

**Without Prejudice
(As at 6 June 2014)**

Local Government (State) Award 2014

PUBLISHED BY THE LOCAL GOVERNMENT AND SHIRES ASSOCIATION
OF NEW SOUTH WALES

DRAFT

Local Government (State) Award 2014

| Amending Issue | Variation | Clauses Affected | Operative Date |
|----------------|-----------|------------------|---|
| 9.0 L.G. | New Award | All | First full pay period to commence on or after 1 July 2014 |

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LOCAL GOVERNMENT (STATE) AWARD 2014

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PART A

1. ARRANGEMENT

PART A

| Clause No. | Subject Matter |
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PART B

MONETARY RATES

Table 1 – Rates of Pay

Table 2 – Allowances

Schedule 1 – Minimum Standards of Caravan Accommodation to be provided to
Employees Required to Camp Out.

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2. STATEMENT OF INTENT

The parties to the Award are committed to co-operating positively to increase the **productivity**, structural efficiency **and financial sustainability** of Local Government and to provide employees with access to more fulfilling, varied and better-paid work by providing measures to, for instance:

- improve skill levels and establish skill-related career paths;
- eliminate impediments to multi-skilling;
- broaden the range of tasks which a worker may be required to perform;
- achieve greater flexibility in workplace practices;
- eliminate discrimination;
- establish rates of pay and conditions that are fair and equitable;
- work reasonable hours;
- **promote job security;**
- ensure **and facilitate** flexibility for work and family responsibilities; ~~and~~
- ensure the delivery of quality services to the community and continuous improvement;
- **encourage innovation; and**
- **promote cooperative and open change management processes.**

3. ANTI-DISCRIMINATION

- (i) It is the intention of the parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Award which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (iv) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

4. DEFINITIONS

- (i) *Association* means the Local Government and Shires Association of New South Wales, which is also known as Local Government NSW (LGNSW) and/or the Shires Association of New South Wales.
- (ii) *Council* means a Municipal, City, Shire, County Council or Council within NSW as defined in the *Local Government Act 1993*. This definition shall be read subject to the allocation of responsibilities as specified in the *Local Government Act 1993*.
- (iii) *Competency based training* refers to training concerned with the attainment and demonstration of specified skills, knowledge and their application to meet industry standards.
- (iv) *Complying superannuation fund* has the same meaning as in the *Superannuation Industry (Supervision) Act 1993* (Cth).
- (v) *Days* - unless otherwise specified, any reference to 'days' shall mean calendar days.
- (vi) *Employer* means all employers in local government or in the local government industry within NSW that are covered by clause 43, Area, Incidence and Duration of this Award. ~~Council shall also mean City of Penrith Regional Indoor Aquatic and Recreation Centre Limited (Ripples).~~
- (vii) *General Manager* shall mean a person appointed in accordance with section 334 of the *Local Government Act 1993* to discharge the duties and responsibilities of the office of general manager as set out in section 335 of the *Local Government Act 1993* and such other duties that a council may delegate to the general manager. When carrying out these duties, the general manager is acting on behalf of the council.
- (viii) *Ordinary Pay* means remuneration for the employee's normal weekly number of hours of work calculated at the ordinary time rate of pay. Ordinary pay shall include, but not be limited to the following penalties and allowances where they are regularly received:
 - Saturday, Sunday and shift penalties
 - hours of work flexibility agreements allowances
 - ~~disability~~ adverse working conditions allowances
 - climatic, west of the line allowances
 - civil liability allowance
 - tool allowances
 - on call allowance
 - first aid allowance

- community language and signing work allowances.

provided that subject to the exclusions below and at clauses 10(ii) and 21D(ix), an employee's ordinary pay during periods of paid leave under this Award shall not be more or less than what the employee would have received had the employee not been on paid leave.

The following allowances shall be excluded from the composition of ordinary pay:

- overtime payments
- camping allowance
- travelling allowances
- sewer chokes allowance
- ~~car~~ vehicle allowances
- meal allowances.

(ix) *Seven day a week rotating roster system* means a work roster system in which the employee is regularly required to work:

- ordinary hours on each of the seven calendar days of the week; and
- ordinary hours on at least one Saturday and one Sunday in every four, or in the case of a seasonal worker an average of at least twelve Saturdays and twelve Sundays during a twelve month period; and
- on Public Holidays; and
- at different agreed commencement times during the roster period (i.e. different shifts)

provided that where, prior to the commencement of this Award, an employee regularly worked according to a roster system that the employer regarded as a seven day a week rotating roster system, and the employee continues to work according to the same roster system, the roster system shall be deemed to be a seven day a week rotating roster system for that employee.

(x) *Superannuation contributions* means all contributions to a complying superannuation fund, and includes (without limitation) any superannuation contributions required to be made under the Superannuation Guarantee (Administration) Act 1992 (Cth), and any additional superannuation contributions made by way of salary sacrifice.

(xi) *Union* means the New South Wales Local Government, Clerical Administrative, Energy, Airlines & Utilities Union (USU); the Local Government Engineers' Association of New South Wales (LGEA); the Development and Environmental Professionals' Association (depa); and the Nurses' Association of New South Wales.

5. SKILL DESCRIPTORS

The Award structure consists of skill based bands and levels that are defined according to the following skill descriptors:

(i) **Operational Band 1, Level 1**

Authority and accountability: Completion of basic tasks with work closely monitored by the team leader or supervisor.

Judgement and problem solving: Judgement is limited and coordinated by other workers.

Specialist knowledge and skills: Specialist knowledge and skills are obtained through on-the-job training and employer-based induction training. Off-the-job training may lead to trade, technical or professional qualifications.

Management skills: Not required.

Interpersonal skills: Limited to communications with other staff and possibly, with the public.

Qualifications and experience: Completion of School Certificate or the Higher School Certificate may be sought. Completion of an appropriate labour market program or similar short-term work/skills experience is desirable.

(ii) **Operational Band 1, Level 2**

Authority and accountability: Responsible for completion of basic tasks with individual guidance or in a team.

Judgement and problem solving: Applies standard procedures with normally few if any options in the application of skills.

Specialist knowledge and skills: Job specific skills and knowledge would normally be gained through on-the-job training and experience. Short courses may be completed at TAFE.

Management skills: Not required.

Interpersonal skills: Frequent communication with other staff and/or the public common but normally at a routine level.

Qualifications and experience: Incumbents may have attended short courses in specific work areas or be undertaking a technical college certificate as completion of structured training program in work-related area.

(iii) **Operational Band 1, Level 3**

Authority and accountability: Responsible for completion of regularly occurring tasks with general guidance on a daily basis.

Judgement and problem solving: Judgement is required to follow predetermined procedures where a choice between more than two options are present.

Specialist knowledge and skills: Application of skills, including machine-operation skills, following training "on the job" or accredited external training over a number of months.

Management skills: Some guidance/supervision may be required. May assist a co-ordinator/trainer with on-the-job training.

Interpersonal skills: Skills required for exchange of information on straightforward matters.

Qualifications and experience: Suitable experience or qualifications in a number of defined skill areas.

(iv) **Operational Band 1, Level 4**

Authority and accountability: Responsible for supervising staff in operational duties or for work requiring independence in the application of skills, subject to routine supervision. Responsible for quality of work function.

Judgement and problem solving: Option on how to approach tasks requires interpretation of problems and may involve precise judgement in operational areas.

Specialist knowledge and skills: The number of work areas in which the position operates makes the work complicated and a variety of skills are required in its completion. Position may require competence in operation of complex machinery.

Management skills: Supervisory skills in the communication of instructions, training and the checking of work may be required.

Interpersonal skills: Skills are required to convince and explain specific points of view or information to others and to reconcile differences between parties.

Qualifications and Experience: Experience to adapt procedures to suit situations and a thorough knowledge of the most complex operational work procedures to achieve work objectives.

(v) **Administrative/Technical/Trades Band 2, Level 1**

Authority and accountability: Responsible for the completion of work requiring the application of trades, administrative or technical skills.

Judgement and problem solving: Skills in assessing situations and in determining processes, tools and solutions to problems. Guidance is available.

Specialist knowledge and skills: Positions will have demonstrated competence in a number of key skill areas related to major elements of the job.

Management skills: Positions may require skills in the supervision or co-ordination of small groups.

Interpersonal skills: Communication skills to explain situations or advise others.

Qualifications and experience: Appropriate work-related trade, technical or administrative qualifications or specialist skills training.

(vi) **Administrative/Technical/Trades Band 2, Level 2**

Authority and accountability: Responsibility as a trainer/co-ordinator for the operation of a small section which uses staff and other resources, or the position completes tasks requiring specialised technical/administrative skills.

Judgement and problem solving: Skills to solve problems which require assessment of options with freedom within procedural limits in changing the

way work is done or in the delegation of work. Assistance may be readily available from others in solving problems.

Specialist knowledge and skills: Positions will have specialised knowledge in a number of advanced skill areas relating to the more complex elements of the job.

Management skills: May require skills in supervising a team of staff, to motivate and monitor performance against work outcomes.

Interpersonal skills: In addition to interpersonal skills in managing others, the position may involve explaining issues/policy to the public or others and reconcile different points of view.

Qualifications and experience: Thorough working knowledge and experience of all work procedures for the application of technical/trades or administrative skills, based upon suitable certificate or post-certificate-level qualifications.

(vii) **Administrative/Technical/Trades Band 2, Level 3**

Authority and accountability: May be responsible to provide a specialised/technical service and to complete work which has some elements of complexity. Make recommendations within the employer and represent the employer to the public or other organisations.

Judgement and problem solving: Problem solving and judgements are made where there is a lack of definition requiring analysis of a number of options. Typical judgements may require variation of work priorities and approaches.

Specialist knowledge and skills: Positions have advanced knowledge and skills in a number of areas where analysis of complex options is involved.

Management skills: May supervise groups of operational and/or other administrative/trades/technical employees. Employees supervised may be in a number of different work areas, requiring motivation, monitoring and co-ordination to achieve specific outputs.

Interpersonal skills: Skills to communicate with subordinate staff and the public and/or negotiation/persuasive skills to resolve disputes with staff or the public.

Qualifications and experience: An advanced certificate, associate diploma, appropriate in-house training or equivalent combined with extensive experience in the application of skills in the most complex areas of the job.

(viii) **Professional/Specialist Band 3, Level 1**

Authority and accountability: Provides specialised/technical services to complete assignments or projects in consultation with other professional staff. May work with a team of technical or administrative employees requiring the review and approval of more complex elements of the work performed by others.

Judgement and problem solving: Problems require assessment of a range of options having elements of complexity in reaching decisions and making recommendations. Precedent is available from sources within the employer, and assistance is usually available from other professional/specialist staff in the work area.

Specialist knowledge and skills: Positions require considerable knowledge in a specific area with a sufficient level of skills and knowledge to resolve issues having elements of complexity that may not be clearly defined.

Management skills: Positions at this entry level to the Professional/Specialist Band are not required to possess management skills.

Interpersonal skills: Persuasive skills are required to participate in technical discussions to resolve problems, explain policy and reconcile viewpoints.

Qualifications and experience: Professional/specialist positions require professional qualifications to apply theoretical knowledge to practical situations.

(ix) **Professional/Specialist Band 3, Level 2**

Authority and accountability: Provides a specialised/technical service in the completion of work and/or projects which have elements of complexity (composed of many parts that may be more conceptual than definite).

Judgement and problem solving: Positions require the interpretation of information and development of suitable procedures to achieve agreed outcomes. Problem solving and decision making require analysis of data to reach decisions and/or determine progress.

Specialist knowledge and skills: Experience in the application of technical concepts and practices requiring additional training are required at this level.

Management skills: May manage a number of projects involving people and other resources requiring project control and monitoring as well as motivation and co-ordination skills.

Interpersonal skills: Interpersonal skills in leading and motivating staff in different teams/locations may be required, as well as persuasive skills to resolve problems or provide specialised advice.

Qualifications and experience: Positions at this level would have supplemented base level professional qualifications with additional skills training. Considerable practical experience or skills training would be required to effectively control key elements of the job.

(x) **Professional/Specialist Band 3, Level 3**

Authority and accountability: Provides a professional advisory role to people within or outside the employer. Such advice may commit the employer and have significant impact upon external parties dealing with the employer. The position may manage several major projects or sections within a department of the employer.

Judgement and problem solving: Positions have a high level of independence in solving problems and using judgement. Problems can be multi-faceted requiring detailed analysis of available options to solve operational, technical or service problems.

Specialist knowledge and skills: The skills and knowledge to resolve problems where a number of complex alternatives need to be addressed.

Management skills: May be required to manage staff, resolve operational problems and participate in a management team to resolve key problems.

Interpersonal skills: Interpersonal skills in leading and motivating staff may be required. Persuasive skills are used in seeking agreement and discussing issues to resolve problems with people at all levels. Communication skills are required to enable provision of key advice both within and outside **the employer** and to liaise with external bodies.

Qualifications and experience: Tertiary qualifications combined with a high level of practical experience and an in-depth knowledge of work.

(xi) **Professional/Specialist Band 3, Level 4**

Authority and accountability: Accountable for the effective management of major sections or projects within their area of expertise. As a specialist, advice would be provided to executive level and to **the employer** on major areas of policy or on key issues of significance to the organisation. The position's influence would have an important role in the overall performance of the function.

Judgement and problem solving: Positions would determine the framework for problem solving or set strategic plans with minimal review by senior management. At this level, the position may represent senior management or **the employer** in the resolution of problems. The oversight of problem solving and assessment of the quality of judgements made by less qualified staff will apply at this level.

Specialist knowledge and skills: Positions require knowledge and skills for the direction and control of a key function of **the employer** or major functions within a department. Positions require expert knowledge and skills involving elements of creativity and innovation in addressing and resolving major issues.

Management skills: Positions may direct professional or other staff in the planning, implementation and review of major programs, as well as participating as a key member of a functional team.

Interpersonal skills: Interpersonal skills in leading and motivating staff will be required at this level. Positions require the ability to negotiate on important matters with a high degree of independence. Positions are required to liaise with the public and external groups and organisations.

Qualifications and experience: Specialist tertiary qualifications in an appropriate field of study combined with extensive practical experience in all relevant areas in order to plan, develop and control major elements of work.

(xii) **Executive Band 4**

Authority and accountability: Accountable for the direction and control of **the employer** or a department or the like. Influence and commit **the employer** or a department or the like to long-term strategic directions. Lead policy development and implementation.

Judgement and problem solving: Positions solve problems through analytic reasoning and integration of wide-ranging and complex information, and have a high level of independence in determining direction and approach to issues.

Specialist knowledge and skills: The position requires the application of a range of specialist knowledge and skills, including relevant legislation and

policies and other areas of precedent. Ability to provide authoritative advice to **the employer**.

Management skills: Application of corporate management skills in a diverse organisation to establish goals and objectives. Manage and control staff, budgets and work programs or major projects of **the employer** or a department or the like utilising leadership, evaluation and monitoring skills to facilitate achievement of objectives. Ability to generate innovative approaches to more effectively deploy resources, meet changing circumstances and improve service to the **employer's** clients.

Interpersonal skills: Positions use persuasive skills with external parties on major items of critical importance to **the employer**. They motivate managers and staff at all levels by leading and influencing others to achieve complex objectives. They influence the development of the **employer**.

Qualifications and experience: Positions will have a relevant degree or equivalent and management experience, combined with accredited management qualifications.

6. RATES OF PAY

- (i) The rates of pay are established for positions with the skills descriptors as defined in Clause 5, Skill Descriptors of this Award.
- (ii) The rates of pay are set out in Table 1 of Part B of this Award are entry level rates of pay only, except for Operational Band 1, Level 1, which are actual rates of pay.
- (iii) **The employer** shall introduce a salary system to complement the skills-based structure and rates of pay of the Award.
- ~~(iv) An employee's current weekly rate of pay for the purposes of the Workers Compensation Act 1987 (NSW) shall be the rate paid to the employee under the salary system.~~

7. SALARY SYSTEM

- (i) A salary system determines how employees are paid. An employee shall be paid the salary system rate of pay that recognises the skills the employee is required to apply on the job.
- (ii) The salary system shall have a structure that complements the entry level rates of pay and skill descriptors in the Award by identifying grades. Each grade shall contain a number of salary points/steps for progression that are over and above the entry level rates of pay.
- (iii) Positions shall be assigned a salary grade(s) within the structure. A position may extend across more than one grade in **the employer's** salary system or level as prescribed by Clause 5 Skills Descriptors of this Award.
- (iv) Progression through the salary system shall be based upon:
 - (a) the acquisition and use of skills; or
 - (b) employee performance, provided that progression beyond the award entry level based upon the acquisition and use of skills is also available.

- (v) Where skills based progression is not reasonably available within the salary range for the position, employees shall have access to progression based on the achievement of performance objectives relating to the position. Such performance objectives shall be set in consultation with the employee(s).
- (vi) Subject to subclauses (iv) and (v), skills for progression relevant to the position shall be assigned to each salary point/step within the grade, or set at the annual assessment provided that such criteria shall provide an opportunity to progress through the salary system.
- (vii) Except where otherwise provided, employees shall be assessed for progression through the salary range for their position at least annually or when they are required to use skills that would entitle them to progress in the salary system.
- (viii) The employer shall not be required to conduct annual assessments for those employees who have progressed through the salary system to the maximum point/step for their position, provided that if an employee on or above the maximum point/step for their position requests an annual assessment in writing, the employer will provide one.
- (ix) At the time of assessment, the employer shall advise the employee of the skills and/or the performance objectives required for the employee to progress to the next salary point/step and shall review the employee's training needs.
- (x) The salary system shall include a process by which employees can appeal against their assessment.
- (xi) Employees shall have access to information regarding the grade, salary range and progression steps of the position.
- (xii) Where the employer changes its salary system structure, employees shall not suffer a reduction in pay or salary range. Further, employees shall not suffer a reduction in progression steps based on the acquisition and use of skill, unless otherwise agreed.

8. USE OF SKILLS

- (i) The parties are committed to improving skill levels and removing impediments to multi skilling and broadening the range of tasks that the employee is required to perform.
- (ii) The employer may direct the employee to carry out such duties that are within the limits of the employee's skill, competence and training.
- (iii) An employee shall be paid the salary system rate of pay that recognises the skills the employee is required to apply on the job.
- (iv)
 - (a) The skills paid for shall not be limited to those prescribed by the job description and may, where appropriate, include skills possessed by the individual which are required by the employer to be used as an adjunct to the employee's normal duties.
 - (b) Subject to subclause (xiii) of Clause 15, Allowances, Additional Payments and Expenses, employees who are required by the employer to use such additional skill(s) in the performance of their

duties shall have the use of these skill(s) considered in the evaluation of the position.

9. PERFORMANCE EVALUATION AND REWARD

A. ENTERPRISE

- (i) It is the intention of the parties to create a flexible award in which **employers** can increase the overall efficiency and effectiveness of local government services.
- (ii) **Employers** should consider the development of enterprise key performance indicators which are specific to local needs.
- (iii) Where the employer develops enterprise key performance indicators regard shall be had to the following:
 - (a) measurement of the manner and process by which services are provided;
 - (b) measurement of both qualitative and quantitative aspects of service provision e.g. community satisfaction, timeliness, service quality, output and cost data;
 - (c) those indicators identified in the publication 'Comparative Information on New South Wales Local Government Councils' issued by the New South Wales Department of Local Government.
- (iv) **Employers** shall discuss enterprise key performance indicators relating to human resources activities and/or job redesign with the consultative committee.
- (v) Employee(s) or the **employer** may seek assistance from the appropriate union or Association in developing and implementing enterprise key performance indicators.

B. INDIVIDUAL/TEAM

- (i) Enterprise key performance indicators may be used to develop performance targets for teams or individual employees.
- (ii) All employees need to know and have confirmed the role, accountabilities and performance standards that are expected of them. Role clarity, acceptance of goals and regular feedback are essential to effective performance. A key aim should be to provide a means of recognising and rewarding high performance and to provide an early assessment and response to substandard performance. A review system also provides a basis for identifying development needs for individuals, and can be used as an important input to promotion decisions.
- (iii) This Award recognises that all employees shall have on-going feedback about performance. The performance development process can be simplified to three stages:
 - (1) joint development on objectives and performance standards;
 - (2) progress reviews; and

- (3) a formal performance review which is followed by decisions and outcomes.

C. BONUS AND ADDITIONAL PERFORMANCE PAYMENTS

- (i) **Employers** may make available access to bonus payments or other opportunities for additional reward for those employees who have progressed through the salary system to the maximum point/step for their position.
- (ii) Where a salary system provides for the payment of a performance component separate from a skills component, variations to payments under the performance component shall not affect payments under the skills component.

