

Local Government NSW

Local Government (State) Award 2023

Employers' Log of Claims – 9 September 2022

'Without Prejudice'

Items:

1. **Clause 2 [Statement of Intent]** – Amend the 'Statement of Intent' at clause 2 to better recognise and reflect councils' Integrated Planning and Reporting (IPR) obligations.
2. **Subclause 4(viii) ["ordinary pay" v "salary system rate of pay"]** – Amend the Award to ensure consistent terminology is used throughout the Award when referring to the rate employees are required to be paid. Currently, different terminology is used throughout the Award when referring to an employee's pay and there are inconsistencies in the meaning of the terminology. For example, "Ordinary pay" is defined to include shift and weekend penalties, however, the Award also provides that shift and weekend penalties are calculated on employees' "ordinary hourly rate" and that such payments "shall not attract any penalty".
3. **Subclause 4(viii) [composition of "Ordinary Pay"]** – Amend the definition of "Ordinary Pay" by deleting "on call allowance" and "adverse working conditions allowances" from the composition of ordinary pay. Also remove the words "*but not limited to*" from subclause 4(viii) so that the definition is clear and precise.
4. **Clause 15 [Superannuation]** – Amend subclause 15(i)(a) by deleting the words "Local Government Superannuation Scheme" and insert in lieu thereof the words "Active Super". Also delete from subclause 15(i)(a) the words "and not any other superannuation fund". The proposed amendments reflect the new name of the relevant default superannuation fund and bring the clause into conformity with prevailing superannuation legislation.
5. **Subclauses 16(i) to 16(ii) [Adverse Working Conditions Allowances]** – Adjust the hourly rate of the Adverse Working Conditions Allowances (Levels 1 and 2) so that they are exactly 1/38th of the weekly rate.
6. **Subclauses 16(i) to 16(v) [Adverse Working Conditions Allowances, Sewer Chokes Allowance, and Sewerage Treatment Works Allowance]** – Update and modernise the allowances to reflect contemporary work practices whilst maintaining fair and reasonable compensation for working under adverse conditions (from both an employee and employer perspective) using the Adverse Working Conditions Allowances under the federal *Local Government Industry Award* as a starting point for such reform [Note: the parties agreed in 2020 to undertake a thorough review of the allowances – see subclause 45(xi) of the Award].
7. **Subclause 16(xiii) [First Aid Allowance]** – Amend subclause 16(xiii) to allow first aid allowance to be paid per day (currently, the allowance can only be paid per week). Appointed first aid officers would be paid the allowance when in attendance at the

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employer's workplace and would not receive the allowance when working from home or away from the employer's premises.

8. **Subclause 16(xv) [Civil Liability Allowance]** – Remove the civil liability allowance by deleting subclause 16(xv). In the alternative, amend the clause to clarify who's entitled to the allowance and under what circumstances.
9. **Subclauses 16(x)(j) and 17A(i) [Vehicle Allowance / electric vehicles]** – Amend subclauses 16(x)(j) and 17A(i) to include a vehicle allowance (at an appropriate rate) for electric vehicles.
10. **Clause 19 [Ordinary Hours]** – Harmonise the weekly maximum number of ordinary hours of work for all employees, such as by amending the clause to provide that the ordinary hours of work for all employees is 38 hours per week (currently the maximum ordinary hours of work for some employees is 38hrs/week and for others its 35hrs/week). The proposed amendment would remove confusion and the administrative burden on councils, particularly where employees perform mixed duties/functions that involve both 38hr/week and 35hr/week work.
11. **Subclause 19C(ii) [Shift Work / Holiday Parks]** – Amend the table at subclause 19C(ii) by deleting the word "Caretaker" and inserting in lieu thereof the words "Caretaker / Holiday Parks". The proposed amendment is to remove ambiguity.
12. **Subclause 21A(i) [Holidays]** – Amend subclause 21A(iv) to remove ambiguity in relation to whether, for the purposes of the Award, public holidays occur on the *observed* public holiday under the *Public Holidays Act 2010*, or the named public holiday. For example, the Award provides that "Australia Day" is a public holiday. In 2025 Australia Day (26 January) will fall on a Saturday. Section 4(b) of the *Public Holidays Act 2010* provides that "*Where 26 January is a Saturday or Sunday, there is to be no public holiday on that day and instead the following Monday is to be a public holiday.*"
13. **Subclause 21A(iv) [Holidays / 4hr minimum engagement period]** – Amend subclause 21A(iv) to provide that casuals are not entitled to the minimum payment of four hours for work on a public holiday. To highlight the issue, currently, a casual gym instructor engaged to perform a one (1) hour gym class on a public holiday is required to be paid the equivalent of ten (10) ordinary hours for the one (1) hour of work (i.e. 4 hours at double time and a half). They also receive a 25% casual loading for 4 hours notwithstanding that they only worked for one (1) hour.
14. **Clause 22D [Annual Leave]** – Amend the clause to clarify that where a public holiday falls during a period of annual leave at half pay, the public holiday shall also be paid at half pay and all entitlements shall accrue on a proportionate basis. The proposed amendment is consistent with the Award's treatment of periods of sick leave at half pay (see subclause 22A(vii)).
15. **Clause 22E [Long Service Leave]** – Amend the clause to clarify that where a public holiday falls during a period of long service leave at half pay, the public holiday shall also be paid at half pay and all entitlements shall accrue on a proportionate basis. The

