



COMMUNITY & PUBLIC SECTOR UNION ♦ SPSF GROUP NSW BRANCH

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22 June 2017

David Harris
Chief Executive Officer
Water NSW
PO Box 389
Parramatta NSW 2124

By email: david.harris@watersw.com.au

Dear David,

Re: Fair Work Commission - Annual Wage Review 2016-17 [2017] FWCF 3500

The Community and Public Sector Union (CPSU) wrote to you last week on behalf of the CPSU, the Australian Services Union (ASU) and Professional Australian (PA) (the Unions), on the 14 June 2017 notifying Water NSW of the Fair Work Commission's Annual Wage Review and its impact on salaries for some Water NSW employees. The Unions notes that no official response has been provided yet.

Even so, the Unions thank Water NSW for recognising that the [FWC Annual Wage Review 2016-17 decision](#) has flowed onto the salaries of a majority of your employees. As previously requested, the Unions would like Water NSW to pass on comparable pay rises administratively to the rest of the workforce to ensure that ALL employees are treated fairly and equitably.

As for the quantum, the Unions rejects managements assertions to employees on Tuesday that the lower amount is what is owed. As was pointed out in Daniel Lucas's email, the 3.3% is payable unless a State minimum wage decision in 2016 applied to the respective award.

For former DPI Water and former SCA employees, none of the previous State awards were subject to the NSW Industrial Relations Commission [State minimum wage decision in 2016](#), or by the [State minimum wage decision in 2015](#), or by the [State minimum wage decision in 2014](#).

The Decisions and Orders of the NSW IRC considered the Federal minimum wage decision of the Fair Work Commission and determined that it should be passed on to specific state awards. The listed awards in these decisions do not include the [Crown Employees \(Public Sector - Salaries 2016\) Award](#) or the [Sydney Catchment Authority Consolidated Award 2015-2016](#).

The State minimum wage decisions in 2015 and 2016 came into effect well past the date that employees were transferred to Water NSW. The Copied State

Awards that come into effect on the transfer of employees from a State employer to a National System Employer is **as at the date of transfer**. Later decisions on the original state awards **do not impact the terms of the copied state awards**.

The State awards subject to the State minimum wage decisions in 2014, 2015 and 2016 are:

List of Awards Subject to the Public Sector Wages Policy 2011

- 135 Clerical and Administrative Employees (State) Award
- 218 Security Industry (State) Award
- 550 Motels, Accommodation and Resorts, &c. (State) Award
- 557 Restaurants &c., Employees (State) Award
- 601 Shop Employees (State) Award

List of Awards Not Subject to the Public Sector Wages Policy 2011

- 007 Marine Charter Vessels (State) Award
- 759 Nursing Homes, &c., Nurses (State) Award
- 1925 Local Government Aged, Disability and Home Care (State) Award
- 4229 Nurses. (Private Sector) Training Wage (State) Award

Please note that the [Clerical and Administrative Employees \(State\) Award](#) is a separate Award to the [Crown Employees \(Administrative and Clerical Officers – Salaries\) Award 2007](#).

As referenced in Daniel Lucas's email to employees on 20 June 2016, the following Decision from paragraph [699] of the [FWC Annual Wage Review 2016-17 decision](#) applies to copied State awards.

What did the Fair Work Commission determine?

The FWC have decided that:

- “an increase of 3.3 per cent applies to wage rates in copied State awards that were not the subject of a state minimum wage decision that commenced on and before 1 July 2016;
- an increase of 1.65 per cent applies to wage rates in copied State awards that were the subject of a state minimum wage decision that commenced after 1 July 2016 and before 1 January 2017; and
- no increase applies to wage rates in copied State awards that were the subject of a state minimum wage decision that commenced on or after 1 January 2017 and before 1 July 2017.”

The NSW state minimum wage decision was dated 4 November 2016, some 4 months after DPI Water employees transferred to Water NSW and no longer impacted by NSW IRC Decisions. SCA employees had transferred to Water NSW in 2015.

Even if the ex DPI Water employees' former state award was impacted by the NSW State minimum wage decision in 2016, the decision is not incorporated into the copied state award as it applied months after the employees were transferred to Water NSW and the copied state award was created.

The [Crown Employees \(Public Sector - Salaries 2016\) Award](#) is a new consent award made on 24 June 2016 and came into effect on 1 July 2016, the same day ex DPI Water employees commenced employment at Water NSW. The state Award and the copied state award were not impacted by the [State minimum wage decision in 2016](#) later that year.

In Daniel Lucas's email he claims that Water NSW was only required to pay ex SCA employees 1.2% based on the [2016 FWC Annual Wage Review decision](#), found in paragraph [593]. This is also not accepted for the same reasons described above. The SCA Award was not subject to the NSW minimum wage decision in 2015 and, following paragraph [593] of the [2016 FWC Annual Wage Review decision](#), SCA employees were entitled to a pay rise of 2.4%. The Unions accepts this was covered by the administrative pay rise of 2.5% from 1 July 2016 paid to all Water NSW employees.

The CPSU claims that both ex SCA and ex DPI Water employees are entitled to the full 3.3% pay rise from the 2017 Fair Work Commission Annual Wage Review decision, noting that ex SCA wages may be adjusted for the additional 0.1% in 2016.

The Unions assert that **ALL Water NSW employees should be treated fairly and equally, and have the 3.3% pay rise passed** on regardless of the underlying industrial instrument. Can Water NSW please confirm whether the 3.3% will be passed on, and if it will be passed on for all employees?

If you have any enquiries regarding this matter, and to respond, please contact CPSU Industrial Manager Blake Stephens on bstephens@psa.asn.au or 0409 993 976, Professional Australia Senior Industrial Officer Margaret Buchanan on mbuchanan@professionalsaustralia.org.au, Australian Services Union Senior Organiser Mal Tulloch mtulloch@asu.org.au.

Yours sincerely,



Blake Stephens
For Karen Batt
Federal Secretary

cc: *Rod Smith, rod.smith@waternsw.com.au*
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