10. PAYMENT FOR RELIEF DUTIES/WORK

- (i) An employee required to relieve in a position which is at a higher level within the salary system shall be paid for that relief. The rate to be paid shall be determined by considering the skills/experience applied by the employee relieving in the position but shall be at least the minimum rate for that position in accordance with the salary system except where the higher level skills have been taken into account within the salary of the relieving employee.
- (ii) Payment for use of skills relieving in a higher paid position shall be made for the time actually spent relieving in the higher position and is not payable when the relieving employee is absent on paid leave or an award holiday. An employee on annual leave may be entitled to a higher rate of pay in accordance with the provisions of clause 21 Part D(ix) of this award.
- (iii) An award employee who is required to relieve in a senior staff position, so designated under the *Local Government Act 1993*, shall be paid an appropriate rate of pay commensurate with the duties and responsibilities of the relief work undertaken.

11. PAYMENT OF EMPLOYEES

- (i) Employees shall be paid either weekly or fortnightly, or any other period by agreement, on a fixed regular pay day.
- (ii) **The employer** shall fix a regular payday, between Monday and Friday inclusive. **The employer** may alter the payday if there is prior agreement with the employees affected and the employees shall not unreasonably withhold their agreement.
- (iii) Payment shall be by cash, cheque or direct credit to the employee's nominated account.
- (iv) The **employer** shall ~~be entitled to~~ deduct and pay on behalf of the employee from ~~the employee's pay~~ any remuneration payable to the employee union membership fees where authorised by the employee in writing. **The employer can deduct and pay on behalf of the employee from any remuneration payable to the employee** such other amounts as the employee authorises in writing.
- (v) An employee's ordinary pay shall not be reduced when the employee is prevented from attending work due to bushfire or other climatic circumstances beyond their control, provided that this subclause shall not apply if:

- alternative duties are available that the employee can usefully perform, or
 - the bushfire or other climatic circumstance occurred outside of the State of New South Wales, or
 - the employee has been unable to attend work for more than one week per bushfire or other climatic circumstance event. The employee may, in exceptional circumstances, apply to the employer for paid special leave and such request shall not be unreasonably refused.
- (vi) Where an employee takes a period of sick leave and subsequently becomes entitled to the payment of workers compensation for the same period but at a lesser amount than the sick leave already paid, the employer shall be entitled to deduct from the employee's remuneration the difference between the sick leave payment and the workers' compensation payment.

12. ANNUALISED SALARIES

(i) Annual salary instead of award provisions

Notwithstanding any other provision of this Award, the employer and an employee may agree that the employer may pay the employee an annual salary in satisfaction of any or all payments arising under the following provisions of the Award:

- (a) Rates of Pay – clause 6;
- (b) Use of Skills – clause 8;
- (c) Performance Evaluation and Reward – clause 9
- (d) Payment for Relief Duties/Work – clause 10
- (e) Salary Sacrifice – clause 13
- (f) Allowances, Additional Payments and Expenses – clause 15
- (g) Residence – clause 17
- (h) Hours of Work – clause 18
- (i) Overtime – clause 19
- (j) Holidays – clause 20

(ii) Annual salary not to disadvantage employees

- (a) The annual salary must be no less than the amount the employee would have received under this Award for the work performed over the year for which the salary is paid (or if the employment ceases earlier over such lesser period as has been worked).
- (b) The annual salary of the employee must be reviewed by the employer at least annually to ensure that the compensation is appropriate having regard to the award provisions which are satisfied by the payment of the annual salary.
- (c) Employees shall not be denied the opportunity to apply for new or vacant positions as a result of the operation of this clause.

(iv) An annual salary agreement must:

- (a) be in writing and signed by both parties;
- (b) state the date on which the arrangement commences;

- (c) be provided to the employee;
 - (d) contain a provision that the employee will receive no less under the arrangement than the employee would have been entitled to if all award obligations had been met, taking account of the value of the provision of matters not comprehended by the award such as private use of an employer provided motor vehicle;
 - (e) be subject to an annual review;
 - (f) contain details of any salary package arrangements, including the annual salary that is payable;
 - (g) contain details of any other non-salary benefits provided to the employee such as an employer provided motor vehicle;
 - (h) contain details of any performance pay arrangements and performance measurement indicators;
 - (i) contain the salary for the purposes of accident make up pay (if applicable); and
 - (j) contain the award band and level for the role.
- (v) An annual salary agreement may be terminated:
- (a) by the employer or the employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (b) at any time, by written agreement between the employer and the employee.
- (vi) On termination of an annual salary agreement, the employee will revert to the Award entitlements unless a new annual salary agreement is reached.
- (vii) Notwithstanding the above, annualised salary arrangements entered into prior to 1 July 2014 may continue to operate in accordance with their terms.

13. SALARY SACRIFICE

- (i) The employer and an employee may agree to enter into a salary sacrifice arrangement, which allows an employee to receive a part of their pre tax salary as a benefit rather than salary. Such agreement shall not unreasonably be withheld.
- (ii) Benefits that may be salary sacrificed include, but shall not be limited to, child care facilities operated by the employer on its premises; and additional superannuation and motor vehicles supplied by the employer under lease back arrangements where the amount to be salary sacrificed for leaseback of the employer's motor vehicle is that part of the lease back fee that exceeds the employer's fringe benefit tax liability.
- (iii) The value of the benefits shall be agreed between the employer and employee and shall include fringe benefits tax where applicable.

- (iv) (a) The salary sacrifice arrangement, including the benefits to be salary sacrificed and their value including fringe benefit(s) tax, shall be in writing and signed by both **the employer** and the employee.
- (b) The employee may request in writing to change the benefits to be salary sacrificed once each year and the **employer** shall not unreasonably refuse the request.
- (v) The employee's gross pay is their pre tax ordinary pay less the values of the salary sacrifice benefit including fringe benefit(s) tax.
- (vi) The value of a salary sacrifice benefit and applicable fringe benefit tax, shall be treated as an approved benefit for superannuation purposes and shall not reduce the employee's salary for employer contributions.
- (vii) The value of salary sacrifice benefits and applicable fringe benefits tax shall be ordinary pay for calculating overtime and termination payments.
- (viii) The employee is responsible for seeking appropriate financial advice when entering into any arrangement under this clause.
- (ix) (a) The **employer** will ensure that the salary sacrifice arrangement complies with taxation and other relevant laws.
- (b) The **employer** has the right to vary and/or withdraw from offering salary sacrifice to employees with appropriate notice if there is any alteration to relevant legislation that is detrimental to salary sacrifice arrangements.
- (x) A salary sacrifice arrangement shall cease on the day of termination of employment.
- (xi) A salary sacrifice arrangement shall be suspended during periods of leave without pay.
- (xii) **The employer** may maintain and/or enter into other salary sacrifice arrangements with employees.

14. SUPERANNUATION FUND CONTRIBUTIONS

Subject to the provisions of the *Industrial Relations Act 1996*, **the employer** shall make superannuation contributions to the Local Government Superannuation Scheme and not to any other superannuation fund.

15. ALLOWANCES, ADDITIONAL PAYMENTS AND EXPENSES

(i) **Disability Level 1 Adverse Working Conditions Allowances**

- (a) A **disability level 1 adverse working conditions** allowance in addition to the weekly rate of pay shall be payable to designated employees to compensate for the special disabilities associated with **~~the nature of duties performed by outdoor staff~~ working outdoors and/or for moderately obnoxious, offensive or dirty working conditions.**
- (b) **The level 1 adverse working conditions** ~~This~~ allowance shall be paid at the rate set out in Table 2 of Part B of this Award and shall be paid for all purposes of the Award but shall not attract any penalty. ~~The following employees shall be entitled to be paid the allowance:~~

- (c) All employees in Levels 2, 3 and 4 of the Operational Band 1 and employees engaged in the gardening, building, metal and mechanical trades of the Administrative/Technical/Trades Band 2 shall be paid the level 1 adverse working conditions allowance for all hours worked, excepting staff engaged in the following functions:

- Administration
- Civic Centre, Recreation and Theatre
- Community Services
- Finance
- Garbage, Sanitary and Sullage
- Managing Saleyards
- Noxious Plant Inspection
- Ordinance Control
- Public Relations
- Supervising in Band 2
- Technical Services
- Works Supervisor

- (d) (1) Designated employees in Operational Band 1 and Administrative / Technical / Trades Band 2 who do not qualify for the allowances at subclauses 15(i)(c) and 15(ii) shall be paid the level 1 adverse working conditions allowance for the actual time worked by direction performing the following work, with a minimum payment of one (1) hour per day on which the work is performed:

- Childcare employees – whilst changing nappies
- Employees whose duties involve animal destruction – whilst destroying companion animals and/or manual handling the remains or faeces of such companion animals. For the purpose of this subclause, companion animals means cats and dogs.

- (2) The employer may make an average payment equivalent to an agreed number of hours per week where the employee is regularly required to perform such work.

(ii) Level 2 Adverse Working Conditions Allowance

- (a) All employees classified in the Operational Band 1, of this Award (except for supervisors), who are employed in garbage, sanitary and sullage collection work or engaged at garbage tips, in street sweeping and in cleaning offensive materials from gutters or storm water drains, shall in addition to their weekly rate of pay, be paid a ~~disability~~ level 2 adverse working conditions allowance at the rate set out in Table 2 of Part B of this Award. This allowance shall be paid for all purposes of the Award but shall not attract any penalty.
- (b) The ~~disability~~ level 2 adverse working conditions allowance is to compensate for the special disabilities associated with the hours worked and the offensive, filthy and obnoxious nature of duties performed by employees engaged in this work.

(iii) Sewer Chokes

The sewer choke allowance is to compensate for the highly obnoxious

working conditions associated with the clearing of blockages in live sewers, which typically includes:

- (a) the clearing of blockages in sewer mains (of any diameter) carrying raw or partially treated sewerage to sewerage treatment plants, often in circumstances where direct contact with the raw sewerage is unavoidable; and
- (b) the clearing of blockages in other parts of the sewerage system where disassembly is required and direct contact with raw sewerage is unavoidable.

Employees clearing sewer chokages and/or other parts of the sewerage system as provided above shall be paid at the rate set out in Table 2 of Part B of this Award whilst so engaged.

For the purposes of this subclause, a *live sewer* shall mean part of a sewerage system that transports raw or partially treated sewerage from a building to a septic tank or sewerage treatment works, typically at or below ground surface level.

For the purposes of this subclause, a *sewer choke* shall mean a partial or total blockage that may result in a spill to the external environment from the sewer system.

The sewer choke allowance shall not be paid in addition to the septic tanks allowance at subclause 15(iv) or sewerage treatment works allowance at subclause 15(v) of this Award.

(iv) Septic Tanks

Employees shall be paid treble rates in addition to their normal rates for all time occupied on work in connection with the cleaning of septic tanks, and/or septic closets and/or chemical closets by other than mechanical means. Payments made in accordance with this subclause shall be in substitution of overtime rates and any other penalty.

(v) Sewerage Treatment Works

Employees required during their ordinary hours of work to enter and clean or enter and maintain digestion tanks at sewerage treatment works, aeration ponds or wet wells at sewer pump stations, where direct contact with raw sewerage is unavoidable, shall be paid at the rate of double ordinary rates for all time worked. Payments made in accordance with this subclause shall be in substitution of overtime rates and any other penalty.

(vi) Employee Providing Tools

- (a) Where the employee and the employer agree that the employee shall supply their own tools, a tool allowance shall be paid as follows: -

| | PER WEEK \$ |
|------------------------------|-------------------|
| Bricklayer | Table 2 of Part B |
| Carpenter and Plumber | Table 2 of Part B |
| Metals and Mechanical Trades | Table 2 of Part B |

| | |
|------------------------|-------------------|
| Painter and Signwriter | Table 2 of Part B |
| Plasterer | Table 2 of Part B |

- (b) Complete Tool Kits - allowances paid to employees in accordance with this clause shall be deemed to apply in respect of a full range of tools ordinarily used in carrying out the trade, occupation, duties and functions.
- (c) Special Purpose Tools - allowances prescribed by this clause shall not cover tools required for special uses or purposes outside of the ordinary trade functions of the employee's classification.
- (d) Compensation of Tools - The **employer** shall reimburse the employee to a maximum per annum as set out in Table 2 of Part B for loss of tools by breaking and entering whilst securely stored at the **employer's** premises or on the job site or if the tools are lost or stolen while being transported by the employee at the **employer's** direction, or if the tools are stolen during an employee's absence after leaving the job because of injury or illness. Provided that an employee transporting their own tools shall take all reasonable care to protect those tools and prevent theft or loss.
- (e) Provided for the purposes of this clause: -
 - (1) Only tools used by the employee in the course of their employment shall be covered by this clause;
 - (2) The employee shall, if requested to do so, furnish the **employer** with a list of tools so used;
 - (3) Reimbursement shall be at the current replacement value of new tools of the same or comparable quality;
 - (4) The employee shall report any theft to the police prior to making a claim on the **employer** for replacement of stolen tools.

(vii) Telephone

Where an employee and **the employer** agree that a telephone installed at the employee's residence can be used as a means of communication to such employee the **employer** shall reimburse the employee the annual rental of such telephone and for the actual charge made for all outward calls made on **the employer's** behalf.

(viii) Expenses

All reasonable expenses, including out-of-pocket, accommodation and travelling expenses, incurred in connection with the employee's duties shall be paid by the **employer** and, where practicable shall be included in the next pay period. The method and mode of travelling or the vehicle to be supplied or to be used shall be arranged mutually between the **employer** and the employee. Travelling arrangements shall be agreed between **the employer** and the employee.

(ix) Certificates, ~~and~~ Licences and other Approvals

- (a) Where an employee in Operational Band 1 or Administrative/Technical Trades Band 2 of the Award is required by the employer to hold a WorkCover NSW approved certificate or licence the employer shall reimburse the employee for the cost of such certificate or licence.
- (b) Where an employee in Operational Band 1 or Administrative/Technical Trades Band 2 of the Award is required by the employer to hold a drivers licence other than a Class C (car) or Class R (rider) licence, the employer shall reimburse the employee the difference between the cost of the licence and the cost of a Class C (car) drivers licence.
- (c) Where an employee engaged in child-related work is required by the employer to undertake a Working with Children Check as provided by the *Child Protection (Working with Children) Act 2012*, the employer shall reimburse the employee for the cost of such Working With Children Check.

(x) Vehicle Allowances

- (a) Where, by agreement, the employer requires an employee to use their own vehicle in or in connection with the performance of their duties for official business, such employee will be paid an allowance for each kilometre of authorised travel as follows: -
 - (i) motor vehicle under 2.5 litres (normal engine capacity) — refer to Table 2 of Part B; and
 - (ii) 2.5 litres (normal engine capacity) and over — refer to Table 2 of Part B.
- (b) The employer may require an employee to record full details of all such official travel requirements in a log book.
- (c) **Minimum quarterly payment** – Where the vehicle is used for official business and is available continuously when the employee is on duty the employee shall be paid the allowance but with a minimum payment as set out in Table 2 of Part B. Periods of sick leave in excess of 3 weeks, annual leave in excess of 4 weeks, long service leave, paid and unpaid parental or maternity leave shall not be counted when calculating the minimum quarterly payment.
- (d) Where the car is used for official business on an intermittent, irregular or casual basis, the employee shall be paid the allowance for the number of kilometres travelled on official business as set out in paragraph (a) and shall not be entitled to the minimum payment as set out in paragraph (c).
- (e) Any agreement to pay the allowance under this clause may only be terminated by 12 months' notice by either party or by the employee's termination of employment.

(xi) Travelling Allowance

- (a) This subclause shall apply to employees who are required to start and/or finish work at a location away from the employer's depot, workshop or other agreed ~~starting point~~ normal place of work, and travel to and/or from such location in their own time.
- (b) For the purposes of this subclause "normal ~~starting point~~ place of work" shall mean:

- (1) the employer's workshop or depot;
 - (2) an office or building of the employer to which the employee is usually assigned;
 - (3) any other agreed starting and/or finishing point.
- (c) Unless otherwise provided, each employee will be assigned to one normal place of work only.
- (d) An employee may be assigned to more than one normal place of work by agreement.
- (e) ~~Where more than one starting point is fixed each employee shall be attached to one starting point only.~~ An employee may be transferred to a different normal place of work at any time by agreement or by the giving of reasonable notice provided that the relocation is reasonable in the circumstances and does not unreasonably disadvantage the employee. In the event of a dispute Clause 35, Grievance and Dispute Procedures, shall apply.
- (f) ~~Where an employee who is required to commence and/or finish work at a location away from the employee's normal starting point at the normal starting and/or finishing times or is required to start or finish overtime work at a location away from the normal starting point~~ normal place of work and the distance travelled is greater than the distance usually travelled by the employee between their place of residence and normal place of work, the employee shall be paid a travelling allowance ~~as under~~ for each journey of excess travel, according to the following scale, provided that reasonable transport is available:

~~Where the employee works at a distance from the employee's residence greater than:~~

| EXCESS DISTANCE TRAVELLED | ENTITLEMENT |
|---|-------------------|
| Less than 3kms | Nil |
| 3km but not more than 10km | Table 2 of Part B |
| More than 10km but not more than 20km | Table 2 of Part B |
| More than 20km but not more than 33km | Table 2 of Part B |
| More than 33km but not more than 50km | Table 2 of Part B |
| Plus (See Table 2 of Part B) for each additional 10km in excess of 50kms. | Table 2 of Part B |

Note: On and from 1 July 2014, an employee may be entitled to two travelling allowances on the one day.

- (g) For the purpose of this subclause a residence shall not be reckoned as such unless it is situated within the council area. Where the employee resides outside the council area the travelling allowance is payable from the council boundary of the employer by which they are employed.

- (h) For the purpose of this subclause distance shall mean the nearest trafficable route to work.
- (i) Where transport is provided by **the employer** the conveyance shall have suitable seating accommodation and a cover to protect the employees from the weather. Explosives shall not be carried on vehicles which are used for the conveyance of employees.
- (j) Where **the employer** requires an employee to use their own vehicle to transport other employee(s) or materials to **and/or from the a** worksite ~~to commence and/or finish work at a~~ location away from the employee's ~~normal starting point~~ normal place of work ~~at the normal starting and/or finishing times or is required to start or finish overtime work at a location away from the normal starting point,~~ a **car vehicle** allowance for the use and depreciation of the vehicle shall be paid as follows:

| | Kilometres travelled transporting other employee(s) or materials Cents per kilometre |
|---|---|
| Under 2.5 litres (nominal engine capacity) | Table 2 of Part B |
| 2.5 litres (nominal engine capacity) and over | Table 2 of Part B |

Such **car vehicle** allowance shall be paid in addition to travelling allowances provided by this subclause.

For the purposes of this subclause, materials shall not include incidental items (including but not limited to keys, mobile phones, lap-top computers and personal protective clothing).

Where **the employer** provides transport but the employee elects to make their own travel arrangements, the vehicle allowances in this subclause shall not apply.

- ~~(i) This subclause shall not apply where an employee commences and/or finishes work at a worksite which lies between the employee's place of residence and the employee's normal starting point, provided that reasonable transport is available and the employee travels no further than ordinarily travelled to the normal starting point.~~
- (k) This subclause does not apply to employees who travel where management and employees agree on a flat rate per week to be paid for travelling. In the event of a dispute, the Grievance and Disputes Procedure in Clause 35 of this Award shall be applied.
- (l) This subclause does not apply to travelling involved in after hours on-call work or to employees recalled to work overtime.
- (m) Unless otherwise agreed, an employee shall not be entitled to travel related allowances except those provided for in this subclause. Nothing in this subclause shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions under any existing travel arrangements.

(xii) Camping Allowance

- (a) Employees who are required by **the employer** to camp out or where no reasonable transport facilities are available to allow them to proceed to and from their homes each day shall be paid a camping allowance at a rate set out in Table 2 of Part B for each night the employee camps out.
- (b) **The employer** shall pay the camping allowance in advance if requested, where **the employer** requires the employee to camp out for all of the rostered working days in a week. The **employer** shall be reimbursed the camping allowance that has been paid in advance excepting where the camp has been shortened or cancelled for reasons beyond the employee's control.
- (c) When employees are required to camp, all travelling between their respective depots and camp site at the beginning and/or completion of the camp be undertaken during normal working hours. If the employees are required to travel outside normal working hours they shall be paid the appropriate travelling allowance in accordance with subclause (xi) of this clause.
- (d) All time occupied in setting up or in shifting camps during the ordinary working hours shall be paid for at ordinary rates. Should employees be required to shift camp at times other than during their ordinary hours of work they shall be paid time and a half rates for the time occupied.
- (e)
 - (1) **The employer** shall provide transport for employees, who are required to camp out from the **employer** depot at the commencement of each working week and to return to such depot at the finish of each working week or when the employees are camped for a period less than one week at the commencement and finish of the period in which the employees are required to camp out.
 - (2) Notwithstanding (1) above, transport may be mutually arranged between the **employer** and the employee(s) and shall remain at all times with those employee(s) required to camp.
- (f) The **employer** shall provide free transport once each week to enable commodities for use in camp to be obtained by the employees from the nearest suitable location. For the purpose of this subclause, the camping allowance prescribed in paragraph (a) shall be payable to the employees so concerned.
- (g) No employee shall be required to camp without at least 24 hours' notice unless such employee agrees to do so.
- (h) Where reasonably practicable to do so the **employer** shall arrange for perishable foods to be purchased on the morning prior to the time of departure on that day.
- (i) Minimum standards of caravan accommodation to be provided to employees required to camp out are contained in Schedule 1 to this Award.