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proposed amendment is consistent with the Award's treatment of periods of sick leave at half pay (see subclause 22A(vii)).

16. **Subclause 22G(iv) [Maternity Leave under the 2007 Award]** – Delete subclause 22G(iv). This subclause preserves an entitlement to up to 9 weeks paid *maternity* leave under the former 2007 Award. The Award would continue to provide for parental leave make-up pay (up to 18 weeks) and concurrent parental leave (up to two weeks). The proposed amendment would result in the Award's paid parental leave provisions being non-discriminatory, equitable, and easier to understand and apply.
17. **Subclause 31A(i) [Junior and Trainee Employment]** – Amend subclause 31A(i) to indicate that the rates of pay in Band 1 / Level 1 are minimum rates (rather than actual rates). The proposed amendment will clarify that councils can pay above the minimum rates in the Award.
18. **Subclause 33C(i)(d) [Consultative Committees]** – Amend subclause 33C(i)(d) to clarify that the functions of the consultative committee do not include 'job redesign' except where the workplace change has 'significant effects'.
19. **Subclause 35(i)(e) [Term Contracts]** – Amend subclause 35(i)(e) to clarify that term contracts may be used to undertake training and work as part of a 'graduate' training program.
20. **Subclause 36 [Grievance and Disputes]** – Amend clause 36 by inserting a new subclause (iv) that states "*Assessment of a grievance will include consideration of whether the grievance arose from reasonable management action*", and renumber existing subclauses (iv) and (v) to become subclauses (v) and (vi).
21. **Subclause 41(v)(a) [Workplace Change]** – Amend subclause 41(v)(a) to clarify that only one of the circumstances referred to in the table at subclause 41(v) needs to be satisfied for the timeframes in subclauses 41(iii) and 41(iv) not to apply. The proposed amendment is consistent with LGNSW's understanding of the intended operation of the subclause and will remove ambiguity.
22. **Subclause 42(i)(2) [Termination of employment due to technological change]** – Delete subclause 42(i)(2) to remove the requirement to give three (3) months' notice of termination of employment due to technological change. The effect of the proposed change is that all employees would have the same notice entitlement (5 weeks) if their employment is terminated due to redundancy. The proposed amendment is consistent with contemporary workplace change provisions such as those applying under the *Fair Work Act 2009* (Cth) and under federal modern awards.
23. **Subclause 42(vi) [Job Search Allowance and FBT]** – Amend subclause 42(vi) to provide that the job search allowance is inclusive of Fringe Benefits Tax.
24. **Plain English** – Review the drafting of the Award to remove ambiguity and to ensure that the provisions are in plain English (including but not limited to clarifying that section 5 of the *Long Service Leave Act 1955* applies).

25. **Rates of Pay and Allowances [Part B, Monetary Rates / Allowances]** – Increase rates of pay and allowances by an appropriate amount considering factors that include, but are not limited to: inflation (CPI); the ABS Wage Price Index (WPI); the cost impact of other award variations; wage and salary movements that apply to general manager and other senior staff; FWC and IRC minimum wage decisions; wage and salary movements that apply to other levels of government; rate pegging, and employers' capacity to pay.

Note: LGNSW reserves the right to seek further award variations to those identified above. This may include, for example, suggesting award variations that relate to and/or arise in response to award variations sought by the union parties to the award.

USU Log of Claims for the 2023- 2025 NSW Local Government State Award. (As at the 12/8/22)

Clause 46. Area, Incidence and Duration.

