addressed operational issues in a reasonable way to ensure the employer's operational needs are met, shall not be refused.
- 17 Introduce a Working from Home Clause.

### **Clause 24 Health and Wellbeing**

- 18 Replace clause 24(i) and (ii) with the following from Liverpool City Council:
- (i) Health and wellbeing leave is planned leave approved in advance and provided from an employee sick leave entitlement to enable employees to*

*undertake health and wellbeing activities that lead to positive health outcomes.*

- (ii) *An employee may take two days paid leave per calendar year from their accrued sick leave balance to participate in a health and/or wellbeing activity. Whilst the part day may be taken, the days may not be taken concurrently.*
  - (iii) *Reasons for health and wellbeing days would fit generally within the concepts of health, fitness, exercise, improved health benefits, as well as preserving mental health in times of stress.*
  - (iv) *Prior approval must be obtained for the taking of health and wellbeing leave. Employees are encouraged, but not required, to provide a reason for taking health and wellbeing leave. In the absence of reasons being provided, approving officers or supervisors will not demand reasons for taking health and wellbeing leave. The taking of this leave must not result in the employee having an accumulated sick leave balance of less than 2 weeks.*
  - (v) *Health and wellbeing leave will not be approved in cases where:*
    - (a) *the leave day cannot be accommodated on operational grounds; and/or*
    - (b) *The employee does not have a satisfactory sick leave history.*
  - (vi) *Employees are encouraged to embrace fair and reasonable treatment of health and wellbeing leave, not make spurious or unacceptable applications, and not use the leave for purposes other than those consistent with building and maintaining the health and wellbeing of the employee and/or their families.*
- 19 Acknowledge the discretion for councils to provide more than two days per annum from sick leave balances, like:
- Nothing in this clause restricts an employer from providing more than two days sick leave per annum for health and wellbeing leave.*
- 20 Abandon the LGNSW HR template.

#### **Clause 32 Consultative Committees.**

- 21 Acknowledge that the unions are the primary representative bodies of employees by amending clause 32B(ii) by adding the words *“and if agreement is reached to provide additional employee representation, then the number of employee representatives, together with management representatives, shall not outnumber the union representatives”*.

## Clause 36      Disciplinary Procedures

- 22      Review the amendments made in 2017 to clause 36 to ensure that they have provided investigations and processes that were properly conducted and speedily concluded consistent with the following:
1. At the beginning of the disciplinary process, the employer and the employee will meet to determine the length of the investigation.
  2. The employer shall provide resources sufficient to ensure that, unless there are complicating factors, any investigation should be concluded within four weeks.
  3. If there are complicating factors, and the investigation cannot be concluded within four weeks, and the employer and employee will meet again to discuss and agree to an appropriate length of the investigation.
  4. The person who investigates the employee must not have been involved in the matters the subject of investigation.
  5. The person who investigates the employee must be suitably trained in conducting an investigation.
  6. The investigator must provide to the employee all material upon which it seeks to rely.
  7. The employee may nominate witnesses in support and the investigator shall interview those witnesses.
  8. The investigator shall consider any material prepared by the employee.
  9. The investigator shall not be subject to direction as to the conclusion reached.
  10. The employer must provide a copy of the investigation report to the employee for comment before the employer decides as to the matters the subject of the investigation.
  11. If the employer finds any of the matters proven; the employer must provide the employee with a right to be heard as to the penalty, if any, to be imposed.
  12. The employee shall be entitled to request the presence of a union representative at any stage.
- 23      Review the 2017 Local Government Industry Guidelines on Workplace Investigations to ensure that the expectations of the parties have been met, the twelve principles of procedural fairness listed above have been applied and, in particular, that the wording agreed in **Step 1: Undertake a Preliminary Assessment** has ensured that councils have not proceeded with frivolous, vexatious or punitive investigations and amend accordingly.

### **Clause 39      Workplace Change and Redundancy**

- 24      Acknowledge that usually a 28 day notice period for proposed workplace changes, starting at the level of management below the GM and providing little further detail, can require subsequent 28 day notice periods as the restructure is implemented down the organisation, and amend clause 39 accordingly. (And try to avoid the word *"cascading"*, which apparently frightens the ignorant and the tyrants.)

### **Clause 40      Termination of Employment and Redeployment Due to Redundancy**

- 25      Amend clause 40(i)(a)(1) to ensure that the employer and the employee reach agreement on arrangements for the notice period, or payment in lieu, by adding the words *"by agreement with the employee"* so that 40(i)(a)(1) concludes with the words *"five (5) weeks' notice to terminate or pay in lieu thereof, by agreement with the employee;"* and
- 26      Amend clause 40(i)(b) by adding the words *"by agreement with the employee"* so that 40(i)(b) concludes with the words *"that the employment may be terminated by part of the period of notice specified and part payment in lieu thereof, by agreement with the employee."*

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depa

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