(xiii) Community Language, Signing and First Aid Work

- (a) Community Language and Signing Work
 - (1) Employees using a community language skill as an adjunct to their normal duties to provide services to speakers of a

language other than English, or to provide signing services to those with hearing difficulties, shall be paid an allowance in addition to the weekly rate of pay as set out in Table 2 of Part B. The allowance may be paid on a regular or irregular basis, according to when the skills are used.

- (2) Such work involves an employee acting as a first point of contact for non-English speaking residents or residents with hearing difficulty. The employee identifies the resident's area of inquiry and provides basic assistance, which may include face-to-face discussion and/or telephone inquiry.
- (3) Such employees convey straightforward information relating to ~~council~~ services **provided by the employer**, to the best of their ability. They do not replace or substitute for the role of a professional interpreter or translator.
- (4) Such employees shall record their use of a community language according to **the employer's** established policy.

(b) First Aid Work

Where an employee is required by **the employer** to be in charge of a first aid kit and/or to administer first aid and the use of such adjunct skills are not paid for in accordance with the salary system established by the **employer**, the employee shall be paid an allowance in addition to the weekly rate, as set out in Table 2 of Part B.

(c) Additional Skills Criteria

- (1) Where an employee is required by **the employer** to use community language or first aid skills in the performance of their duties:
 - **The employer** shall provide the employee with the opportunity to obtain accreditation from a language aide or first aid accreditation agency
 - The employee shall be prepared to be identified as possessing the additional skill(s)
 - The employee shall be available to use the additional skill(s) as required by **the employer**.
- (2) Such training shall form part of **the employer's** training plan and budget, in accordance with the requirements of Clause **31** of this Award.

(d) Savings

These provisions identify minimum criteria only, and shall not be construed so as to require the reduction or alteration of more advantageous benefits or conditions under any arrangement existing at the date the award was varied to give effect to this clause. They shall not however be cumulative upon such existing payments.

(xiv) Meal Allowance

- (a) A meal allowance set out in Table 2 of Part B shall be paid to employees instructed to work overtime:

- (i) for two hours or more prior to their agreed commencing time, or
- (ii) for two hours immediately after their agreed finishing time and after subsequent periods of four hours, or
- (iii) after each four hours on days other than ordinary working days

provided that a meal allowance is not payable where, by agreement, a meal is provided by the employer.

(xv) Civil Liability - Engineering Professionals

~~(a) Except where such responsibility and the exercise of such skills have been specifically and demonstrably paid for in accordance with the salary system established by the council, an employee who is an engineering professional:~~

~~(1) is directly involved in applying engineering principles to the Asset Management of council assets, including the planning for, designing, maintaining, replacing, rehabilitating or disposing of; and~~

~~(2) such assets may give rise to liability under the *Civil Liability Act 2002*~~

~~shall be paid an allowance in addition to the weekly rate, as set out in Table 2 of Part B.~~

(a) Subject to this clause, engineering professionals directly involved in the application of engineering principles to the asset management of council the employer's assets that give rise to liability under the *Civil Liability Act 2002* (NSW) shall be paid a 3.5% allowance in addition to the weekly salary system rate of pay.

(b) This allowance was introduced to ensure that engineering professionals whose work value had changed in response to the *Civil Liability Act 2002* (NSW) are paid for that change in work value. This allowance applies to functional management positions as well as engineering professionals working in asset management at the operational level.

(c) This allowance is not payable where such responsibilities and the exercise of such skills have been specifically and demonstrably paid for in accordance with the salary system established by the employer.

(d) Direct involvement in the application of engineering principles to the management of the employer's assets includes:

- the planning for;
- designing;
- maintenance;
- replacing;
- rehabilitation; or
- disposing

of the employer's assets which may give rise to liability under the *Civil Liability Act 2002* (NSW).

- (e) To qualify for the payment of this allowance the position in question must be evaluated in accordance with the skill descriptors for Professional/Specialist Band 3 or Executive Band 4 of the Award.
- (f) The parties to the Award acknowledge that implementation of this allowance has been guided by the *Joint Statement on the Implementation of the Civil Liability Allowance* issued by the parties in October 2007. The parties remain committed to this document as a guide for the application of the allowance.
- (g) From 1 January 2015, claims for the payment of the civil liability allowance under this clause shall be made within 30 days of the work being performed, and any claims for back-payment of the civil liability allowance shall be limited to the date on which the employee made the claim. This sub-clause does not apply where it can be demonstrated that the employer incorrectly made representations to an employee that the civil liability allowance had already been paid for in accordance with their rate of pay and/or the salary system established by the employer.
- (h) This clause shall not be construed so as to require the reduction or alteration of more advantageous benefits or conditions under any arrangements existing at the date the Award was varied to give effect to this clause.

(xvi) Accreditation of employees as Chartered Professional Engineers

- (a) Where an engineering employee is required by the employer to be accredited as a Chartered Professional Engineer the employer shall:
 - (1) pay the reasonable costs associated with obtaining and/or maintaining such accreditation, including the cost of accreditation fees and compulsory continued professional development training/course fees, and
 - (2) grant leave, without loss of pay, to attend course requirements in accordance with subclause (iv) of Clause 31, Training and Development, of this Award.
- (b) Subclause (a) shall continue to be observed while the employee is on paid leave and/or unpaid parental leave.
- (c) The employer may grant an engineering employee undertaking a course to obtain accreditation as a Chartered Professional Engineer, although not at the employer's request, assistance in accordance with subclause (v) of Clause 31 of this Award.

(xvii) Accreditation of employees by the Building Professionals Board

- (a) Where an employee is required by the employer to be accredited by the Building Professionals Board under the *Building Professionals Act 2005* (NSW) the employer shall:
 - (1) pay the reasonable costs associated with obtaining and/or maintaining such accreditation, including the cost of accreditation fees and compulsory continued professional development training/course fees, and

- (b) grant paid leave to attend course requirements in accordance with subclause (iv) of Clause 31, Training and Development, of this Award.

- (b) Subclause (b) shall continue to be observed while the employee is on paid leave and/or unpaid parental leave.

16. MOTOR VEHICLE LEASEBACK

A. GENERAL

The parties to this Award recognise that leaseback vehicles may be provided to employees as a condition of employment (e.g. as an incentive for accepting employment) or as a discretionary benefit that is not a condition of employment.

A leaseback vehicle will be considered to be a condition of employment for an employee unless it was clearly identified that it was not being provided on such a basis at the time that it was provided.

Factors to consider when determining whether a leaseback vehicle is a condition of an employee's employment include:

- Whether the vehicle was offered as an incentive to attract and/or retain the employee; and
- The period that the employee has had access to a leaseback vehicle.

B. TERMINATION OF LEASEBACK VEHICLE ARRANGEMENT

- (i) **Condition of employment** – Unless otherwise provided in this clause, where **the employer** and an employee enter into a leaseback vehicle arrangement and the employee is entitled to a leaseback vehicle as a condition of employment, the arrangement may only be terminated by agreement.
- (ii) **Not a condition of employment** – Unless otherwise provided, where **the employer** and an employee enter into a leaseback vehicle arrangement and the employee is not entitled to a leaseback vehicle as a condition of employment, the **employer** shall give a minimum of six (6) months written notice of termination of the arrangement.

Notwithstanding the above, where the leaseback vehicle agreement was entered into prior to 1 November 2010, the **employer** shall give a minimum of 12 months' notice to terminate the agreement.

- (iii) **Other** – **The employer** may terminate or suspend access to a leaseback vehicle arrangement immediately on termination of employment, loss of licence, serious breach of the leaseback vehicle agreement or if the employee accepts a new position with the **employer** that does not include access to a leaseback vehicle. **The employer may also terminate or suspend a leaseback vehicle arrangement where an employee is demoted, for the period of demotion, provided that at least two weeks' notice is given.**

C. VARIATION OF LEASEBACK VEHICLE ARRANGEMENTS

- (iv) **Variations to leaseback arrangements** – Proposals to vary leaseback vehicle arrangements, including the formula for calculating the leaseback vehicle fees shall be referred to **the consultative committee** in accordance with clause 32 of this Award, **before a definite decision is made.**

- (v) **Variations to leaseback fees** – The employer shall not increase the leaseback vehicle fee an employee is required to pay in any ~~one-year~~ **twelve (12) month period** by more than ten (10) percent or 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), whichever is the greater. This subclause shall not apply where the leaseback vehicle fee is adjusted to reflect changes in the type of vehicle being used (including changes in vehicle options, the class, model or make of vehicle).
- (vi) **Variations in hours of work and/or extended periods of absence** – Where an employee's hours of work change significantly or the employee is absent on approved leave for an extended period, the employer and the employee shall discuss whether the employee will be allowed to retain possession of the vehicle and/or whether the leaseback vehicle fee is to be adjusted. In the event that the leaseback vehicle fee is to be adjusted, subclause (v) above shall not apply. In the absence of agreement, clause 35, Grievance and Disputes Procedures, shall apply.

17. RESIDENCE

Where an employee is supplied by the employer with a residence, it shall be of a reasonable standard. The rental value of such residence shall be agreed upon between the employer and the employee. The rental value as agreed may be deducted from the pay of the employee.

18. HOURS OF WORK

A. ORDINARY HOURS

- (i) Except as otherwise provided, the ordinary hours of work shall be 38 hours per week arranged on one of the following bases:
- 38 hours within one week provided that at least two days off shall be granted; or
 - 76 hours within two weeks provided that at least four days off shall be granted; or
 - 114 hours within three weeks provided that at least six days off shall be granted; or
 - 152 hours within four weeks provided that at least eight days off shall be granted.
- (ii) The ordinary hours of work for employees engaged in the following functions shall be 35 hours per week:
- Administration;
 - Building Surveying;
 - Community Services (Professional/Specialist Band 3);
 - Engineering (Professional and Trainees);
 - Executive Band;
 - Finance;
 - Health Surveying;
 - Library;
 - Public Relations;
 - Technical Services; and
 - Town Planning.

The ordinary hours for employees working 35 hours per week shall be arranged on one of the following bases:

- 35 hours within one week provided that at least two days off shall be granted; or
- 70 hours within two weeks provided that at least four days off shall be granted; or
- 105 hours within three weeks provided that at least six days off shall be granted; or
- 140 hours within four weeks provided that at least eight days off shall be granted.

(iii) Except as otherwise provided, the ordinary hours for all employees shall be between Monday and Sunday.

(iv) Where the employer seeks to alter the spread of ordinary hours for a new or vacant position from Monday to Friday to Monday to Sunday for any of the following functions:

- Crematoriums and Cemeteries;
- Road Constructions and Maintenance;
- Sale Yards;
- Stores and Depots; and
- Trade functions

(a) the employer shall refer the proposal to alter the spread of ordinary hours to the consultative committee prior to advertising the new or vacant position(s);

(b) If the employer is satisfied that there are suitably qualified employees employed by the employer that can be redeployed to the new or vacant position(s) the employer shall call for expressions of interest from those employees for redeployment into the new or vacant position(s); and

(c) employees employed prior to 1 July 2014 whose ordinary hours of work are from Monday to Friday shall not be compelled to agree to work ordinary hours of work on Saturdays and/or Sundays.

(v) The ordinary hours for employees engaged in the following functions shall be between Monday and Friday:

- (a) Building Surveyors;
~~Crematoriums and Cemeteries;~~
Engineering (Professional and Trainees);
Finance;
Health Surveyors;
~~Road Construction and Maintenance;~~
~~Sale Yards;~~
~~Stores and Depots;~~
Town Planning; and
~~Trade functions.~~

(b) The ordinary hours for employees engaged in general administration shall be between Monday and Friday except where such administrative duties are associated with work in functions where a different spread of hours is applicable.

(vi) An employee's commencement and/or finishing times may be altered by agreement or by the employer with the provision of reasonable notice where

there are genuine operational or safety reasons supporting the variation. For the purpose of this sub-clause, reasonable notice shall be determined having regard to:

- the employee's personal circumstances including any family and carer responsibilities; and
- the needs of the workplace, including any genuine operational or safety reasons.

Unless otherwise agreed, at least two weeks prior to the proposed alteration the **employer** shall provide the employee with the reasons for the proposed alteration to commencement and/or finishing times in writing. At least one week prior to the proposed alteration the employee shall provide reasons in writing if they do not agree with the proposed alteration, provided that an employee shall not unreasonably withhold agreement. In the event of a dispute, Clause 35, Grievance and Disputes Procedures, shall apply.

This subclause only applies in relation to changes to commencement and/or finishing *times* and does not apply to changes in the *days* that an employee is required to work.

- (vii) An unpaid meal break of a minimum of 30 minutes shall be given and taken within the first five hours of continuous work. Thereafter, a paid meal break not exceeding 20 minutes shall be given and taken after a further five hours continuous work. In the case of unforeseen circumstances, the meal break may be delayed and shall be taken as soon as practicable, subject to the observance of appropriate occupational health and safety standards.
- (viii) Ordinary hours of work shall not exceed twelve (12) hours in any one-day exclusive of unpaid meal breaks.

B. SATURDAY AND SUNDAY WORK

- (i) Except as otherwise provided, ordinary hours worked on a Saturday shall attract a 25% penalty in addition to the ordinary hourly rate of pay and ordinary hours worked on a Sunday shall attract a 50% penalty in addition to the ordinary hourly rate of pay.
- (ii) The ordinary hours worked by employees engaged in the following functions shall attract a 50% penalty in addition to the ordinary hourly rate of pay for work on a Saturday and a 100% penalty in addition to the ordinary hourly rate of pay for work on a Sunday:
 - Beach inspectors;
 - Cleaning;
 - **Crematoriums and Cemeteries;**
 - Garbage;
 - Mechanical Trades (Workshops);
 - Parks and Reserves;
 - Rangers and parking officers;
 - **Road Construction and Maintenance;**
 - **Sale Yards;**
 - Sanitary;
 - Sewerage;
 - **Stores and Depots;**
 - Sullage;
 - **Trade functions;**
 - Waste; and

- Water
- (iii) An employee may request to work ordinary hours on a Saturday and/or a Sunday in lieu of the ordinary hours the employee would otherwise be rostered to work.
- (a) An employee's request must be in writing and must outline a period within which the arrangement is to be reviewed;
 - (b) **The employer** will not unreasonably withhold agreement to such a request;
 - (c) Any such agreement shall not apply to new or vacant provisions;
 - (d) Where an employee requests to work ordinary hours on a Saturday and/or a Sunday under the provisions of this subclause, **the employer** shall not be required to pay the penalty rate provided by subclauses (i) and/or (ii).

C. SHIFT WORK

- (i) Except as otherwise provided ordinary hours worked outside the span of 6:00am to 6:00pm Monday to Friday shall attract a 20% shift penalty in addition to the ordinary hourly rate of pay for the actual time worked outside the span of hours specified in this subclause.
- (ii) Employees engaged in the following functions will be entitled to a 20% shift penalty in addition to the ordinary hourly rate of pay for the actual time worked outside the following times:

| | |
|---|-------------------|
| Aerodromes | 5.00am to 10.00pm |
| Caretakers | 5.00am to 10.00pm |
| Childcare | 6.00am to 7.00pm |
| Cleaners | 5.00am to 9.00pm |
| Entertainment, Theatres and Hospitality | 6.00am to 11.00pm |
| Libraries | 8.00am to 9.00pm |
| Leisure Centres | 5.00am to 11.00pm |
| Parking Station Attendants | 6.00am to 10.00pm |
| Pools | 5.00am to 11.00pm |
| Rangers and parking officers | 5.00am to 10.00pm |
| Security/watchpersons | 5.00am to 10.00pm |

- (iii) Shift penalties shall be payable for ordinary work performed between Monday and Friday and shall not be paid on weekends.
- (iv) With the exception of staff engaged in the function of street sweeping, employees in receipt of the **higher disability Level 2 Adverse Working Conditions** allowance provided under clause 15(ii) of this Award shall not also receive shift penalties for work performed outside the hours of 6:00am to 6:00pm Monday to Friday as provided by subclause (i).
- (v) An employee may request to work ordinary hours outside the span of 6:00am and 6:00pm or any of the other spans detailed in clause 18C(ii), in lieu of the ordinary hours the employee would otherwise be rostered to work.

- (a) An employee's request must be in writing and must outline a period within which the arrangement is to be reviewed;
- (b) **The employer** will not unreasonably withhold agreement to such a request;
- (c) Any such agreement shall not apply to new or vacant positions;
- (d) Where an employee requests to work ordinary hours outside the relevant span of hours **the employer** shall not be required to pay a shift penalty for the actual time worked.

D. FACILITATIVE PROVISIONS

The employer and the Union may agree on hours of work, weekend penalties and shift penalties other than those prescribed in this clause.

19. OVERTIME

A. GENERAL

- (i) Except where otherwise provided all time worked by direction before the agreed commencement of ordinary hours, or later than the agreed completion of ordinary hours, shall be paid for at the rate of time and a half for the first two hours and double time thereafter.
- (ii) Overtime worked on Saturday shall be paid for at the rate of time and a half for the first two hours and double time thereafter, provided any overtime worked after 12 noon Saturday shall be at double time.
- (iii) Overtime worked on Sunday shall be paid for at the rate of double time.
- (iv) Overtime shall be claimed within 30 days of it being worked. **The employer** shall keep a record of such overtime. ~~Overtime accruals~~ **Accrued time in lieu of overtime** shall not be forfeited and shall be paid at the appropriate overtime rate on termination or at other agreed time.
- (v) An employee (other than a casual) who:
 - (a) works four or more hours overtime after the completion of an ordinary shift and does not receive ten (10) consecutive hours off duty in the fourteen (14) hours immediately preceding the commencement of their next ordinary shift, or
 - (b) works overtime after the completion of two consecutive ordinary shifts without receiving ten (10) consecutive hours off duty,

shall be released after the completion of such overtime until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If an employee is instructed to resume work without receiving the ten consecutive hours off duty, the employee shall be paid at double ordinary rates until released from duty and then shall be entitled to a ten hour break without loss of pay.

Remote response – This subclause shall not apply where an employee works for less than four hours remote response on any one day.

- (vi) (a) Where there is prior agreement between the **employer** and the employee, an employee directed to work in excess of ordinary hours may elect either to be paid the appropriate overtime rate or be granted time in lieu equivalent to the actual hours worked. ~~This subclause shall not apply to employees who are on call or called back to work.~~
- (b) The employer may direct an employee to take accrued time in lieu of overtime by the giving of at least two (2) weeks' notice in the following circumstances:
- (1) Where the employee has accumulated in excess of one (1) weeks' time in lieu of overtime or,
- (2) A period of annual close down of up to and including four (4) weeks where the employee does not have sufficient annual leave to cover the relevant close down period. The employer shall be able to rely on this provision prior to considering the provision of meaningful alternate duties.
- (c) Time in lieu of overtime accruals standing to an employee's credit on termination of employment shall be paid at the appropriate overtime rate.
- (vii) Employees classified in the Executive Band 4 of this Award may be required, in addition to their ordinary hours, to attend meetings of council and standing and/or special committee meetings. For the purpose of this subclause, an employee who is required to attend meetings of the council and standing and/or special committee meetings shall be entitled to claim overtime for actual hours worked after 11.00 pm.
- (viii) (a) Subject to paragraph (b), **the employer** may require an employee to work reasonable overtime at overtime rates.
- (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- (c) For the purposes of paragraph (b), what is unreasonable or otherwise will be determined having regard to:
- any risk to the employee;
 - the employee's personal circumstances including any family and carer responsibilities;
 - the needs of the workplace;
 - the notice, if any, given by the employer of the overtime and by the employee of their intention to refuse it; and
 - any other matter.

B. HOURS OF WORK FLEXIBILITY AGREEMENTS

- (i) Subject to subclause (ii), the employer and an individual employee in Professional/Specialist Band 3 or Executive Band 4 may agree to an 'Hours of Work Flexibility Agreement' whereby the employee is paid an allowance of at least ten (10) percent of the employee's weekly salary system rate of pay in substitution for all overtime penalties under ~~clause 18A~~ of this Award.