Award Increase 2 Options

1. The award to increase by 5 % annually or by the CPI rate (Whichever is highest) from the first full pay period in July in 2023, 2024 and 2025. With the minimum increase for 2023 to be \$58.00 pw, 2024 to be \$62.00 pw and 2025 to be \$66.00 pw.
2. The award to increase in accordance with the recent QLD State Government offer to their nurses of 11 % over 3 years plus cost-of-living top up payments of up to 3 % each year where the annual % increase is less than CPI. This would be a minimum 4 % for the 2023 increase followed by a minimum 4 % for the 2024 increase followed by a minimum 3 % for the 2025-year increase to be paid from the first full pay period in July. **NOTE: the cost-of-living top up payments to apply to union members only, and only to members of the Unions that are parties to this award.**
3. Pay all Union members a lump sum allowance of 1% of ordinary pay on 1 November 2023 in recognition of the resources expended by Union members in negotiating the Local Government (State) Award. **NOTE: this payment is only to apply to union members whose unions are parties to this award.**

Clause 4 Definition – Improve the definition of a Seven day a week rotating roster

Redesign the seven day a week rotating roster definition so that employees rostered a minimum of 36 weekend days a year are entitled to an extra week's annual leave, while also providing protections for consistently rostered off on days that are ordinarily public holidays

Clause 6 Rate of Pay

Increase the weekly rate of pay of all 38 hour a week workers, so they are on the same hourly rate of pay as equivalent 35 hour a week workers.

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Clause 19. Hours of Work

C. On Call (iii), (iv) and (v)

On call allowance to increase from \$21.44 pd and from \$41.99 pd to \$75.00 pd and \$150.00 pd from July 1, 2023, and to increase annually in accordance with the award % increase. This would see the weekly maximum rate increase initially from \$191.30 pw to \$410.00 pw.

C. On Call (viii)

Unless otherwise provided, the overtime paid to an employee that is required to return to work whilst on call shall not be less than thirty (30) minutes (replace with 2 Hours) per day on which they are called out inclusive of paid travel time.

C. On Call (ix)

Remove On call employees are not subject to the minimum payment provisions of a public holiday. Replace with.

For each public holiday an employee is required to be on call, the employee shall be granted one half day's leave (or a minimum of four (4) hours whichever is highest), to be taken at an agreed time, provided that where there is prior agreement the employer may pay the employee an additional half day's pay (or a minimum of four (4) hours whichever is highest) with such payment to be made at the appropriate public holiday penalty rate of pay.

A. Ordinary Hours (i)

Remove 38 hours and replace with 35 hours

Remove 76 hours and replace with 70 hours

Remove 114 hours and replace with 105 hours

Remove 152 hours and replace with 140 hours

9-day fortnight/ 4-day week arrangements

Include new clause that says that where an employee requests to work a 9-day fortnight or 4-day week, the employer shall not unreasonably refuse the request and where refused, shall provide any reason/s in writing.

C. Shift Work (i) and (iii)

20 % shift penalty to be increased to 50 %

Clause 22. Leave Provisions

A. Sick Leave

Increase sick leave to 20 days per year in recognition of the reductions of sick leave caused by COVID-19

D. Annual Leave and E. Long Service Leave

Where an employee who is taking annual and or long service leave and becomes ill and who produces a medical certificate for the illness period which occurred during the annual and or long service leave period, the employer shall recredit the annual and or long service leave covered by the medical certificate and deduct the equivalent period of leave from the employee's sick leave.

C. Carer's Leave

Carers leave of 10 days per year to be provided before being deducted from sick leave.

D. Annual Leave

Amount of Annual Leave (i) (b)

1. Remove the word rotating.

Clause to read as follows.

5 weeks of paid annual leave if the employee is regularly required to work a seven-day roster system or if they are required to work on a seven-day system for 10 weeks in any 12-month period, and 6 weeks of paid annual leave if the employee is required to work on at least 26 weekends or partial weekends per year.

J. Bereavement Leave

Include grandparent in the definition of immediate family for the purposes of bereavement leave

Add new Clause in Leave Provisions

N. Miscarriage Leave

Add new clause to provide new federal provisions to cover miscarriage leave.

Clause 16. Allowances, Additional Payments and Expenses

Level 1 and level 2 Adverse Working Conditions Allowance (a)

Remove the words (except for supervisors) and the exception for “noxious plant inspection”

Add recognition, for disposing of used syringes, human or animal waste, dead animals and rubbish, or for working with asbestos, regardless of the employee’s classification or where the work was carried out as long as the employer requires the work to be done.

Increase level 1 from 0.46 per hour to \$1.00 per hour and level 2 from \$1.19 per hour to \$2.00 per hour and remove the maximum per week payment.

(vii) Telephone

Add new sentence, that where the employee is working away from their workplace and the employee is paying for data usage for approved work purposes, the employee and employer will agree on an amount to reimburse the employee on either an annual or monthly basis.

Such data usage should not exceed standard line rental charges unless it can be demonstrated that the data usage in excess of standard line rental charges was for the benefit of the employer.

(iii) Sewer Chokes

The sewer choke allowance to be doubled from the current rate of \$9.73 to \$19.46 and to increase in accordance with future award increases.

Clause 8. Use of Skills

Add new words to (i)

Council shall develop and implement an individual training plan for every employee in a timely manner which shall both facilitate in salary progression in the employee's substantive position and for career progression.