- (ii) An employee shall be entitled to overtime in accordance with clause 19A of this Award where the employee is directed to work additional hours that are in excess of the hours of work reasonably contemplated by the employer and the employee at the time the Hours of Work Flexibility Agreement was made. The hours of work reasonably contemplated by the employer and the employee shall be determined having regard to the quantum of the allowance paid.
- (iii) Where the employer and an engineering professional employee who satisfies the eligibility criteria for payment of the civil liability allowance at subclause 15(xv) of this Award agree to an Hours of Work Flexibility Agreement, the employee shall continue to be paid the civil liability allowance in addition to any allowance that is payable under the Hours of Work Flexibility Agreement.
- (iv) An Hours of Work Flexibility Agreement is subject to the following conditions:
- (a) The employer and the individual employee must have genuinely made the agreement without coercion or duress.
- (b) The agreement between the employer and the individual employee must:
- (1) be in writing;
 - (2) name the parties to the agreement and be signed by the employer and the individual employee;
 - (3) result in the employee being better off overall in comparison to the Award at the time the agreement is made than the employee would have been if no Hours of Work Flexibility Agreement had been agreed to;
 - (4) state the date the agreement commences to operate.
- (c) The employee shall work such reasonable hours as are necessary to carry out the duties and functions of the position and the employee's obligations under their contract of employment, provided that the employee may refuse to work additional hours in circumstances where the working of such additional hours would result in the employee working hours which are unreasonable. For the purposes of this subclause, what is unreasonable or otherwise will be determined having regard to:
- any risk to the employee;
 - the employee's personal circumstances including any family and carer responsibilities;
 - the needs of the workplace;
 - the notice, if any, given by the employer of the requirement for the employee to work additional hours and by the employee of their intention to refuse it; and
 - any other matter.
- (d) The employer may require the employee to attend work for the employer during core business hours and to attend meetings of the council/employer and standing and/or special committee meetings, provided that such requirement does not result in the employee working hours which are unreasonable.

- (e) The employer must give the individual employee a copy of the agreement and keep the original signed agreement as a time and wages record.
- (f) An employer seeking to enter into an agreement under this clause must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- (g) An Hours of Work Flexibility Agreement may be terminated:
 - (1) by the employer or the individual employee giving 28 days' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
 - (2) at any time, by written agreement between the employer and the individual employee.
- (h) The allowance paid under this clause shall be paid for all purposes of the Award but shall not attract any penalty.

C. ON CALL

- (i) For the purposes of this Award, an employee shall be deemed to be on-call if required by the employer to be available for duty outside of ordinary hours at all times in order to attend emergency and/or breakdown work and/or supervise the call-out of other employees.
- (ii) Employees who are required to be on-call are not required to remain at their usual place of residence or other place appointed by the employer. However, an on-call employee must be able to be contacted and be able to respond within a reasonable time.
- (iii) Employees required to be on call on days when they would ordinarily work, or would have ordinarily worked but for a public holiday, in accordance with Clause 18, Hours of Work shall be paid an on call allowance at a rate set out in Table 2 of Part B of this Award for each such day the employee is required to be on call.
- (iv) Employees required to be on call on days other than their ordinary working days shall be paid an on call allowance at a rate set out in Table 2 of Part B of this award for each such day the employee is required to be on call.
- (v) Provided that the on call allowances in subclauses (iii) and (iv) of this clause shall not total more than the rate set out in Table 2 of Part B of this award for any one week.
- (vi) Employees on call who are required to work outside their ordinary hours shall be entitled to be paid overtime at the appropriate rate for hours worked and such rate shall be paid from the time that the employee departs for work. On call employees are not subject to the minimum payment provisions on a public holiday.
- (vii) Unless otherwise provided, the overtime paid to an employee that is required to work whilst on-call shall not be less than thirty (30) minutes per day on which they are called out.

- (viii) For each public holiday an employee is required to be on-call, the employee shall be granted one-half day's leave to be taken at an agreed time, provided that where there is prior agreement the employer may pay the employee an additional one-half day's pay in lieu of the one-half day's leave.

D. CALL BACK

- (i) For the purposes of this Award, an employee shall be deemed to be on a call back if the employee is recalled to work overtime without receiving notice before ceasing work.
- (ii) Any employee who is called back to work as defined in subclause (i) shall be paid for a minimum of four hours work at the appropriate overtime rate for each time so recalled. Provided that any subsequent call backs occurring within a four hour period of a call back shall not attract any additional payment. An employee working on a call back shall be paid the appropriate overtime rate from the time that such employee departs for work.

Except in the case of unforeseen circumstances arising, the employee shall not be required to work the full four hours if the job that the employee was recalled to perform is completed within a shorter period. This subclause shall not apply in cases where the call back is continuous subject to a reasonable meal break with the commencement of ordinary hours.

E. REMOTE RESPONSE

- (i) An employee who is in receipt of an on call allowance and available to immediately:
- (a) respond to phone calls or messages;
 - (b) provide advice ('phone fixes');
 - (c) arrange call out/rosters of other employees; and
 - (d) remotely monitor and/or address issues by remote telephone and/or computer access,
- will be paid the applicable overtime rate for the time actually taken in dealing with each particular matter, except where the employee is recalled to work (Note: subclause 19C(vi) applies where an on-call employee is recalled to work).
- (ii) An employee remotely responding will be required to maintain and provide to the employer a time sheet of the length of time taken in dealing with each matter remotely for each day commencing from the first remote response. The total overtime paid to an employee for all time remotely responding in any day commencing from the first response will be rounded up to the nearest 15 minutes.
- (iii) The employer may, by agreement, make an average payment equivalent to an agreed period of time per week where the employee is regularly required to remotely respond as defined in subclause (i) of this clause.

20. HOLIDAYS

A. GENERAL

- (i) The days on which holidays shall be observed are as follows: New Years' Day; Australia Day; Good Friday; Easter Saturday; Easter Monday; Anzac Day; Queen's Birthday; Labour Day; Christmas Day; Boxing Day and all

locally proclaimed holidays within the council's area, and all special days proclaimed as holidays to be observed throughout the whole of the State of NSW.

- (ii) In addition to ~~the days provided for in~~ subclause (i), employees who are Aboriginal and Torres Strait Islanders shall be entitled to one day during NAIDOC week so that they can participate in National Aboriginal and Islander Day celebrations. Eligible employees shall provide **the employer** with at least seven (7) days' notice of their intention to take the holiday in accordance with this subclause, **provided that if less than seven (7) days' notice is given such leave shall not be unreasonably refuse.**
- (iii) Where any of the holidays prescribed by this Award fall on a day ordinarily worked by the employee, the employee shall not have a reduction in ordinary pay.
- (iv) Except as otherwise provided, where an employee is required to work on a holiday as prescribed by this award, the employee shall be paid at double time and a half inclusive of payment for the day with a minimum payment of four hours worked.
- (v) All employees classified in the Operational Band 1 of this Award employed in garbage, sanitary and sullage (other than the supervisor) who are required to work on Good Friday or Christmas Day shall be paid at triple time inclusive of payment for the day with a minimum payment of four hours work.
- (vi) Where an employee is required to work ordinary hours on a holiday as prescribed by this Award, the **employer** and the **employee** may agree that the employee be paid time and a half for the hours worked on a holiday and in addition, be granted equivalent time off in lieu to be paid at ordinary time for each holiday worked. Such leave shall be taken at a mutually convenient time.
- ~~(vii) When a holiday occurs on a day on which an employee is rostered off while employed on a seven day a week rotating roster system, the employee shall be paid a day's pay at ordinary rates in addition to the ordinary week's pay. Council may in lieu of making such additional payment, grant a day's leave for each such holiday which may be taken at such time as is mutually agreed to between the council and the employee.~~

B. UNION PICNIC DAY

- (i) Union Picnic Day shall for the purposes of this Award be regarded as a holiday for employees who are financial members of the union(s). The Union Picnic Day shall be on such day as is agreed between the **employer** and the union(s).
- (ii) The union(s) shall advise the **employer** of financial members as at the time of the Union Picnic Day. Such advice must be given at least two weeks prior to the Union Picnic Day.
- (iii) Employees who are not financial members of the union(s) and who are required to work on Union Picnic Day, shall be paid ordinary pay for their normal working day.
- (iv) Employees who are not financial members of the union(s) and who are not required to work on Union Picnic Day, may apply to **the employer** to take annual leave, **long service leave**, time off in lieu of overtime, leave without pay, such other leave as may be approved by the **employer**, or may be required by **the employer** to make up time.

21. LEAVE PROVISIONS

A. SICK LEAVE

- (i) Employees who are unable due to sickness to attend for duty shall be entitled during each year of service to sick leave of 3 weeks at the ordinary rate of pay subject to the following conditions: -
 - (a) the **employer** shall be satisfied that the sickness is such that it justifies the time off; and
 - (b) the **employer** shall be satisfied that the illness or injury does not arise from engaging in other employment; and
 - (c) proof of illness to justify payment shall be required after 3 separate periods of absence in each service year or where an absence exceeds 2 working days; and
 - (d) when requested, proof of illness shall indicate the employee's inability to undertake their normal duties; and
 - (e) where a person is employed on a fixed-term or temporary basis of less than twelve (12) months duration the employee shall be entitled to one (1) weeks sick leave on commencement. The employee shall be entitled to a further one (1) weeks sick leave after each four (4) months of continuous service.
- (ii) Proof of illness may include certification from a qualified medical/health practitioner, registered with the appropriate government authority.
- (iii) The **employer** may require employees to attend ~~a doctor~~ a qualified **medical/health practitioner** nominated by the **employer** at the **employer's** cost.
- (iv) Sick leave shall accumulate from year to year so that any balance of leave not taken in any one year may be taken in a subsequent year or years.
- (v) **The employer may, at its discretion, grant an employee sick leave at half pay if satisfied that extenuating circumstances exist. Where a public holiday falls during a period of sick leave at half pay, the public holiday shall also be paid at half pay. Further, all entitlements shall accrue during periods of sick leave at half pay on a proportionate basis.**
- (vi) Accumulated sick leave shall be transferable on change of employment from **employer** to **employer** within New South Wales up to 13 weeks, provided that an employee shall only be entitled to transfer sick leave accumulated since the employee's last anniversary date on a pro-rata basis. Such accumulated sick leave shall only be transferable if the period of cessation of service with the **employer** and appointment to the service of another **employer** does not exceed three months. The sick leave entitlement transferred shall not exceed the maximum amount transferable as prescribed by the appropriate award at the time of transfer.
- (vii) Where an employee has had **five (5)** years' service with the present **employer** and the sick leave entitlement as prescribed has been exhausted, **that employer** may grant such additional sick leave as, in its opinion, the circumstances may warrant.

- (viii) Section 50 of the *Workers Compensation Act 1987* dealing with the relationship between sick leave and workers compensation applies.
- (ix) Where an employee had an entitlement under awards rescinded and replaced by this Award for the payment of unused sick leave arising out of the termination of employment due to ill-health or death and where such entitlement existed as at 15 February 1993 the following provisions shall apply
 - (a) In the event of the termination of service of an employee on account of ill health and the employer is satisfied that such ill-health renders the employee unable in the future to perform the duties of such appointed classification, the termination shall not be effected earlier than the date on which the employee's credit of leave at full pay shall be exhausted unless the employee is paid any accrued sick leave at full pay to which such employee would be entitled under this clause.
 - (b) When the service of an employee is terminated by death, the employer shall pay to the employee's estate, the monetary equivalent of any untaken sick leave standing to the employee's credit at the time of death.
 - (c) Payment under this clause is limited to sick leave calculated to retirement age in accordance with relevant legislation and shall not be payable if the injury or illness arises out of or in the course of employment such that it is compensable under the *Workers Compensation Act 1987*.
 - (d) For the purposes of this subclause such entitlement to payment of untaken sick leave shall be paid in accordance with clause 14 of Schedule 4 of the *Industrial Relations Act 1996 (NSW)*.

B. CARER'S LEAVE

- (i) Use of Sick Leave: An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subclause (v)(b) below who needs the employee's care and support shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at clause 21 Part A, Sick Leave of this Award, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.
- (ii)
 - (a) Carer's leave is not intended to be used for long term, ongoing care. In such cases, the employee is obligated to investigate appropriate care arrangements where these are reasonably available.
 - (b) Where more than ~~ten days~~ two weeks' sick leave in any year of service is to be used for caring purposes the employer and employee shall discuss appropriate arrangements which, as far as practicable, take account of the employer's and employee's requirements.
 - (c) Where the parties are unable to reach agreement the grievance and disputes procedures at Clause 35 of this Award should be followed.
- (iii) In normal circumstances, an employee must not take carer's leave under this clause where another person has taken leave to care for the same person.

- (iv) The **employer** may require the employee to provide proof of the need for carer's leave as follows:
- (a) Less than ~~10-days~~ **two weeks'** – Where less than ~~ten-days'~~ **two weeks'** sick leave in any year of service is sought to be used for caring purposes the **employer** may require the employee to establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person; or
 - (b) More than ~~10-days~~ **two weeks'** – Where more than ~~ten-days'~~ **two weeks'** sick leave in any year of service is sought to be used for caring purposes the **employer** may require the employee to produce a medical certificate from a qualified medical/health practitioner showing the nature of illness of the person concerned and such other information as may be reasonably necessary to demonstrate that the illness is such as to require care by the employee and that no other appropriate care arrangements are reasonably available, or
 - (c) establish by production of documentation acceptable to the **employer** or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.
- (v) The entitlement to use sick leave in accordance with this subclause is subject to:
- (a) the employee being responsible for the care of the person concerned; and
 - (b) the person concerned being:
 - (1) a spouse of the employee; or
 - (2) a defacto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person, or
 - (3) a child or an adult child (including an adopted child, a step child, foster child or an ex nuptial child), parent (including a foster parent, step parent and legal guardian), parents of spouse, grandparent, grandchild or sibling (including half, foster and step sibling) of the employee or spouse or de facto spouse of the employee; or
 - (4) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - (5) a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
 - (a) 'relative' means a person related by blood, marriage or affinity;
 - (b) 'affinity' means a relationship that one spouse because of marriage has to blood relatives of the other; and

- (c) 'household' means a family group living in the same domestic dwelling.
- (vi) An employee may elect, with the consent of the **employer**, to take unpaid leave for the purpose of providing care and support to a class of person set out in subclause (v)(b) above who is ill or who requires care due to an unexpected emergency.
- (vii) An employee shall, wherever practicable, give the **employer** notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.
- (viii) Carer's Entitlement for Casual Employees
- (a) Subject to the evidentiary and notice requirements in subclauses (iv) and (vii) casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (v)(b) of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
- (b) The **employer** and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (c) The **employer** must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the employer to engage or not to engage a casual employee are otherwise not affected.
- (ix) Time off in Lieu of Payment for Overtime: An employee may, with the consent of the **employer**, elect to take time in lieu of payment of overtime accumulated in accordance with the provisions of Clause 19 Part A of this Award for the purpose of providing care and support for a person in accordance with subclause (v) above.
- (x) Make-up time: An employee may elect, with the consent of the **employer**, to work 'make-up time', under which the employee takes time off during ordinary hours, and works those hours at a later time, within the spread of ordinary hours provided in the Award, at the ordinary rate of pay for the purpose of providing care and support for a person in accordance with subclause (v) above.
- (xi) Annual Leave and Leave Without Pay: An employee may elect with the consent of **the employer** to take annual leave or leave without pay for the purpose of providing care and support for a person in accordance with subclause (v) above. Such leave shall be taken in accordance with Clause 21 Part D, Annual Leave and Clause 21 Part M, Leave Without Pay of this Award.

C. EMERGENCY SERVICES LEAVE

- (i) Subject to subclause (ii) of this clause, an employee, other than a casual, who engages in a 'voluntary emergency management activity' shall be entitled to up to five (5) days paid emergency services leave per calendar year from their accrued sick leave balance to participate in such activity.
- (ii) An employee is not entitled to paid emergency services leave under this clause if:
 - (a) the employee has less than 12 months continuous service with the employer; or
 - (b) the taking of the emergency services leave will result in the employee having an accumulated sick leave balance of less than three (3) weeks.
- (iii) For the purposes of this clause, an employee engages in a 'voluntary emergency management activity' if, and only if:
 - (a) the employee engages in an activity that involves dealing with an emergency or natural disaster; and
 - (b) the employee engages in the activity on a voluntary basis (Note: the activity is not on a voluntary basis if the employee receives remuneration from the recognised emergency management body for lost wages or salary); and
 - (c) the employee is a member of, or has a member-like association with, a recognised emergency management body; and
 - (d) either:
 - (1) the employee was requested by or on behalf of the body to engage in the activity; or
 - (2) no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.
- (iv) For the purposes of this clause, a 'recognised emergency management body' is:
 - (a) a body, or part of a body, that has a role or function under a plan that:
 - (1) is for coping with emergencies and/or disasters; and
 - (2) is prepared by the Commonwealth, a State or a Territory; or
 - (3) a fire-fighting, civil defence or rescue body, or part of such a body; or
 - (b) any other body, or part of a body, a substantial purpose of which involves:
 - (1) securing the safety of persons or animals in an emergency or natural disaster; or
 - (2) protecting property in an emergency or natural disaster; or

- (3) otherwise responding to an emergency or natural disaster.
- (v) For the purposes of this clause, an 'emergency' means an event, actual or imminent, which endangers or threaten to endanger life, property or the environment and which requires a significant and coordinated response.
- (vi) The employer may require proof of participation in the voluntary emergency management activity to justify payment under this clause.

D. ANNUAL LEAVE

- ~~(i) Annual leave of absence consisting of 4 weeks at the ordinary rate of pay, exclusive of public holidays observed on working days shall be granted to an employee, after each 12 months service and, except as provided for in subclause (ii) of this clause, shall be taken on its due date or as soon as is mutually convenient thereafter to council and the employee.~~

Amount of Annual Leave

- (i) For each year of service an employee (other than a casual) is entitled to:
 - (a) 4 weeks of paid annual leave; or
 - (b) 5 weeks of paid annual leave if the employee is regularly required to work a seven day a week rotating roster system.

Accrual of leave

- (ii) (a) An employee's entitlement to paid annual leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.
- (b) Paid annual leave accrues up to when the employment ends.

Taking paid annual leave

- (iii) Unless otherwise provided, paid annual leave may be taken for a period agreed between the employee and the employer.
- (iv) The employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

Requirement to take annual leave

- (v) **The employer** may direct an employee to take annual leave by giving at least four weeks prior notification in the following circumstances:
 - (a) where the employee has accumulated in excess of eight weeks annual leave
 - (b) a period of annual close-down of up to and including 4 weeks.

Provided that:

- (1) Where an employee has accrued more annual leave than the period of the annual close down, the balance of such leave shall be taken in accordance with subclause (i) of this clause.

- (2) In the case of employees who are not entitled to annual leave or do not have an entitlement sufficient to cover the period of the close-down, **the employer** shall endeavour to provide meaningful duties as are within the limits of the employee's skill, competence and training for the whole or part of the close-down.
- (3) In the event that meaningful duties are not available the employee may be directed to take leave without pay, or by agreement with **the employer** may take annual leave in advance of the entitlement provided that in the event of the employee leaving employment before the entitlement becomes due, such annual leave shall be repaid by a deduction from the employee's termination pay.
- (4) In the event that leave without pay is directed to be taken, such leave shall be regarded as service for the purpose of the accrual of long service leave, sick leave and annual leave.

Employee not taken to be on paid annual leave on Public Holidays

- (vi) If the period during which an employee takes paid annual leave includes a day or part-day that is a declared public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid annual leave on that declared public holiday.

Payment for annual leave

- (vii) Unless otherwise provided, if an employee takes a period of paid annual leave, the employer must pay the employee at the employee's ordinary rate of pay for the period of annual leave either before the commencement of the employee's annual leave, or by agreement through the usual pay periods.

Resignation or termination of employment

- (viii) On resignation or termination of employment, the **employer** shall pay to the employee their ordinary rate of pay for all **accrued** untaken **annual** leave ~~credited for completed years of service, and:~~

~~(b) for an incomplete year, one twelfth of their ordinary rate of pay multiplied by the number of completed weeks of service in that year.~~

~~Provided that the employee shall not receive payment for more than four weeks annual leave for any period of twelve months.~~

Varying rates of pay

- (ix) Where an employee receives a varying rate of pay for 6 months or more in the aggregate in the preceding 12 month period, the employee's ordinary rate of pay shall be deemed to be the average weekly rate of pay earned during the period actually worked over the 12 months immediately preceding the annual leave or the right to payment under this clause.

E. LONG SERVICE LEAVE

- (i)
 - (a) An employee ~~of council~~ shall be entitled to Long Service Leave at the ordinary rate of pay as follows: -

| LENGTH OF SERVICE | ENTITLEMENT |
|---|-------------|
| After 5 years' service | 6.5 weeks |
| After 10 years' service | 13 weeks |
| After 15 years' service | 19.5 weeks |
| After 20 years' service | 30.5 weeks |
| For every completed period of 5 years' service thereafter | 11 weeks |

- (b) Where an employee has completed more than five years service with the **employer** and is terminated for any cause, long service leave shall be deemed to have accrued for the employee's total length of service and an amount equivalent to such long service leave, less such leave already taken, computed in monthly periods and equivalent to 1.3 weeks for each year of service up to 15 years and 2.2 weeks for each year of service from 15 years onwards.
- (ii) (a) An employee who is entitled to long service leave may, with the consent of the **employer**, take long service leave:
- (1) on full pay; or
 - (2) on half pay; or
 - (3) on double pay.
- (b) When an employee takes long service leave, the leave entitlement will be deducted on the following basis:
- (1) a period of leave on full pay – the number of days so taken; or
 - (2) a period of leave on half pay – half the number of days so taken; or
 - (3) a period of leave on double pay – twice the number of days so taken.
- (c) When an employee takes long service leave, the period of service for the purpose of leave accruals shall be as follows:
- (1) a period of leave on full pay – the number of days so taken; or
 - (2) a period of leave on half pay – half the number of days so taken; or
 - (3) a period of leave on double pay – the number of days so taken.
- (d) Employees that take long service leave at half pay or double pay shall not be disadvantaged nor obtain a windfall gain in relation to superannuation contributions.
- (iii) (a) Long service leave shall be taken at a time mutually convenient to the **employer** and employee, ~~and should be in minimum periods of~~

~~one week~~ provided that all long service leave accruing on or after 23 June 1988 shall be taken within five years of it falling due. ~~The employer may direct an employee to take long service leave accrued on or after 23 June 1988 and not taken within five years of it falling due provided that at least four weeks' notice is given to the employee.~~

- (b) Payment to an employee proceeding on long service leave shall be made by ~~the employer~~ at the employee's ordinary rate of pay calculated according to how the leave is taken (i.e. either full, half, or double ordinary pay) for the period of long service leave either before the commencement of the employee's long service leave, or by agreement through the usual pay periods.
- (c) An employee who has become entitled to a period of leave and the employee's employment is terminated by resignation, death or dismissal for any cause shall be deemed to have entered upon leave at the date of termination of the employment and shall be entitled to payment accordingly.
- (iv)
 - (a) For the purpose of calculating long service leave entitlement in accordance with subclause (i) of this clause all prior continuous service with any other ~~employer~~ within New South Wales shall be deemed to be service with the ~~employer~~ by which the employee is currently employed.
 - (b) Continuity of service shall be deemed not to have been broken by transfer or change of employment from one ~~employer~~ to another provided the period between cessation of service with one ~~employer~~ and appointment to the service of another ~~employer~~ does not exceed three months and such period is covered by accrued annual and long service leave standing to the credit of the employee at the time of the transfer, provided further that the employee concerned does not engage in work of any kind during the period of paid leave between the cessation of service with one ~~employer~~ and appointment to the service of another ~~employer~~.
- (v) For the purpose of this clause, service shall include the following periods: -
 - (a) Any period of service with any of Her Majesty's Forces provided that the employee enlisted or was called up direct from the service of ~~the employer~~.
 - (b) In the case of an employee, transferred to the service of ~~an employer~~ of a new or altered area - any period of service with the ~~employer~~ from which such employee was transferred.
 - (c) Service shall mean all service with ~~the employer~~ irrespective of the classification under which the employee was employed.
- (vi) There shall be deducted in the calculation of the employee's service all leave of absence without payment not specifically acknowledged and accepted by ~~the employer~~ as service at the time leave was taken.
- (vii) When an employee transfers from one ~~employer~~ to another, the former ~~employer~~ shall pay to the newly employing ~~employer~~ the monetary equivalent of all long service leave accruing to the employee at the time of transfer. However, an employee who at the time of transfer has completed at least five years continuous service may elect to be paid the monetary equivalent of the entitlement. Employees who at the time of transfer elect to be paid the

monetary equivalent of their long service leave entitlement shall have that entitlement calculated by multiplying in completed years and months their period of continuous service with the employer(s). A statement showing all prior continuous service with the employer(s) of the employee concerned shall be furnished together with details of the assessment of the amount of money that shall be paid into a Long Service Leave Reserve Account and appropriate notations made in the employer's Long Service Leave Record.

- (viii) The employer which has received under subclause (vii) of this clause a monetary equivalent of long service leave entitlement to cover an employee's period of service with a previously employing employer(s) shall if the employee subsequently leaves the service of that employing employer to seek employment outside New South Wales Local Government before a long service leave entitlement has become due, refund to such previously employing employer(s) the amount paid.
- (ix) Long service leave shall be exclusive of annual leave and any other holidays as prescribed by clause 20, Holidays of this Award, occurring during the taking of any period of long service leave, provided that where a public holiday falls during a period where the employee has taken long service leave on half pay, the public holiday shall also be paid at half pay.
- (x) When the service of an employee is terminated by death the employer shall pay to the employee's estate the monetary equivalent of any untaken long service leave standing to the employee's credit at the time of the employee's decease.
- (xi) Where an employee's service is terminated at the end of a season or through shortage of work, material or finance or through illness certified by a duly qualified medical practitioner and such employee is re-employed by the same employer within 12 months of termination of service, prior service shall be counted for the purpose of this clause.

F. PARENTAL LEAVE (GENERAL)

Relationship with federal legislation – Clauses 21F, 21G, 21H and 21J of this Award shall apply in addition to:

- (i) Chapter 2, Part 2-2, Division 5 – 'Parental leave and related entitlements' of the National Employment Standard (NES) under the *Fair Work Act 2009* (Cth); and
- (ii) the *Paid Parental Leave Act 2010* (Cth).

Note: Division 5 of the *Fair Work Act 2009* (Cth) relates to:

- unpaid parental leave, including unpaid adoption leave
- unpaid special maternity leave
- transfer to a safe job and no safe job leave

G. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

Requests for flexible working arrangements

Chapter 2, Part 2-2, Division 4, Requests for Flexible Working Arrangements of the *Fair Work Act 2009*, shall apply.

H. PAID PARENTAL LEAVE

(i) **Definitions** – in this clause:

- (a) **PPL instalments** shall mean instalments paid during the paid parental leave period under the *Paid Parental Leave Act 2010* (Cth).
- (b) **parental leave make-up pay** shall mean the employee's ordinary pay, inclusive of PPL instalments. Where an employee works a varying number of ordinary hours for 6 months or more in the aggregate in the 12 month period immediately preceding leave associated with the birth of a child, the employee's ordinary hours shall be deemed to be the average weekly number of ordinary hours worked during the 12 month period.

(ii) **Eligibility**

This clause shall apply to an employee who is receiving PPL instalments as a primary or secondary claimant under the *Paid Parental Leave Act 2010* (Cth) and who has had 12 months continuous service with the **employer** immediately prior to the commencement of paid parental leave.

(iii) **Entitlement to parental leave make-up pay**

- (a) An employee shall be entitled to parental leave make-up pay for the period that they are receiving PPL instalments, up to a maximum of 18 weeks.
- (b) The period of parental leave make-up pay shall be counted as service for the purposes of long service, annual and sick leave accruals and superannuation. Superannuation is calculated on the employee's ordinary rate of pay.
- (c) Requalification period – An employee shall not be entitled to a further period of parental leave make up pay unless the employee has returned to work for the **employer** for at least 3 months since their previous period of parental leave.

(iv) **Employee's right to choose**

- (a) An employee who satisfies the eligibility criteria for paid maternity leave or paid special maternity leave under Clause 19F, Paid Maternity Leave, of the *Local Government (State) Award 2007*, may elect to receive paid maternity leave and/or paid special maternity leave (9 weeks full pay or 18 weeks half pay) in accordance with the provisions of the *Local Government (State) Award 2007* in lieu of the entitlement to parental leave make-up pay under this Award, provided that the requalification period in subclause (iii) above shall apply.
- (b) This subclause shall not apply where another employee of **the employer** receives parental leave make-up pay in connection with the pregnancy or birth of the child.

I. CONCURRENT PARENTAL LEAVE

An employee, other than a casual, who is a supporting parent shall be entitled to up to ~~10 days~~ **two weeks** paid concurrent parental leave from their accrued sick leave balance at the time their partner gives birth to a child or at the time the employee adopts a child provided that the employee has had 12 months continuous service with **the employer** immediately prior to the commencement of their concurrent parental leave.

J. ADOPTION LEAVE

(i) Eligibility

This clause applies to an employee who is entitled to adoption-related leave under the *Fair Work Act 2009* (Cth).

(ii) Pre-adoption Leave

- (a) An employee, other than a casual, who is entitled to unpaid pre-adoption leave under the *Fair Work Act 2009* (Cth) is entitled to up to 2 days paid pre-adoption leave at ordinary pay for the period of such leave.
- (b) An employee who is entitled to a period of paid pre-adoption leave is entitled to take the leave as:
- (1) single continuous period of up to 2 days; or
 - (2) any separate periods to which the employee and the employer agree.

(iii) Adoption Leave

- (a) Subject to subclause (c), an employee, other than a casual, who has or will have primary responsibility for the care of an adopted child is entitled to ~~up to 4 weeks~~ paid adoption leave at ordinary pay from the date the child is placed with the employee for adoption according to the following scale:

| AGE OF CHILD AT THE DATE OF PLACEMENT | ENTITLEMENT |
|--|---|
| Less than 5 years of age | • 9 weeks full pay, or 18 weeks half pay |
| Between 5 years of age and less than 16 years of age | • 4 weeks full pay, or 8 weeks half pay |

- (b) Notwithstanding the above, where the adopted child is aged between 5 years of age and less than 16 years of age at the date of placement with the employee and there are special needs and reasons in the child's life, the employer shall not unreasonably refuse to grant up to nine weeks paid adoption leave at full pay or 18 weeks paid adoption leave at half pay.
- ~~(a) — Paid adoption leave must not extend beyond 4 weeks of the date of placement of the child.~~
- (c) An employee is not entitled to paid adoption leave under this clause where the employee receives parental leave make-up pay in connection with the adoption of the child.

(iv) Family reunion leave

- (a) An employee, other than a casual, able to establish that they were adopted under a "closed adoption" practice shall be entitled to up to

five (5) days family reunion leave from their accumulated sick leave balance to reunite with their biological parent(s) for the first time.

- (b) For the purpose of this sub-clause “closed adoption” means an adoption whereby the record of the biological parent(s) is kept sealed and the adopted child is thereby prevented from knowing the identity of such biological parent(s).

K. BEREAVEMENT LEAVE

- (i) ~~Subject to this clause, where an employee, other than a casual, is absent from duty because of the death of a person and provides satisfactory evidence to the employer of such, the employee shall be granted four days leave with pay upon application. Persons in respect of whom bereavement leave may be claimed shall include~~ entitled to bereavement leave as follows:

- (a) Up to four days paid bereavement leave upon the death of a member of the employee's immediate family; or
- (b) Up to two days paid bereavement leave upon the death of a member of the employee's extended family;

- (ii) For the purposes of this clause, immediate family shall mean the following:

- (a) a spouse or de facto partner of the employee;
- (b) a child of the employee;
- (c) a parent of the employee;
- (d) a sibling of the employee;
- (e) a grandchild of the employee;
- (f) a child of the spouse or de facto partner of the employee;
- (g) a parent of the spouse or de facto partner of the employee;
- (h) a sibling of the spouse or de facto partner of the employee; ~~or~~
- (i) a grandchild of the spouse or de facto partner of the employee; or
- (j) a member of the employee's extended family living in the same domestic dwelling as the employee.

- (iii) For the purposes of this clause, extended family shall mean ~~one of~~ the following:

- (a) a niece of the employee;
- (b) a nephew of the employee;
- (c) an uncle of the employee;
- (d) an aunt of the employee;
- (e) a grandparent of the employee;
- (f) a grandparent of the spouse or de facto partner of the employee;

- (g) the spouse or de-facto partner of the employee's child (son in law or daughter in law).
- (iv) The employer may grant an employee additional bereavement leave if satisfied that extenuating circumstances exist.
 - ~~(a) a spouse of the employee; or~~
 - ~~(b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or~~
 - ~~(c) a child or an adult child (including an adopted child, a step child, foster child or an ex nuptial child), parent (including a foster parent, step parent and legal guardian), parents of spouse, grandparent, grandchild or sibling (including half, foster and step sibling) of the employee or spouse or de facto spouse of the employee; or~~
 - ~~(d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or~~
 - ~~(e) a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
 - ~~(1) 'relative' means a person related by blood, marriage or affinity;~~
 - ~~(2) 'affinity' means a relationship that one spouse because of marriage has to blood relatives of the other; and~~
 - ~~(3) 'household' means a family group living in the same domestic dwelling.~~~~

(v) **Bereavement Entitlements for Casual Employees**

- (a) Subject to providing satisfactory evidence to the employer, casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person as provided prescribed in subclauses (i) to (iv) of paragraphs (a) (e) of Clause 21, Part K, Bereavement Leave.
- (b) ~~Council and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 96 hours (i.e. four days) per occasion.~~ The casual employee is not entitled to any payment for the period of non-attendance.
- (c) The employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the employer to engage or not engage a casual employee are otherwise not affected.

L. OTHER PAID LEAVE

(i) Jury Service Leave

An employee required to attend for jury service during the employee's ordinary working hours shall be reimbursed by the **employer** an amount equal to the difference between the amount in respect of the employee's attendance for such jury service and the amount of wage the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on jury service. An employee shall notify the **employer** as soon as possible of the date upon which the employee is required to attend for jury service. Further the employee shall give **the employer** proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

(ii) Union Training Leave

The employer shall agree to release employees to attend an accredited trade union training course without **loss of** pay and such agreement shall not unreasonably be withheld.

(iii) Union Conference Leave

Accredited delegates to the unions' annual conferences shall be granted paid leave for the duration of the conference provided that the **employer's** operational requirements are met and the union notifies **the employer** of the accredited delegates nominated to attend the conference at least one month prior to the commencement of the conference.

M. LEAVE WITHOUT PAY

- (i) Periods of leave without pay, shall be taken at a time mutually convenient to **the employer** and the employee, and shall not be regarded as service for the purpose of computing ~~entitlements under this Award long service leave, sick leave, annual leave or an employee's entitlement to parental leave make-up pay~~. Such periods of leave without pay shall not however, constitute a break in the employee's continuity of service.
- (ii) An employee shall not be entitled to any payment for public holidays during an absence on approved leave without pay.

22. FLEXIBILITY FOR WORK AND FAMILY RESPONSIBILITIES

- (i) **In recognition of the commitment to provide flexibility for work and family responsibilities and the need to retain skills and experience within the industry, employers are encouraged to develop and promote flexible work and leave arrangements to enable their employees to better manage their work and family responsibilities.**
- (ii) **The employer** and an employee, other than a casual, may agree on flexible work and leave arrangements to enable the employee to attend to work and family responsibilities. **The employer** shall not unreasonably withhold agreement to flexible work and leave arrangements, provided its operational needs are met.
- (iii) Flexible work and leave arrangements include but are not limited to:
 - (a) make up time;
 - (b) flexi time;

- (c) time in lieu;
 - (d) leave without pay;
 - (e) annual leave;
 - (f) part-time work;
 - (g) job share arrangements;
 - (h) variations to ordinary hours and rosters;
 - (i) purchased additional annual leave arrangements;
 - (j) **working from home arrangements**; and
 - (k) arrangements to accommodate breastfeeding women.
- (iv) The terms of a flexible work and leave arrangement shall be in writing and may be varied from time to time, by agreement, to suit the specific needs of either party.

23. PHASED RETIREMENT

- (i) In recognition of the ageing workforce in local government and the need to retain skills and experience within the industry, **employers** are encouraged to develop and promote flexible work and leave arrangements to enable their employees to better manage their transition into retirement.
- (ii) Examples of flexible work and leave arrangements include:
 - (a) Part-time work;
 - (b) Flexi time;
 - (c) Leave without pay;
 - (d) Job sharing arrangements;
 - (e) Variations to ordinary hours and rosters;
 - (f) Job redesign; and
 - (g) Purchased additional annual leave arrangements.
- (iii) The terms of a flexible work and leave arrangements shall be in writing and may be varied from time to time, by agreement, to suit the specific needs of either **the employer** or the employee.

24. HEALTH AND WELLBEING

- (i) The parties to the Award recognise that workplace health and wellbeing programs can lead to positive outcomes such as improved employee work performance and productivity, improved employee recruitment and retention, reduced absenteeism, and other benefits.
- (ii) Employers are encouraged to develop workplace health and/or wellbeing programs that are suited to the needs and resources of the employer.
- (iii) An employee may, with the consent of the employer, take up to two (2) days paid leave per calendar year from their accrued sick leave balance to participate in a health and/or wellbeing activity, subject to the following:
 - (a) the granting of paid leave under this clause is at the discretion of the employer; and
 - (b) the taking of paid leave under this clause must not result in the employee having an accumulated sick leave balance of less than three (3) weeks; and
 - (c) the employer may require proof of participation in the health and/or wellbeing activity to justify payment under this clause.

25. PART-TIME EMPLOYMENT

- (i) A part-time employee shall mean an employee who is engaged on the basis of a regular number of hours which are less than the full-time ordinary hours in accordance with Clause 18, Hours of Work of this Award.
- (ii) Prior to commencing part-time work the employer and the employee shall agree upon the conditions under which the work is to be performed including:
 - (a) The hours to be worked by the employee, the days upon which they shall be worked and the commencing times for the work.
 - (b) The nature of the work to be performed.
 - (c) The rate of pay as paid in accordance with this Award
- (iii) The conditions may also stipulate the period of part-time employment.
- (iv) The conditions may be varied by consent.
- (v) The conditions or any variation to them must be in writing and retained by the employer. A copy of the conditions and any variations to them must be provided to the employee by the employer.
- (vi)
 - (a) Where it is proposed to alter a full-time position to become a part-time position such proposal shall be referred to the consultative committee for information.
 - (b) In such cases the employer and the employee shall agree upon the conditions, if any, of return to full-time work.
- (vii) A part-time employee may work more than their regular number of hours at their ordinary hourly rate by agreement. Where an employee works hours outside the spread of hours in clause 18, Hours of Work of this Award, the provisions of clause 19, Overtime, shall apply.
- (viii) Part-time employees shall receive all conditions prescribed by the Award on a pro-rata basis of the regular hours worked. An adjustment to the accrued leave entitlements may be required at the conclusion of each service year based on the proportion of actual hours worked.
- (ix) Where a public holiday falls on a day where a part-time employee would have regularly worked the employee shall be paid for the hours normally worked on that day.
- (x) A change to full-time employment from part-time employment or to part-time employment from full-time employment shall not constitute a break in the continuity of service. All accrued entitlements shall be calculated in proportion to the hours worked in each employment arrangement.

26. CASUAL EMPLOYMENT

- (i) A casual employee shall mean an employee engaged on a day to day basis.
- (ii) A casual employee shall be paid the hourly rate for ordinary hours worked in accordance with clause 18, Hours of Work.

- (iii) Casual employees who work on Saturday and/or Sunday are entitled to penalty rates prescribed by clause 18B. The penalties are calculated on the ordinary hourly rate.
- (iv) Casual employees who work outside the relevant spread of hours identified at clause 18C(i) and (ii) are entitled to a shift penalty. The penalty is calculated on the ordinary hourly rate.
- (v) Subject to clause 19A (viii), a casual employee will not be offered to work overtime in a position held by a permanent employee of **the employer**, if such permanent employee is available to work that overtime. Overtime shall be paid where a casual employee works outside the ordinary hours for that position. In cases where there are no ordinary hours for the position, overtime shall be paid for the hours worked in excess of those prescribed in Clause 18, Hours of Work.
- (vi) In addition to the amounts prescribed by subclause (ii) of this clause, a twenty-five percent loading, calculated on the ordinary hourly rate, shall be paid. This loading shall not attract any penalty. This loading shall be paid in lieu of all leave (**including but not limited to annual leave, long service leave and sick leave**) and severance pay, except for paid parental leave prescribed by the Award. Casual loading is not payable on overtime.
- (vii) Casual employees engaged on a regular and systematic basis shall:
 - (a) Have access to annual assessment under **the employer's** salary system.
 - (b) Have their service as a casual counted as service for the purpose of calculating long service leave where the service as a casual employee is continuous with their appointment to a permanent position on **employer's** structure. In calculating the long service leave entitlement in such cases there shall be a deduction of the long service leave accrued whilst the employee was employed as a casual.
- (viii) A casual employee shall not replace an employee of **the employer** on a permanent basis.
- (ix) Carer's entitlements shall be available for casual employees as set out in subclause (viii) of Clause 21, Part B of this Award.
- (x) Bereavement entitlements shall be available for casual employees as set out in subclause (v) of Clause 21, Part K of this Award.