This should greatly assist in retaining existing staff and in ensuring that existing staff have the skills and qualifications required to fill in or to be promoted into positions in ensuring Council meets its commitments to provide services under its community strategic and operational plan.

Clause 34. Appointment and Promotion

(i) Add the following wording.

Council shall not unreasonably delay filling any vacancies that occur in their organisational structure.

Any vacancy known in advance should be advertised within a month of becoming vacant or earlier if possible and any unexpected vacancy should be advertised within 3 months.

Add new (iii) That when an application is received from a person who identifies in their application as a veteran of the Australian military, that person should be offered feedback on their application if unsuccessful.

Add new (iv):

"The employer agrees that Orientation/Induction shall be provided to all employees covered by this Award. The employer further agrees that the Unions shall have up to one half-hour made available for a presentation on the role of the Union in such a program provided to employees. If such programs are provided to employees by electronic or remote means, the Unions' presentation and associated literature will also be included."

Clause 42 Termination of Employment and Redeployment due to Redundancy

Increase the maximum entitlement to severance pay to 52 weeks, and increase all other entitlement by an equal amount.

Clause 15. Superannuation and Related Arrangements

3% additional superannuation on top of superannuation guarantee.

Add new Wording **(f)**

That members of the NSW Local Government Industry endorsed superannuation fund be granted 1 hour paid special leave annually to meet with and to obtain advice from an employee of the fund.

That Council shall provide available information provided by the Super fund to new staff and to staff in general and to not unreasonably refuse any request for a super fund employee to meet with interested staff at an agreed Council meeting room and or facility, provided that at least 2 weeks' notice is given.

**Local Government (State) Award 2023,
LGEA Log of Claims, 5 September 2022**

Reward & Recognition

- Annual increases in rates of pay which maintain real wages for our members over the life of the Award, and are relative to cost of living increases.

Workload

- Amend clause 9 Resourcing and Directing Employees to identify that the provision of adequate resources includes appropriately qualified and experienced staff.
- Introduce a new clause that would require an employer to report on roles that have been vacant for more than two months and identify the steps being taken to fill the vacant role(s) and the steps being taken to mitigate the adverse effects of the vacancy on existing staff.
- Introduce a Right to Disconnect clause to preserve an employee's right to disconnect from work during non-work time.

Work/Life/Family Initiatives

- Review clause 23 Flexibility for Work and Family Responsibilities to ensure all employees have the right to request flexible work arrangements, and review the list of flexible work arrangements to ensure they reflect current practices.
- Increase Paid Parental Leave for Primary and Secondary caregivers, consistent with changes in the NSW Public Sector.
- Provide payment of superannuation on an employee's ordinary rate of pay for the full period of parental leave (inclusive of any unpaid parental leave).
- Introduce a clause on Pandemic Leave to provide leave for employees unable to work due to an illness which requires isolation under Government Health guidelines.
- Allow the recrediting of annual leave or long service leave to sick leave where an employee becomes unwell during annual or long service leave with an illness requiring isolation under Government Health guidelines.
- Amend clause 22 D Annual Leave so that the entitlement to Annual Leave is accrued as hours, rather than as weeks.

Job Security

- Introduce the right for employees on a term contract that has been renewed more than once the right to convert to permanent employment.

Professional Development

- Add a definition of “continuing professional development” (CPD) in clause 4 of the Award.
- Amend clause 32 (ii) to:
 - Increase the provision for CPD for employees employed within Bands 3 and 4 to provide access to a minimum of 50 hours continuing professional development pa (or 150 hours averaged out over three years).
- Review clause 16 (xvi) Accreditation of Employees as Chartered Professional Engineers to ensure industry best practice.

Motor Vehicle Arrangements

- Increase the minimum quarterly payment (clause 17 A (iii) – Vehicle Allowances) in accordance with cost increases and movements in the index figure published by the Australia Bureau of Statistics for Eight Capitals, private motoring sub-group (Cat. No 6401.0).
- Amend clause 17 A (iii) so that the minimum quarterly payment is varied in accordance with and movements in the index figure published by the Australia Bureau of Statistics for Eight Capitals, private motoring sub-group (Cat. No 6401.0).
- Insert a new clause on Electric Vehicles and the terms and conditions upon which they are provided.

Coverage of Award

- Ensure no disadvantage for employees who transition from Senior Staff contracts to Award coverage with the likely removal of non-GM senior staff contracts, and set minimum rates for these employees consistent with the SES pay scale.

Consultative Committees

- Review the scope of Consultative Committees outlined at clause 33 C and add ‘vacancies’ and ‘policies and procedures’ to the matters included as functions of a consultative committee.

We reserve our right to amend or add to our log of claims at any time during the negotiations as required.