27. JOB SHARE EMPLOYMENT

- (i) Job sharing is a form of part-time employment where more than one employee shares all the duties and responsibilities of one position.
- (ii)
 - (a) Job sharing shall be entered into by agreement between the **employer** and the employees concerned.
 - (b) Such agreement shall be referred to the consultative committee for information.

- (iii) **The employer** and the job sharers shall agree on the allocation of work between job sharers.
- (iv)
 - (a) The ordinary hours of work of the position shall be fixed in accordance with clause 18, Hours of Work of this Award.
 - (b) The job sharers in conjunction with **the employer** shall agree on the hours to be worked. Such agreement shall specify the regular number of ordinary hours to be worked by each job sharer.
- (v)
 - (a) In the absence of a job sharer the remaining job sharer(s) may be required by **the employer** to relieve the absent job sharer provided the remaining job sharer(s) are reasonably available.
 - (b) In such cases the relieving job sharer(s) shall be paid their ordinary rate of pay for the time relieving.
- (vi) A job sharer may work more than their regular number of hours at their ordinary hourly rate by agreement. Where an employee works hours outside the spread of hours in clause 18, Hours of Work of this Award the provisions of clause 19, Overtime, shall apply.
- (vii) **The employer** must establish appropriate communication mechanisms between the job sharers to facilitate the handing over of tasks from one job sharer to another.
- (viii)
 - (a) Job sharers shall have access to all provisions of this Award including training and development.
 - (b) Job sharers shall receive pro-rata pay and conditions in proportion to the ordinary hours worked by each job sharer.
 - (c) An adjustment to accrued leave entitlements may be required at the conclusion of each service year based on the proportion of actual hours worked.
 - (d) A change to job sharing from full-time or part-time employment or from job sharing to full-time or part-time employment shall not constitute a break in the continuity of service. All accrued entitlements shall be calculated in proportion to the hours worked in each employment arrangement.
- (ix) In the event of a job sharer vacating the position **the employer** shall review the position and shall consider filling the vacancy or offering the remaining job sharer(s) increased hours.
- (x) The terms of a job share arrangement or any variation to it must be in writing. A copy of the arrangement and any variation to it must be provided to the job sharer(s) by the **employer**.

28. LABOUR HIRE

- (i) **An employee of a labour hire business shall not replace an employee of the employer on a permanent basis.**
- (ii) **This clause does not apply to the employment of apprentices and/or trainees by a group training business.**
- (iii) **For the purpose of this clause:**

- (a) a “labour hire business” is a bona fide labour hire business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which supplies staff employed or engaged by it to the employer on an on-hire basis for the purpose of such staff performing work or services for that employer. Provided that a business is not a labour hire business if:
 - (1) the staff of that business are not performing the specific duties of a position(s) covered by the employer’s organisation structure;
 - (2) the business is providing professional business services which cannot reasonably be fulfilled by the employer’s employees, for a specified period of time or for a specific task (for example, legal, financial or accounting services);
 - (3) the business is a bona fide contractor providing both equipment and employees to the employer; or
 - (4) the business is another entity covered by this Award.
- (b) a “group training business” is a bona fide group training business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply apprentices and/or trainees to the employer for the purpose of such staff performing work or services as an apprentice or trainee for that employer
- (iv) Notwithstanding the provisions of subclause (i), the employer and the relevant union may agree in writing that the employer may replace an employee of the employer on a permanent basis with the employee of a labour hire business.

29. MULTIPLE EMPLOYMENT

Where an employee is employed in a second position with the employer the second position may, for all purposes of the Award, be regarded as a separate and distinct employment engagement from the original employment provided that:

- (i) the positions involve different duties or are in different work function areas; and
- (ii) the employee agreed to the employment in the second position.

30. JUNIOR AND TRAINEE EMPLOYMENT

A. GENERAL

- (i) The rates of pay specified in Band 1/Level 1 are actual not minimum rates.
- (ii) Employees engaged at the T3 rate of pay or above may be required to possess a Provisional or Class C Drivers Licence.

B. JUNIOR EMPLOYMENT

- (i) The rates of pay as provided in Band 1/Level 1 are payable to juniors (15-18 years old).
- (ii) A junior employee shall be appointed to Band 1/Level 1 according to either their age or educational qualification, whichever provides for the higher rate of pay.
- (iii) Progression along the scale is automatic up to and inclusive of T4, according to the employee's age.

C. TRAINEE EMPLOYMENT AND APPRENTICESHIPS

- (i) The rate of pay as provided for in Band 1/Level 1 are payable to employees undertaking entry level training.
- (ii) An employee shall be appointed to Band 1/Level 1 according to either their age or educational qualification, whichever provides for the higher rate of pay.
- (iii) Progression along the scale is not automatic, but is subject to successful completion of appropriate training modules and satisfactory service.
- (iv) Upon successful completion of entry level training, the employee shall proceed to the appropriate band and level in the structure, if the employment is to be continued beyond the training period.
- (v) In addition to the vocational training direction, the **employer** shall provide an apprentice with the conditions of the apprenticeship in writing and these conditions shall include:
 - (a) the term of the apprenticeship;
 - (b) the course of studies to be undertaken by the apprentice;
 - (c) the course of on the job training to be undertaken by the apprentice.

D. SCHOOL BASED APPRENTICES

- (i) The object of Part D of this clause is to assist persons who are undertaking an apprenticeship under a training contract while also enrolled in the Higher School Certificate. Such school based apprenticeships are undertaken at a minimum Certificate III Australian Qualifications Framework (AQF) qualification level as specified in the relevant Vocational Training Order pursuant to the *Apprenticeship and Traineeship Act 2001*.
- (ii) The hourly rates for school based apprentices for total hours worked including time deemed to be spent in off-the-job training shall be calculated by dividing the applicable weekly rate for full time apprentices as set out in Band 1/Level 1 by 38 or 35 in accordance with clause 18, Hours of Work.
- (iii) For the purpose of subclause (ii), where a school based apprentice is a full time school student, the time spent in off-the-job training for which the school based apprentice is paid is deemed to be 25 per cent of the actual hours worked on-the-job each week. The wages paid for training time may be averaged over the school term or year.

- (iv) School based apprentices progress through the rates of pay set out in Band 1/Level 1 subject to successful completion of appropriate training modules and satisfactory service.
- (v) Except as provided by this Award, school based apprentices are entitled to pro rata entitlements of all other conditions of employment.

E. GOVERNMENT FUNDED TRAINEESHIPS

- (i)
 - (a) The objective of Part E of this clause is to assist in the establishment of a system of traineeships which provides approved training in conjunction with employment in order to enhance the skill levels and future employment prospects of trainees.
 - (b) The system is neither designed nor intended for those who are already trained and job ready.
 - (c) Nothing in this subclause shall be taken to replace the prescription of training requirements for all other employees bound by this Award.
- (ii) Except as in hereinafter provided, all other terms and conditions of this Award shall apply.
- (iii)
 - (a) This subclause shall apply to trainees engaged to undertake a traineeship which is a system of training approved by the relevant state training authority. The trainee and the **employer** shall be bound by a training agreement made in accordance with this Award and shall not operate unless this condition is met.
 - (b) A traineeship shall not commence until the relevant Traineeship Agreement has been registered with the relevant State Training Authority.
- (iv) The **employer** shall ensure that the trainee is permitted to attend the training course or program provided for in the Traineeship Agreement and shall ensure that the trainee receives the appropriate on-the-job training in accordance with the Traineeship Agreement.
- (v) The **employer** shall provide a level of supervision in accordance with the Traineeship Agreement during the traineeship period.
- (vi) Training shall be directed at:
 - (a) the achievement of key competencies required for successful participation in the workplace and/or
 - (b) the achievement of competencies required for successful participation in an industry.
- (vii) Until consultation and negotiations with the relevant industry union(s) upon the terms of the proposed Traineeship Scheme and the Traineeship has occurred a Traineeship Scheme shall not be given approval. An application for approval of a Traineeship Scheme shall identify the relevant industry union(s) and demonstrate to the satisfaction of the approving authority that the abovementioned consultation and negotiations have occurred.
- (viii) Part E of this clause does not apply to apprentices.

- (ix) Any existing employment arrangements for the Australian Traineeship System (ATS) or the Career Start Traineeship (CST) shall not apply to any **employer** bound by this Award, except in relation to ATS or CST trainees who commenced a traineeship with the **employer** before the **employer** was bound by this Award.
- (x)
 - (a) Trainees shall not displace existing employees from employment.
 - (b) Trainees shall only be engaged in addition to existing staff positions and employment levels.
 - (c) The provisions of subclause (b) above do not apply to the engagement of Indigenous trainees and trainees paid at Band 1/Level 1 of the Award. This subclause shall not be used to reduce the core number of employees at **the employer**.
- (xi) A trainee shall be engaged on a full time basis for the period of at least twelve months. By agreement in writing, and with the consent of the relevant State Training Authority, the relevant **employer** and the trainee may vary the duration of the Traineeship and the extent of approved training provided that any agreement to vary is in accordance with the relevant Traineeship Scheme. This clause shall not restrict **the employer's** ability to engage a trainee under a school-based traineeship.
- (xii)
 - (a) **The employer** shall not terminate the trainee's service without providing written notice of termination in accordance with the training agreement and subsequently to the relevant State Training Authority as appropriate.
 - (b) Where the **employer** chooses not to continue the employment of a trainee upon the completion of the traineeship, it shall notify the relevant state training authority as appropriate, of its decision.
- (xiii) A trainee who fails to complete the traineeship or who cannot for any reason be placed in full-time employment with the **employer** on the successful completion of the traineeship, shall not be entitled to any severance payments payable pursuant to termination, change or redundancy provisions or provisions similar thereto.
- (xiv) The trainee shall be permitted to be absent from work without loss of continuity of employment and/or wages to attend the training in accordance with the Traineeship Agreement.
- (xv) Where the employment of a trainee by the employer is continued after the completion of the traineeship period, such traineeship period shall be counted as service with the **employer** for the purposes of this Award or any other legislative entitlements.
- (xvi) Wages:
 - (a) The weekly amount of pay payable to trainees shall be as provided in Table 1 of Part B, Traineeship Rates, of this Award.
 - (b) The trainee wage rates contained in this Award are minimum rates and shall only apply to trainees while they are undertaking an approved traineeship which includes approved training as prescribed above.

31. TRAINING AND DEVELOPMENT

- (i) The parties to this Award recognise that increasing the efficiency and productivity of the industry requires an ongoing commitment to education, training and skill maintenance, development and enhancement. Accordingly, the parties commit themselves to:
 - (a) developing a more highly skilled and flexible workforce
 - (b) providing employees with opportunities through appropriate education and training to acquire additional skills and
 - (c) removing barriers to the utilisation of skills in accordance with **employers'** training plans.
- (ii) All employees shall have reasonable and equitable access to education and training, such education and training shall:
 - (a) be consistent with the **employer's** training plan
 - (b) enable employees to acquire the range of skills they are required to apply in their positions
 - (c) enhance employees' opportunities for **career path development and** mobility through **employer's** organisation structures, through participation in **the employers'** training plans.
- (iii) Training Plan and Budget
 - (a) **The employer** shall develop a training plan and budget consistent with:
 - (1) the current and future skill requirements of the **employer**.
 - (2) the size, structure and nature of the operations of the **employer**.
 - (3) the need to develop vocational skills relevant to **the employer** and the Local Government industry.
 - (b) In developing the training plan, the **employer** shall have regard to corporate, departmental and individual training needs.
 - (c) The training plan shall be designed in consultation with the consultative committee.
 - (d) The training plan shall, where appropriate, provide for training that is consistent with the National Local Government Competency Standards.
 - (e) The training plan, shall provide for the assessment and recognition of employee's current competencies where possible.
 - (f) Selection of participants to receive **the employer's** required training in accordance with **employer's** training plan is to be based on merit and the needs of the employee as identified in the employee's performance appraisal.
- (iv) If an employee is required by **the employer** to undertake training in accordance with the **employer's** training plan:

- (a) the **employer** shall grant the employee paid leave to attend course requirements, including examinations, where the training is undertaken during ordinary working hours;
 - (b) where the course requirements contain more than a 15% off-the-job component calculated over any 12 month period the extent to which **the employer** will grant paid leave to attend such course requirements shall be specified in the training plan;
 - (c) **the employer** shall pay course fees at the commencement of each stage but shall not pay course fees if the employee is repeating;
 - (d) **the employer** shall either provide transport or pay reasonable travelling expenses to enable employees to attend course requirements;
 - (e) reasonable travel arrangements shall be agreed; and
 - (f) where an employee is required to complete major assignment(s) **the employer** and the employee shall agree upon appropriate flexible work and study arrangements as are practicable.
- (v) **The employer** may grant an employee undertaking a course consistent with **the employer's** training plan, although not at **the employer's** requirement, leave with pay or leave without pay to attend course requirements provided that the employee gives reasonable notice of such requirements. Where the employee is not granted such leave **the employer** shall give preference in granting annual leave or other accrued leave to attend course requirements provided that the employee gives reasonable notice of such requirements. **The employer** may pay course fees at its discretion.
- (vi) Development of a Competency Based Training System.
- (a) The parties to the Award are committed to the development of a competency based system of vocational education and training for local government. Such a system involves the delivery, assessment and certification of training being related to the identification and demonstrated attainment of the knowledge, skills and their application required for effective performance in work at the required level, as defined in industry endorsed competency standards.
 - (b) The parties shall continue to participate in the development of a competency based training system to ensure that the following are achieved:
 - (1) that competency standards developed provide the specification of the knowledge and skill and the application of that knowledge and skill to the standards of performance required in employment;
 - (2) that competency standards are reviewed in a systematic manner to ensure that they remain relevant to the actual needs of the industry;

- (3) that accredited courses and training programs deliver the required competencies and to ensure that assessment processes measure an employee's competency against prescribed standards of performance. These processes involve recognition of prior learning and assessment mechanisms;
- (4) that certification provides employees with formal recognition of the competencies they have achieved and demonstrated.

32. CONSULTATIVE COMMITTEES

A. AIM

The parties to the Award are committed to consultative and participative processes. There shall be a consultative committee at each **employer** which shall:

- (i) provide a forum for consultation between **the employer** and its employees **that encourages a free and open exchange of views**;
- (ii) positively co-operate in workplace reform to enhance the efficiency and productivity of the **employer** and to provide employees with access to career opportunities and more fulfilling, varied and better paid work.

B. SIZE AND COMPOSITION

- (i) The size and composition of the consultative committee shall be representative of **the employer's** workforce and agreed to by **the employer** and the local representatives from the following unions: USU; depa and the LGEA and such agreement shall not be unreasonably withheld.
- (ii) The consultative committee shall include but not be limited to employee representatives of each of the unions who have members employed at **the employer**.
- (iii) Officers of the union(s) or Association(s) may attend and provide input to meetings of the consultative committee, at the invitation of the consultative committee or their respective members.

C. SCOPE OF CONSULTATIVE COMMITTEES

- (i) The functions of the consultative committee **shall** include:
 - (a) Award implementation
 - (b) training
 - (c) consultation with regard to organisation restructure
 - (d) job redesign
 - (e) salary systems
 - (f) communication and education mechanisms
 - (g) performance management systems

- (h) changes to variable working hours arrangements for new or vacant positions
 - (i) local government reform
 - (j) proposed variations to leaseback vehicle arrangements.
- (ii) The consultative committee shall not consider matters which are being or should be processed in accordance with Award clause 35, Grievance and Disputes Procedures.

D. MEETINGS AND SUPPORT SERVICES

- (i) The consultative committee will make recommendations based upon consensus. Where there is no consensus on a particular item, the recommendation to **the employer** should note the dissenting views.
- (ii) The consultative committee shall meet as required.

33. APPOINTMENT AND PROMOTION

- (i) Where an internal applicant has applied for a new or vacant position and their application is unsuccessful, the employee may:
 - (a) request in writing the reason(s) as to why they were not appointed, and upon such request, **the employer** shall provide the reason(s) in writing; **and**
 - (b) **request a review of their individual education and training needs.**

34. TERM CONTRACTS

- (i) **The employer** may only employ a person on a term contract of employment in the following situations:
 - (a) for the life of a **specific task or project** that has a definable work activity, or
 - (b) to perform the duties associated with an **externally funded position** where the length of the employment depends on the length of the funding, or
 - (c) to perform the duties associated with a **vacant position** until the vacant position is filled on a permanent basis, provided that the duration is not longer than is reasonably necessary to undertake recruitment for the vacant position, or
 - (d) to **temporarily replace** an employee **who** is on approved leave, secondment, workers compensation, ~~or~~ acting in a different position **or working reduced hours under a flexible work and leave arrangement**, or
 - (e) to undertake training and work as part of an **apprenticeship, traineeship or student work experience program** in conjunction with an education institution, or
 - (f) to **trial a new work area**, provided that the duration is not longer than is reasonably necessary to trial the new work area, or

- (g) to perform the duties associated with a vacant position during the intervening period between **when the employer has made a definite decision to introduce major changes in production, program, organisation structure or technology that are likely to have significant effects** on the employment in the vacant position and the date that the changes are implemented; **or**
 - (h) to accommodate **time limitations imposed by law** or **sought by the employee** (e.g. visa restrictions); **or**
 - (i) to perform **seasonal work** (also see subclause 21E(xi) of this Award).
- (ii) Notwithstanding the above, all term contracts of employment entered into prior to 1 November 2010 may continue until the expiry of their fixed or maximum term.

35. GRIEVANCE AND DISPUTE PROCEDURES

- (i) At any stage of the procedure, the employee(s) may be represented by their union or its local representative/delegate and the **employer** represented by the Association.
- (ii) The union delegate shall have reasonable time, without loss of pay, to discuss a grievance or dispute with management at the local level where prior approval is sought. Such approval shall not be unreasonably withheld.
- (iii) A grievance or dispute shall be dealt with as follows:
 - (a) The employee(s) shall notify the supervisor, or other authorised officers of any grievance or dispute and the remedy sought, in writing.
 - (b) A meeting shall be held between the employee(s) and the supervisor to discuss the grievance or dispute and the remedy sought within two working days of notification.
 - (c) If the matter remains unresolved, the employee(s) may request the matter be referred to the head of the department or other authorised officer for discussion. A further meeting between all parties shall be held as soon as practicable.
 - (d) If the matter remains unresolved the general manager shall provide the employee(s) with a written response. The response shall include the reasons for not implementing any proposed remedy.
 - (e) Where the matter remains unresolved, it may be referred to the employee's union or representative and by the general manager or other authorised officer to the Association for further discussion between the parties.
- (iv) The Industrial Registrar may be advised of the existence of a dispute at any stage of this procedure.
- (v) During this procedure and while the matter is in the course of negotiation, conciliation and/or arbitration, the work practices existing prior to the dispute shall as far as practicable proceed as normal.

36. DISCIPLINARY PROCEDURES

A. EMPLOYEE'S RIGHTS

Notwithstanding the procedures below, an employee shall:

- (i) Have access to their personal files and may take notes and/or obtain copies of the contents of the file.
- (ii) Be entitled to sight, note and/or respond to any information placed on their personal file which may be regarded as adverse.
- (iii) Be entitled to make application to delete or amend any disciplinary or other record mentioned on their personal file which the employee believes is incorrect, out-of-date, incomplete or misleading.
- (iv) Be entitled to request the presence of a union representative and/or the involvement of their union at any stage.
- (v) Be entitled to make application for accrued leave for whole or part of any suspension during the investigation process.

B. EMPLOYER'S RIGHTS AND OBLIGATIONS

Notwithstanding the procedures contained below, **the employer** shall:

- (i) Be entitled to suspend an employee with or without pay during the investigation process provided that:
 - (a) suspension without pay during an investigation shall be for a period of not more than two weeks, except where the progress of the investigation is delayed due to the unavailability of the employee and/or their representative in which case the period of suspension without pay may be extended for a further period of up to 7 days or such greater period by agreement.
 - (b) If, after investigation, the reasons for the suspension are found to be inappropriate, the employee shall not suffer any loss of pay for the period under suspension.
 - (c) The suspension shall not affect the employee's continuity of service for the purposes of accruing leave entitlements.
 - (d) **The employer** shall not unreasonably refuse an application for paid leave under this provision.
 - (e) By agreement an employee may be transferred to another position or place of work.
- (ii) Properly conduct and speedily conclude an investigation into the alleged unsatisfactory work performance or conduct.
- (iii) Be entitled to take other disciplinary action before and/or during the procedures in cases of misconduct or where the employee's performance warrants such action.
- (iv) In appropriate circumstances be entitled to terminate an employee's services in accordance with Clause 38, Termination of Employment of this Award.

- (v) Be entitled to request the presence of a union representative at any stage.

C. PROCEDURES

- (i) Where an employee's work performance or conduct is considered unsatisfactory, the employee shall be informed in the first instance of the nature of the unsatisfactory performance or conduct and of the required standard to be achieved, by the employee's immediate supervisor or other appropriate officer of **the employer**.
- (ii) Unsatisfactory work performance or conduct shall include, but not be limited to, neglect of duties, breach of discipline, absenteeism and non-compliance with safety standards. A written record shall be kept on the appropriate file of such initial warning. The employee shall be entitled to sight and sign such written record and add any notations regarding the contents of such record.
- (iii) Where there is re-occurrence of unsatisfactory work performance or conduct, the employee shall be warned formally in writing by the appropriate officer of **the employer** and counselled. Counselling should reinforce the standard of work or conduct expected and, where the employee is failing to meet these required standards, a suitable review period for monitoring the employee's performance; the severity of the situation; and whether disciplinary action will follow should the employee's work performance or conduct not improve. A written record shall be kept of such formal warning and counselling. The employee shall be entitled to sight and sign such written record and add any notations regarding the contents of such record.
- (iv) If the employee's unsatisfactory work performance or conduct continues or resumes following the formal warning and counselling, the employee shall be given a final warning in writing giving notice of disciplinary action should the unsatisfactory work performance or conduct not cease immediately.
- (v) If the employee's work performance or conduct does not improve after the final warning further disciplinary action may be taken.
- (vi) All formal warnings shall be in writing.
- (vii) Delegates shall be provided reasonable time without loss of pay, to represent members in disciplinary matters at the local level, provided prior approval is sought. Such approval shall not be unreasonably withheld.

D. PENALTIES

After complying with the requirements above, **the employer** may:

- (i) Demote the employee to a lower paid position, provided that the employee shall not suffer a reduction in the rate of pay for 2 weeks from the date of the demotion.
- (ii) Suspend an employee without pay from work for a specified period of time.
- (iii) Terminate the employment of the employee.

37. ~~OCCUPATIONAL WORK~~ HEALTH AND SAFETY

A. STATEMENT OF INTENT

The parties to the Award are committed to co-operating positively to:

- (i) promote the safety and welfare of workers and other people in the workplace;
- (ii) eliminate unsafe work practices; and
- (iii) ensure that employers and employees understand and comply with their obligations under the *Work Health and Safety Act 2011* (NSW), *Work Health and Safety Regulation 2011* (NSW) and associated codes of practice.

B. SPECIFIC PROVISIONS

In the case of extreme and unusual weather conditions which could be assessed as hazardous, employers will review and conduct a risk assessment to determine what action, if any, needs to be put in place to minimise unnecessary exposure and risks to its employees during such unusual occurrences.

C. FURTHER INFORMATION AND RESOURCES

Further information and resources are available from the following organisations:

- (i) Workcover NSW: www.workcover.nsw.gov.au
- (ii) Safe Work Australia: www.safeworkaustralia.gov.au

~~A. OBJECTIVE~~

~~Council shall provide a safe place of work and work practices in accordance with the provisions of the *Occupational Health and Safety Act*.~~

~~B. ACCOMMODATION AND SHELTER~~

~~Council shall make appropriate provision for employees with regard to accommodation and shelter and shall satisfy the provisions of the *Occupational Health and Safety Act* and Regulations.~~

~~C. SPECIFIC PROVISIONS~~

- ~~(i) Council shall supply employees with protective clothing and equipment suitable to the nature of the work performed and the work environment and that shall satisfy the relevant legislation.~~
- ~~(ii) All new graders, loaders, backhoes, trucks and rollers shall be fitted with air conditioning where practicable.~~
- ~~(iii) Vehicles and plant used in the collection, transportation and disposal of waste, tar patching, patrol grading or like duties shall be of high visibility and fitted with a flashing light or a light visible from all points around the vehicle.~~
- ~~(iv) The employer shall provide oil or other suitable solvents to employees for the removal of creosote, tar, bitumen emulsions or similar preparations.~~
- ~~(v) Where any acidic or caustic products are used by employees, adequate facilities shall be provided to enable them to wash any affected areas and an adequate quantity of barrier cream shall be provided.~~
- ~~(vi) Employees shall be supplied with sufficient cool water containers to ensure that adequate clean, cool drinking water is available throughout the day.~~
- ~~(vii) No employee shall be required to work alone outside of built-up areas without all available communications to allow continuous contact in all conditions.~~

- ~~(viii) — Where an employee during the course of work, sustains damage to clothing by fire, molten metal, tar or any corrosive substances which is not attributable to the employee's negligence, the employee shall be compensated by council to an agreed amount.~~
- ~~(ix) — In the case of extreme and unusual weather conditions which could be assessed as hazardous council will review and conduct a risk assessment to determine what action, if any, needs to be put in place to minimise unnecessary exposure and risks to its employees during such unusual occurrences.~~

~~D. LABOUR HIRE AND CONTRACT BUSINESSES~~

- ~~(i) — For the purposes of this subclause, the following definitions shall apply:~~
- ~~(1) — A “labour hire business” is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to a council for the purpose of such staff performing work or services for that other council.~~
- ~~(2) — A “contract business” is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by a council to provide a specified service or services or to produce a specific outcome or result for that council which might otherwise have been carried out by that council's own employees.~~
- ~~(ii) — Any Council which engages a labour hire business and/or a contract business to perform work wholly or partially on the Council's premises shall do the following (either directly, or through the agency of the labour hire or contract business):~~
- ~~(1) — consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;~~
- ~~(2) — provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;~~
- ~~(3) — provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and~~
- ~~(4) — ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.~~
- ~~(iii) — Nothing in this subclause D is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the Occupational Health and Safety Act 2000 or the Workplace Injury Management and Workers Compensation Act 1998.~~

~~(iv) Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this Award.~~

~~(v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the Apprenticeship and Traineeship Act 2001 (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.~~

38. TERMINATION OF EMPLOYMENT

- (i)
 - (a) An employee in Operational Band 1 or the Administrative/Technical Trades Band 2 shall give to **the employer** 2 weeks notice of their intention to terminate their employment.
 - (b) The notice of intention to terminate for an employee in Professional/Specialist Band 3 or Executive Band 4 of the Award shall be the same as that required of the employer in subclause (iv) of this clause.

If no such notice is provided, **the employer** shall be entitled to deduct pay equivalent to the required notice from any entitlements payable under this Award.

- (ii) **The employer** and an employee may agree to a shorter period of notice for the purpose of this subclause.
- (iii) In cases of serious misconduct, **the employer** may summarily dismiss an employee following a proper investigation and provided the employee is afforded procedural fairness. Where an employee is summarily dismissed, subclause (iv) shall not apply.
- (iv) The **employer** shall give to an employee a period of notice of termination in accordance with the following scale or by payment in lieu thereof:

| EMPLOYEE'S PERIOD OF CONTINUOUS SERVICE | PERIOD OF NOTICE |
|---|------------------|
| Less than 2 years | At least 2 weeks |
| 2 years and less than 3 years | At least 3 weeks |
| 3 years and less than 5 years | At least 4 weeks |
| 5 years and beyond | At least 5 weeks |

- (v) The provision of this clause shall be read subject to the provisions of Clause 39, Workplace Change and Redundancy, of this Award.

39. WORKPLACE CHANGE AND REDUNDANCY

- (i) **Employer's Duty to Notify**
 - (a) "Significant effects" include termination of employment, major changes in the composition, operation or size of the **employer's** workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to

other work or locations and the restructuring of jobs. Provided that where the Award makes provision for the alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

- (b) Where **the employer** has made a definite decision to introduce major changes in production, program, organisation structure or technology that are likely to have significant effects on employees, the **employer** shall notify the employee(s) who may be affected by the proposed changes and the union(s) to which they belong.

- (1) Where a proposed change in organisation structure is likely to have significant effects on employees and/or result in a reduction in the size of the employer's workforce, the employer shall notify the union(s) whose members may be adversely affected by the proposed change at least twenty-eight (28) days before the change is implemented.

- (2) Notification of a proposed change may be given either before or after a definite decision is made. The union(s) may, on being notified of the proposed change, respond to the employer in writing within the twenty-eight (28) days, addressed to the general manager. Any such response(s) received by the general manager shall be provided to the decision maker(s) within seven (7) days. Where the decision to implement the change has already been made, the decision maker(s) may, in accordance with subclause (ii)(a) of this clause, reconsider their original decision.

- (3) Notice to the union(s) of a proposed change in organisation structure under subclause 39(i)(b) shall not form part of any notice of termination under subclause 39(v).

- (c) Nothing in this clause prevents the employer from immediately implementing a change in organisation structure with the consent of the affected employee(s), where the union(s) to which they belong have been provided at least seven (7) days' notice of the proposed change.

(ii) **Employer's Duty to Discuss Change**

- (a) **The employer** shall discuss with the employee(s) affected and the union(s) to which they belong, inter alia, the introduction of the changes referred to in sub-clauses (i)(a) and (b) of this clause, what affects the changes are likely to have on the employee(s) and measures to avert or mitigate the adverse changes on the employee(s) and shall give prompt consideration to matters raised by the employee(s) and/or their union in relation to the changes and may reconsider its original decision.

- (b) The discussion shall commence as early as practicable after a definite decision has been made by the **employer** to make the changes referred to in subclause (i)(a) and (b) of this clause.

- (c) For the purposes of the discussion, the **employer** shall provide to the employee(s) concerned and the union to which they belong, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on the employee(s) and any other matters likely to affect the employee(s).

- (d) **Competitive tendering** – Where employee(s) who are adversely affected by the proposed changes request the employer's assistance to submit an in-house bid and the employer refuses that request, the employer shall provide the reason(s) in writing.

(iii) **Discussion Before Termination**

- (a) Where the employer has made a definite decision that it no longer wishes the job the employee has been doing done by anyone pursuant to subclause (i)(a) and (b) of this clause and that decision may lead to the termination of employment, the employer shall hold discussions with the employee(s) directly affected and with the union(s) to which they belong.
- (b) The discussion shall take place as soon as it is practicable after the employer has made a definite decision which shall invoke the provision of paragraph (a) of this subclause and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of the terminations of the employee(s) concerned. Measures to mitigate the adverse effect on employees may include consideration of re-training opportunities, redeployment, recruitment advice, the payment of relocation allowances, provision of additional notice, access to an employee assistance program, financial advice and such other assistance as may be reasonably available.
- (c) The employer shall not unreasonably refuse a request by an employee to work through the notice of termination period in subclause 39(v) to better enable the employee to explore opportunities to mitigate the adverse effects of workplace change. During such notice period, whilst the employee is able to undertake tasks and duties associated with their position, priority shall be given to activities that may enable the employee to find employment. Such activities may include, but not be limited to, training, redeployment opportunities, job interviews, financial advice and recruitment advice.
- (d) For the purposes of the discussion, the employer shall, as soon as practicable, provide to the employee(s) concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and category of employee(s) likely to be effected and the number of employee(s) normally employed and the period over which the terminations are likely to be carried out. Provided that the employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

(iv) **Notice to Centrelink**

Where a decision has been made to terminate fifteen (15) or more employees for reasons of an economic, technological, structural or similar nature, or for reasons including such reasons, the employer shall notify Centrelink as soon as possible giving relevant information ~~including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out~~ as provided at section 530 of the *Fair Work Act 2009* (Cth).

(v) **Notice of Termination**

- (a) Five weeks notice to terminate or pay in lieu thereof shall be given.

- (b) Where an employee is to be terminated because of the introduction of technology the employee shall be entitled to the following:

- (1) Three (3) months notice of termination or
- (2) Payment in lieu of the notice in paragraph 1 above. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (3) Notice or payment of notice under this paragraph shall be deemed to be service with the **employer** for the purposes of calculating leave entitlements under this Award.

(vi) **Redundancy**

- (a) This subclause shall apply where an employee is terminated due to redundancy. ~~A council shall be exempt from the operation of this subclause except~~ where the employee concerned has been offered, but has refused to accept, an alternative position within the **employer's** organisation structure of comparable skill and accountability levels and remuneration no less than the position previously held by the employee.
- (b) In addition to any required period of notice, and subject to subclause (v) of this Clause, the employee shall be entitled to severance pay as follows:

| COMPLETED YEARS OF SERVICE WITH THE EMPLOYER | ENTITLEMENT |
|---|--------------|
| Less than 1 year | Nil |
| 1 year and less than 2 years | 5 weeks pay |
| 2 years and less than 3 years | 9 weeks pay |
| 3 years and less than 4 years | 13 weeks pay |
| 4 years and less than 5 years | 16 weeks pay |
| 5 years and less than 6 years | 19 weeks pay |
| 6 years and less than 7 years | 22 weeks pay |
| 7 years and less than 8 years | 25 weeks pay |
| 8 years and less than 9 years | 28 weeks pay |
| 9 years and less than 10 years | 31 weeks pay |
| 10 years and thereafter | 34 weeks pay |

- (vii) An employee who resigns during the period of notice is entitled to the same redundancy payments provided in this clause as if they had remained in the **employer's** employment until the expiry of the notice period.
- (viii) During a period of notice of termination given by the **employer**, an employee shall be allowed up to one day off without loss of pay during each week of notice for the purpose of seeking other employment. Where required by the **employer** the employee shall provide proof of attendance at an interview.
- (ix) A redundant employee shall be entitled to the payment of a job search allowance of up to \$2,500 to meet expenses associated with seeking other employment subject to proof of expenditure or on production of an invoice, and/or other appropriate documentation. The employee's entitlement to claim

the job search allowance is limited to a period of up to 12 months from their termination of service with the **employer** or until the employee secures alternative employment, whichever is the sooner.

- (x) If the employee agrees to be redeployed by **the employer** into a lower paid position, the employee's existing salary and conditions shall be maintained for a period equivalent to the amount of notice and severance pay that the employee would be entitled to under this Award. Provided that should the employee resign during the period of salary maintenance, as provided for by this subclause, the balance of any notice and severance pay that the employee would have been entitled to for the remainder of the period of salary maintenance shall be paid on termination.
- (xi) The **employer** shall, upon receipt of a request from an employee to show employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification or the type of work performed by the employee.
- (xii) The **employer** shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by the Department of **Human Services**.
- (xiii) In the event that **the employer** determines that a position is redundant, **the employer** where practicable, shall firstly offer such redundancy on a voluntary basis.
- (xiv) Nothing in this Award shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an employee may be entitled to under any existing redundancy arrangement, taken as a whole, between the industry unions and the **employers** bound by this Award.
- (xv) Subject to an application by the **employer** and further order of the Industrial Relations Commission of New South Wales, **the employer** may pay a lesser amount (or no amount) of severance pay than that contained in subclause (vi) above if the **employer** obtains acceptable alternative employment for an employee.
- (xvi) Nothing in this clause shall restrict an employee with ten years' service or more and **the employer** from agreeing to further severance payments.
- (xvii) Nothing in this clause restricts the elected council from exercising its right under the *Local Government Act 1993* to determine and/or re-determine its organisation structure from time to time, and to implement such determinations.

~~39. COMPETITIVE TENDERING~~

- ~~(i) Competitive tendering is the calling of tenders by council for the provision of service(s) that are currently being performed by council employees where council's in-house service unit submits a bid as well as external contractors. Council then makes its decision based on the tender bids about who will provide the service.~~
- ~~(ii) Prior to making a decision to competitively tender a service, council shall notify and consult with the relevant union(s) which have members likely to be affected by the decision.~~

- ~~(iii) (a) Where a council makes a definite decision to competitively tender a service council shall notify the employees who may be affected by the proposed tender of such services and the union(s) to which they belong.~~
- ~~(b) Council shall discuss the competitive tendering process with the affected employee(s) and union(s) and give prompt consideration to matters raised by employee(s) and the union(s) to which they belong.~~
- ~~(c) Discussions between council and the affected employee(s) and relevant union(s) shall commence as early as practicable after a definite decision has been made to competitively tender a service.~~
- ~~(d) For the purposes of the discussion council shall provide to the employee(s) and the union(s) to which they belong, all relevant information about the tendering process including the nature of the service to be tendered, the proposed timetable for the tender of the service, the expected effects upon employee(s), a process for the formulation of an in-house bid and any other matters likely to affect the employee(s).~~
- ~~(iv) Where a contract is won by an in-house bid, an agreement stating the duration and other relevant terms shall be entered into.~~

40. COUNCIL AGREEMENTS

- (i) The parties agree to review operations at the council level on an ongoing basis with a view to providing enhanced flexibility and efficiency and to meet the particular working needs of the **employer** and its employees.
- (ii) The terms of any agreement reached between the parties shall substitute for the provisions of the Award provided that:
- (a) the extent of the agreement shall be limited to the Award's Clause 9, Performance Evaluation and Reward; Clause 11, Payment of Employees; Clause 15 subclauses (xi) and (xii), Travelling and Camping Allowances; Clause 18, Hours of Work; Clause 19, Overtime, Clause 20, Holidays; Clause 25, Part time Employment; and Clause 27, Job Share Employment.
- (b) the agreement does not provide less than the entry level rates of pay;
- (c) the agreement is consistent with the *Industrial Relations Act 1996* (NSW) and current wage fixing principles; and
- (d) the agreement shall be processed in accordance with subclause (iii) of this clause. Provided further that, where the agreement proposes to vary award provisions other than those nominated in paragraph (a) above, the agreement shall be processed in accordance with the Enterprise Arrangement Principle.
- (iii) A **Council Agreement** shall be processed as follows:
- (a) the unions shall be notified prior to the commencement of negotiations;
- (b) the agreement has been genuinely arrived at by negotiation without compulsion;

- (c) the agreement shall be committed to writing and shall include a date of operation and a date of expiration;
 - (d) the **employer** and the appropriate union(s) shall sign the agreement and a copy sent to the Association;
 - (e) Any party to a ~~C~~council ~~A~~agreement may at any stage during the above process refer the matter to the Industrial Relations Commission of NSW.
- (iii)
- (a) Section 44 of the *Industrial Relations Act 1996* (NSW) relating to the termination of enterprise agreements shall apply to the termination of council agreements made in accordance with this clause, and a council agreement may be terminated in the same manner as an enterprise agreement.
 - (b) Where a council agreement is terminated at or after the end of its nominal term by the giving of written notice to each other party to the agreement, at least three (3) months' notice shall be given. The notice may be served before the end of the nominal term.
 - (c) Termination of a council agreement is not effective until all of the parties to the agreement have been given written notice of the approval to terminate or of service of the notice of intention to terminate.

38. AWARD IMPLEMENTATION COMMITTEE

- ~~(i) The Award Implementation Committee (AIC) is established to facilitate a co-operative approach to award implementation.~~
- ~~(ii) The committee shall be comprised of the following representatives:~~
 - ~~• Two representatives from each of the Local Government and Shires Associations of New South Wales~~
 - ~~• One representative from the USU~~
 - ~~• One representative from depa~~
 - ~~• One representative from the LGEA.~~
- ~~(iii) The purpose of AIC is to assist councils to implement the provisions of the Award and/or to provide a forum for the discussion of issues that are of industry wide significance.~~
- ~~(iv) The committee will resolve problems and disputes which have been unable to be resolved at the local council level.~~
- ~~(v) It is open to employees through their unions and councils through their Association to raise issues with the committee.~~
- ~~(vi) A dispute may be referred to the Industrial Relations Commission of NSW in accordance with Clause 31, Grievance and Dispute Procedure, of this Award regardless of whether the matter is eligible for discussion before AIC.~~

41. SAVINGS AND TRANSITIONAL

- (i) **The employer** must ensure that employees engaged on incremental scales on or before 8 June 1992, continue to be paid in accordance with the

incremental scales as adjusted. This subclause does not apply in the following circumstances:

- (a) if **the employer** has an operative training plan which is sufficient to allow progression at least equal to that under the previous incremental scales;
 - (b) if an employee chooses not to undertake training consistent with **the employer's** training plan; and
 - (c) if the incremental scale provides a rate of pay less than the Award entry level rate of pay.
- (ii)
 - (a) No employee shall receive a reduction in pay as a result of the implementation of this Award or transfer to a ~~council~~ salary system.
 - (b) Unless otherwise agreed, employees, including seasonal workers, who are in regular receipt of penalty rates and/or shift penalties, aggregate rates of pay or other arrangements that compensate for hours of work shall either continue to receive such benefits or the payments prescribed by clause 18, whichever is the higher.
 - (c) The provisions in subclause (ii)(b) shall apply where ~~C~~council and ~~E~~enterprise ~~A~~agreements are terminated.
 - (d) The provisions in subclause (ii)(b) shall apply in addition to the Award increases prescribed by clause 43.
- (iii) Where employees, employed in areas where the **employer's** office is situated upon or to the west of a line starting from a point on the right bank of the Murray River opposite Swan Hill (Victoria), thence by straight lines passing through the following towns or localities in the order stated, viz: Conargo, Argoon, Hay, Rankin's Springs, Marsden, Condobolin, Peak Hill, Nevertire, Gulargambone, Coonabarabran, Narrabri, Moree, Wyallda, Ashford and Bonshaw; at the time of making this Award had an entitlement to receive one week's leave of absence with pay in addition to the ~~four weeks~~ annual leave provided ~~by at subclause 21D(i) of~~ this Award, the employee shall retain this entitlement whilst still employed by the **employer** at which they were working at the time of the making this Award.
- (iv)
 - (a) **West of the Line Allowance**
Where employees of the undermentioned council areas and those **employers** situated to the west thereof at the time of making this Award were paid at the rate per week as set out in Table 2 of Part B in addition to their rate of pay, those employees shall retain this entitlement whilst they continue to be employed by the **employer** at which they were working, at the time of the making of this Award; Moree Plains, Walgett, Narrabri, Coonamble, Warren, Lachlan, Carrathool, Leeton, Murrumbidgee, Windouran, Murray and Griffith.
 - (b) **Climatic Allowance**
Where employees working within the area bounded by the Shires of Snowy River, Tumut and Tumbarumba at the time of the making of this Award, were paid per week as set out in Table 2 of Part B or part thereof, those employees shall retain this entitlement whilst still employed by the **employer** at which they were working, at the time of the making of this Award.
 - (c) In addition to what is provided in paragraphs (a) and (b) of this subclause, the allowances shall be paid to those employees during

periods of absence on paid sick leave, public holidays and annual leave, but not otherwise.

- (v) Where an employee prior to 11 May 1995, had an entitlement to transfer accumulated sick leave from one employer to another employer in New South Wales, under the *Local Government Senior Officers' Award* the employee shall retain this entitlement.
- (vi) The implementation of this Award shall not result in the removal of any existing arrangement for an additional payment made by the employer for the payment of wages, excepting when such payment relates to FID.
- (vii) Where an on call employee has been paid a minimum payment for a public holiday on a regular basis, such arrangements shall continue, unless otherwise agreed.
- (viii) Where a casual employee engaged in a position on a regular and systematic basis has been paid casual loading on overtime prior to 1 November 2007, such arrangements shall continue while such employee is engaged in that position, unless otherwise agreed.

42. LEAVE RESERVED

- (i) Leave is reserved for the parties to the Award to apply to vary tool allowances as set out in Clause 15(vi)(a) and compensation of tools as set out in Clause 15(vi)(d) of this Award in line with the Crown Employees (Skilled Trades) Award.
- (ii) Following any adjustment to the federal *Local Government Industry Award 2010*, leave is reserved for the parties to apply to amend the vehicle allowances as set out in clause 15(x) and clause 15(xi)(j) of this Award to reflect such adjustment. The relevant adjustment factor for this purpose is 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).
- (iii) Following any adjustment to the federal *Local Government Industry Award 2010*, leave is reserved for the parties to apply to amend the meal allowance set out in clause 15(xiv) to reflect such adjustment. The relevant adjustment factor for this purpose is the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, take away and fast foods sub-group (Cat No 6401.0).
- (iv) Leave is reserved for the parties to the Award to apply to vary the traineeship wage rates in Clause 30E(xvi) in accordance with the pay scales derived from the federal *Local Government Industry Award 2010*.
- (v) Leave is reserved for the parties to the Award to apply to vary Clause 30, Junior and Trainee Employment, to reflect industry training needs.
- (vi) Leave is reserved for the parties to apply to vary the Award consistent with the principles of the Industrial Relations Commission of New South Wales in relation to the accreditation of council employees by the Building Professionals Board.
- (vii) Leave is reserved for the parties to apply to vary the Award to reflect legislative changes that relate to parental leave.

- (viii) Leave is reserved for the parties to apply to vary Clause 16C, variations to leaseback fees, to reflect future changes to fringe benefits tax.
- (ix) Subject to the necessary legislative changes occurring, which the parties undertake to pursue, leave is reserved for the parties to apply to vary Clause 21D, Annual Leave, to provide that employees may, with the consent of the employer, take annual leave at either full, half or double pay.

43. AREA, INCIDENCE AND DURATION

- ~~(i) This Award shall apply to all employees in Local Government within New South Wales, including employees of City of Penrith Regional Indoor Aquatic and Recreation Centre Limited (Ripples) and employees of committees of council established under the Local Government Act 1993. The Award does not cover those employees employed by Sydney City Council, Wollongong City Council and County of Yancowinna. And excepting those employees covered by the Local Government (Electricians) State Award, Butchers' Wholesale (Country) Award and Butchers' Wholesale (Newcastle and Northern) Award and Section 332 of the Local Government Act 1993 and Newcastle City Council employees covered by the Entertainment and Broadcasting Industry Live Theatre and Concert (State) Award.~~
- (i) This Award shall apply to all employers and employees:
 - (a) in local government in New South Wales; and
 - (b) in the local government industry in New South Wales as defined in this clause.
- (ii) In this Award local government industry in New South Wales means all activities undertaken by local government entities, including activities undertaken by corporations controlled by one or more local government entities. For the purposes of this sub-clause a corporation is controlled by one or more local government entities if one or more local government entities have the capacity to determine the outcomes of decisions about the corporation's financial and operating policies.
- (iii) The Award does not cover those employers and employees:
 - (a) whose positions are determined pursuant to section 332 of the *Local Government Act 1993* (NSW) to be senior staff positions;
 - (b) covered by the *Local Government (Electricians) State Award*;
 - (c) covered by the *Nursing Home &c Nurses (State) Award*;
 - (d) covered by the *Charitable Sector Aged and Disability Care Services (State) Award 2003*;
 - (e) covered by the *Charitable, Aged and Disability Care Services (State) Award*; and
 - (f) covered by the *Miscellaneous Workers Home Care Industry (State) Award*;
 - (g) employed by The City of Sydney;
 - (h) employed by Wollongong City Council;

- (i) employed by Broken Hill City Council (that being the County of Yancowinna);
 - (j) employed by Newcastle City Council and covered by the *Entertainment and Broadcasting Industry – Live Theatre and Concert (State) Award*;
 - (k) employed by the Moree Artesian Aquatic Centre and principally engaged in the duties of the MAAC Ltd Wellness Centre within the premises known as the MAAC Ltd; and
 - (l) employed by Newcastle Airport Pty Limited.
- (iv) This Award shall rescind and replace the *Local Government (State) Award 2010* published the ~~thirty first~~ day of ~~December~~, 2010 (370 IG 648) and all variations thereof.
 - (v) This Award shall operate from the commencement of the first pay period on or after the 1 July 2014 and shall remain in force for a period of three years.
 - (vi) The Award in column (a) of Table 1 of Part B provides for a 2.6% increase in rates of pay with a minimum payment of \$20.40 per week to operate from the first full pay period to commence on or after 1 July 2014.
 - (vii) The Award in column (b) of Table 1 of Part B provides for a 2.7% increase in rates of pay with a minimum payment of \$21.80 per week to operate from the first full pay period to commence on or after 1 July 2015.
 - (viii) The Award in column (c) of Table 1 of Part B provides for a 2.8% increase in rates of pay with a minimum payment of \$23.20 per week to operate from the first full pay period to commence on or after 1 July 2016.
 - ~~(vii) The Award in column (d) of Table 1 of Part B provides for a 3.25% increase in rates of pay with a minimum payment of \$23.00 per week to operate from the first full pay period to commence on or after 1 July 2013.~~
 - ~~(viii) It is the intention of the parties that there shall be a 12 month delay between the 1 July 2013 increase in rates of pay under this Award and the increase in rates of pay under the award to succeed this Award. In agreeing to this award, the parties have undertaken not to pursue increases in rates of pay and existing allowances (other than to increase existing allowances in accordance with the terms of this Award) until 1 July 2014. This subclause shall not prevent the parties from holding discussions in relation to future adjustments to award rates of pay and allowances.~~
 - (ix) The increases in rates of pay provided by this Award shall apply to the rates of pay in employer's salary system.
 - (x) The increases granted by this Award may be absorbed into enterprise increases granted since 29 May 1991 exceeding any award increases since that date, that is an \$8 safety net adjustment and increases of 6%, 2.5%, 2.5%, 3.5%, 3.25%, 3.25%, 2.7%, 3.3%, 3.25%, 3.25%, 4.0%, 3.5%, 3%, 3.2%, 3.2% ~~and~~ 3.2%, 2.6%, 2.15%, 3.25% and 3.25% provided that the following increases shall not be absorbed:
 - (a) placement or progression within the employer's salary system;
 - (b) increases in hours of work; and

- (c) incorporation of penalty rates and shift or other allowances into the employee's rate of pay.
- (xi) In agreeing to increases in rates of pay for the term of this Award, the parties recognise that employers and employees have and shall continue to engage in enterprise bargaining.
- ~~(x) Clause 15(xv) (Civil Liability – Engineering Professionals) shall be effective from the first pay period commencing on or after 15 December 2006.~~
- ~~(xiv) The variation to Clause 18A(v) Overtime shall be effective on and from 16 August 2011.~~
- ~~(xv) The variation to Clause 20E Long Service Leave shall be effective on and from 16 August 2011.~~
- ~~(xvi) The variation to Clause 20H Paid Parental Leave shall be effective on and from 16 August 2011.~~
- ~~(xvii) The increase to Clause 14(xiv) Meal Allowance shall take effect from the first full pay period commencing on or after 1 July 2013.~~
- ~~(xviii) The increases to Clause 29E(xvi) Government Funded Traineeships shall take effect from the first full pay period commencing on or after 1 July 2013.~~
- ~~(xix) The increase to Clause 14(x) and Clause 14(xi)(j) Vehicle Allowances shall take effect from the first full pay period commencing on or after 1 July 2013.~~
- ~~(xx) The increase to Clause 14(vi)(a) Tool allowances and Clause 14(vi)(d) Compensation of tools shall take effect from the first full pay period commencing on or after 3 September 2012.~~

PART B

MONETARY RATES – TABLE 1

CLAUSE 6- RATES OF PAY

| Band/Level | (a) Rate Per Week \$ | (b) Rate Per Week \$ | (c) Rate Per Week \$ |
|---|--|--|--|
| | First Pay Period 01/07/14 | First Pay Period 01/07/15 | First Pay Period 01/07/16 |
| Operational Band 1 | | | |
| Level 1 (Juniors and Trainees) | | | |
| T1 at 15 years of age | 360.90 | 370.60 | 381.00 |
| T2 at 16 years of age or School Certificate | 450.30 | 462.50 | 475.50 |
| T3 at 17 years of age | 530.00 | 544.30 | 559.50 |
| T4 at 18 years of age or over or HSC | 619.50 | 636.20 | 654.00 |
| T5 | 709.50 | 728.70 | 749.10 |
| T6 | 766.00 | 786.70 | 808.70 |
| T7 | 803.70 | 825.40 | 848.50 |
| T8 | 842.40 | 865.10 | 889.30 |
| T9 | 881.20 | 905.00 | 930.30 |
| T10 | 921.20 | 946.10 | 972.60 |
| | | | |
| Level 2 | 748.70 | 770.50 | 793.70 |
| Level 3 | 804.60 | 826.40 | 849.60 |
| Level 4 | 891.00 | 915.10 | 940.70 |
| | | | |
| Administrative/Technical/Trades Band 2 | | | |
| Level 1 | 881.20 | 905.00 | 930.30 |
| Level 2 | 1,010.40 | 1,037.70 | 1,066.80 |
| Level 3 | 1,209.30 | 1,242.00 | 1,276.80 |
| | | | |
| Professional/Specialist Band 3 | | | |
| Level 1 | 1,010.40 | 1,037.70 | 1,066.80 |
| Level 2 | 1,209.30 | 1,242.00 | 1,276.80 |
| Level 3 | 1,408.30 | 1,446.30 | 1,486.80 |
| Level 4 | 1,707.30 | 1,753.40 | 1,802.50 |
| | | | |
| Executive Band 4 | | | |
| Level 1 | 1,607.40 | 1,650.80 | 1,697.00 |
| Level 2 | 2,005.70 | 2,059.90 | 2,117.60 |
| Level 3 | 2,503.20 | 2,570.80 | 2,642.80 |
| Level 4 | 3,000.50 | 3,081.50 | 3,167.80 |

Note: T stands for Trainee

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CLAUSE 30E (XVI) – TRAINEESHIP WAGE RATES

| | Highest Year of School Completed | | |
|---------------------------|----------------------------------|---------------|---------------|
| | Year 10 \$ | Year 11 \$ | Year 12 \$ |
| School Leaver | 279.50 | 307.90 | 366.80 |
| Plus 1 year out of school | 307.90 | 366.80 | 426.80 |
| Plus 2 years | 366.80 | 426.80 | 496.70 |
| Plus 3 years | 426.80 | 496.70 | 568.70 |
| Plus 4 years | 496.70 | 568.70 | |
| Plus 5 years or more | 568.70 | | |

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MONETARY RATES – TABLE 2 ALLOWANCES

| | First Pay Period 01/07/14 \$ | First Pay Period 01/07/15 \$ | First Pay Period 03/09/16 \$ |
|--|---------------------------------------|---------------------------------------|---------------------------------------|
| Clause 15(i)(a) Disability Level 1 Adverse Working Conditions Allowance | 0.37p.h. or | 0.38p.h. or | 0.39p.h. or |
| | 14.20p.w. | 14.60p.w. | 15.00p.w. |
| Clause 15(ii) Disability Level 2 Adverse Working Conditions Allowance | 0.99p.h. or | 1.02p.h. or | 1.05p.h. or |
| | 37.70p.w. | 38.70p.w. | 39.80p.w. |
| Clause 15(iii) Sewer Chokes | 8.12p.d. | 8.33p.d. | 8.57p.d. |
| Clause 15(vi)(a) Tool Allowances | | | |
| Bricklayer | 20.00p.w. | 20.00p.w. | 20.00p.w. |
| Carpenter & Plumber | 28.10p.w. | 28.10p.w. | 28.10p.w. |
| Metal & Mechanical Trades | 28.10p.w. | 28.10p.w. | 28.10p.w. |
| Painter & Signwriter | 6.80p.w. | 6.80p.w. | 6.80p.w. |
| Plasterer | 28.10p.w. | 28.10p.w. | 28.10p.w. |
| Clause 15 (vi)(d) Insurance Value | 1628.00p.a | 1628.00p.a | 1628.00p.a |
| Clause 15 (x) Vehicle Allowances (cents per km) | | | |
| (a) Under 2.5 litres | 0.67p.km. | 0.67p.km. | 0.67p.km. |
| 2.5 litres and over | 0.76p.km. | 0.76p.km. | 0.76p.km. |
| (b) Minimum quarterly payment | 1843.05 | 1843.05 | 1843.05 |
| Clause 15(xi)(f) Travelling Allowances | | | |
| 3 - 10 km | 4.57p.d. | 4.69p.d. | 4.82p.d. |
| 11 - 20 km | 7.22p.d. | 7.41p.d. | 7.62p.d. |
| 21 - 33 km | 10.46p.d. | 10.74p.d. | 11.04p.d. |
| 34 - 50 km | 16.00p.d. | 16.43p.d. | 16.89p.d. |
| Each additional 10kms | 4.30p.d. | 4.42p.d. | 4.54p.d. |
| Clause 15(xi)(j) Vehicle Allowance (cents per km) | | | |
| Under 2.5 litres | 0.67p.km. | 0.67p.km. | 0.67p.km. |
| 2.5 litres and over | 0.76p.km. | 0.76p.km. | 0.76p.km. |
| Clause 15(xii)(a) Camping Allowance | 51.30p.n. | 52.69p.n. | 54.16p.n. |
| Clause 15 (xiii)(a) Community Language Allowance | 20.20p.w. | 20.80p.w. | 21.30p.w. |
| Clause 15(xiii)(b) First Aid Allowance | 13.60p.w. | 14.00p.w. | 14.40p.w. |
| Clause 15(xiv) Meal Allowance | 14.08 | 14.08 | 14.08 |
| Clause 15(xv) Civil Liability Loading (payable from the first pay period commencing on or after 15 December 2006) | 3.5% | 3.5% | 3.5% |
| Clause 19C (iii) On Call Allowance on ordinary working days | 17.89p.d. | 18.38p.d. | 18.89p.d. |
| Clause 19C (iv) On Call Allowance - on other days | 35.02p.d. | 35.96p.d. | 36.97p.d. |
| Clause 19C (v) On Call Allowance - maximum per week | 159.50p.w. | 163.80p.w. | 168.40p.w. |
| Clause 41(iv) Savings and Transitional | | | |
| (a) West of the Line Allowance | 3.90p.w. | 3.90p.w. | 3.90p.w. |

| | | | | |
|-----|--------------------|----------|----------|----------|
| (b) | Climatic Allowance | 3.90p.w. | 3.90p.w. | 3.90p.w. |
|-----|--------------------|----------|----------|----------|

Key: p.h. = per hour
p.a. = per annum
p.d. = per day
p.w. = per week
p.n. = per night
p.km. = per kilometre

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SCHEDULE 1

MINIMUM STANDARDS OF CARAVAN ACCOMMODATION TO BE PROVIDED TO EMPLOYEES REQUIRED TO CAMP OUT

Where employees camp out **the employer** shall provide suitable caravan accommodation for the employees concerned in accordance with the following minimum standards:

- (a) Caravans shall be of such size as to provide adequate space for each employee and no more than two employees should be accommodated in any one caravan.
- (b) The walls and ceilings of the caravan shall be of sound construction and shall be insulated. Fly screen doors and windows shall be fitted and all openings adequately sealed against dust and/or weather conditions. Adequate steps shall be provided at each door.
- (c) The floor is to be covered with vinyl tiles, linoleum or other acceptable standard floor covering.
- (d) Reverse cycle or refrigerated air conditioning or other agreed cooling device and/or heater shall be provided in each caravan and shall be appropriately maintained.
- (e) Two separately located suitable bedding shall be provided together with suitable mattresses.
- (f) A fixed separate table shall be provided with two separate seats and brackets so as to provide for the taking of meals comfortably.
- (g) A wardrobe shall be provided for each employee, ensuring adequate clothes hanging space, fitted with shelf.
- (h) A personal bed locker shall be located at each bed. This shall consist of at least one shelf and door.
- (i) Each camp shall be supplied with an electric generator or other suitable power source that is of the low decibel type and the generator shall be housed in such a manner so as to provide for noise insulation. The generator shall be sufficiently powerful so as to service each appliance that is within or is associated with the use of the van. Generators shall be appropriately maintained.
- (j) Adequate electric lighting shall be installed in the caravan and sufficient external lighting shall be provided so as to allow for safe access to toilet facilities and vehicles.
- (k) Each caravan shall be equipped with a suitable refrigerator; a stove with two burners and a grill and, where such stove is an l.p.g. stove, shall be fitted with safety tap. A sink with basin pump connected to a storage water tank of sufficient capacity shall be provided. The water tank shall have an external tap. An adequate supply of cool drinking water shall be provided.
- (l) A food and utensils storage cabinet suitably equipped with pots, pans and kettle and sufficient bench space shall be provided to allow for the preparation of meals.
- (m) Showering facilities shall be included in the caravan. Each shower cubicle shall be provided with a shower curtain and rod, soap holder, hot and cold water and non-slip floor. Soap and other suitable cleaning agents shall be provided for employees taking showers, such cleaning agents should be of a type that will safely remove an unwanted substance with which the employee has come in contact. Adequate lighting and ventilation shall be provided in the shower area.

- (n) The carrying and storage of fuel and **employer** stores within the internal frame of the caravan will not be permitted under any circumstances. Employers shall provide for the safe keeping of employees tool kits and personal belongings, including when employees are off the site. Provision shall be made to allow for safe storage of hand tools and other equipment during meal and other breaks.
- (o) Kerosene heating, cooking and/or lighting are not considered to be suitable facilities.
- (p) Suitable cleaning equipment shall be provided together with storage facilities for such equipment.
- (q) Access to and egress from all amenities shall be kept clear at all times.
- (r)
 - (i) Garbage bins, which are vermin/fly proof with secure lids shall be provided together with removable and sealable bin liners.
 - (ii) Adequate toilet facilities shall be provided and positioned to provide privacy and so as to preclude odours reaching meal and/or accommodation facilities.
- (s) Washing facilities shall be provided under cover and an adequate supply of soap and paper towels shall be provided and replaced as needed. A vermin/fly proof garbage bin with removable liner and secure lid shall be provided in the vicinity of the washing facilities and emptied when necessary.
- (t) Caravans shall be regularly inspected for maintenance purposes and a record book kept by **employer** indicating the age of the vans and maintenance work carried out on the vans.