

27 August 2020

Response to CPSU NSW Log of Claims – *Northcott Society Enterprise Agreement 2020 - 2022*

WITHOUT PREJUDICE

Number	Item	
1	The maintenance of all existing conditions of employment within the copied State awards, unless otherwise improved or amended to comply with the Fair Work Act as a result of negotiations with the CPSU NSW.	As set out in the covering letter.
2	Establishment of consistent conditions of employment for employees undertaking the same role.	Northcott partially agrees. You clarified that this claim is that all staff be eligible to receive the conditions set out in the Copied State Award. Northcott, by a new Agreement, are seeking to establish consistent conditions across it's employees, but those conditions will be largely modelled off industry standards, our current Enterprise Agreement and the Modern Awards; with some exceptions of grandfathering for staff currently covered by the Copied State Awards (CSA).
3	The proposed scope of the Agreement be narrowed to include only employees within the Frontline disability workers and direct supervisors category.	Northcott does not agree. Northcott does not intend to scope out only Frontline disability workers. See initial and separate correspondence on this point.
4	To help minimise disputation and disagreement, the Agreement should be written in plain English to ensure that it is understood by both employees and management.	Northcott agrees to do what it can to ensure the Agreement is both easy to understand and reflective of the industrial affect and intended impact of the clauses.
Consultation		
5	Northcott will maintain a Joint Consultative Committee (JCC) for consultation on matters affecting employees covered by the Agreement, with an understanding what matters are to be brought before the JCC. This is to be in accordance with the meaning of the current provisions within the copied State awards.	Northcott acknowledges that further discussion is required with all Unions around this item
6	Where policies and guidelines affect employees they are only to be made or varied after negotiation with the Union.	Northcott does not agree. Northcott intends to engage in genuine consultation on matters that require staff consultation. Northcott believes the consultation clauses in the Modern Awards as reflected in the current Enterprise Agreement provide this outcome in the fairest manner for the parties.
7	A stronger union role during consultation in the change management	Northcott acknowledges that further discussion is required with all Unions around

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	process. The Agreement will provide enhanced measures to ensure increased accountability and transparency.	this item
Salary and Related Matters		
8	The salary's hourly rate from the copied State award is to be transferred to this new Agreement.	<p>Northcott does not agree. As set out in the Letter, Northcott is a not for profit organisation highly dependant on external regulators for funding and pricing parameters. Its profits go directly back into the company to better employment conditions and services for our staff and customers. The CSA rates of pay are not industry standard and are not consistent with the funding model that Northcott operates within.</p> <p>Northcott does however intend to increase the current Enterprise Agreement rates for Support Workers to reduce (as far as possible) any loss felt by our Disability Support Workers who are currently paid at rates under the CSA. In addition, to mitigate any loss experienced, Northcott will offer Salary Packaging <i>and</i> is proposing to maintain their rates of pay for a period of time during the life of the agreement.</p> <p>See more in Letter</p>
9	Negotiated and fully funded Salary (and allowance) increases guaranteed over the life of the Agreement. Employees are to be reimbursed for any delays and each pay increase will compound onto the previous salary.	<p>See item 8 above.</p> <p>It is Northcott's intention to finalise the process of negotiations as soon as possible to enable our staff to access the best conditions possible as set out in the coming Enterprise Agreement. Northcott proposes to backdate the proposed parental leave provisions.</p>
10	Redundancy payment is to be increased closer to the payments within the Managing Excess Employees Policy.	Northcott does not agree. As explained prior, Northcott is a Not For Profit organisation. Northcott believes the National Employment Standards adequately provide for circumstances where redundancies occur. Northcott's current provisions are more generous than the NES provisions. We do not consider that these provisions require review.
11	Specific provision for the protection of injured employees' entitlements through make-up pay, or other appropriate measures.	Northcott reiterates your explanation in our meeting on 30 July 2020 that statutory provisions for Worker's Compensation payments can cover up to 95% of staff's average weekly earnings for the first period of an injury, and then drops

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		<p>slightly for some time. Northcott considers that this statutory approach is sufficient to protect employee's who have been injured.</p> <p>CPSU agreed to provide a draft clause on this point which we are awaiting.</p>
Training:		
12	Disability Support Workers are to have at minimum a certificate III in Disability, or equivalent experience.	<p>Northcott considers the qualification requirements described in the SCHADS Award are appropriate for Support Workers as they currently apply</p> <p>Northcott acknowledges that some circumstances in some of services are more complex than others and some staff possess knowledge and skill to better address these circumstances. As such Northcott is proposing a Support Worker classification that accommodates for a more complex worker with a distinct work value (See Support Worker Classification Structure attached).</p>
13	Service Coordinators are to at minimum have: a) certificate IV in Disability; and b) Certificate in frontline management. Or equivalent experience	As item 12 above
14	Northcott will pay for clearance checks required for employment, include but is not limited to Police checks.	Northcott does not agree. Northcott is aware that a significant number of our staff engage in or are considering employment with multiple organisations. Northcott does not consider the cost of clearances required for employment across multiple employers should be borne by the employer
15	Training which is essential for employees to continue working will be paid for, or provide at no cost to employees. The training will be able to be undertaken on work time.	<p>Northcott does not agree. On 30 July, you elaborated on this item and noted that the claim is for Mandatory Training to be completed outside of team meetings and during work time.</p> <p>Northcott suggests this should be discussed in JCCs and is not suitable to be included in the Enterprise Agreement</p>
16	No employee working in Supported Independent Living will commence employment at a site until they have undertaken the induction for the site.	<p>Northcott does not agree to include this provision in the Enterprise Agreement. Notwithstanding that, we undertake to include discussion around this matter in the Joint Consultative Committees facilitated by the Agreement.</p> <p>. In discussions on 30 July 2020, you explained that this claim is a request for the following:</p> <ul style="list-style-type: none"> • A min 3 hour site induction (while the inductee is on a supernumerary shift);

		<ul style="list-style-type: none"> A clause in the Enterprise Agreement which forces an employee to undertake 'mandatory induction' within a specified time frame. <p>We note that the CPSU provided an undertaking on the 30th of July 2020 to provide a draft clause relating to this provision which to date has not been received.</p>
Hours of Work:		
17	Provisions are to be implemented for flexible working arrangements in accordance with the Fair Work Regulations and are expressed a strong and non-ambiguous way.	Northcott is required to abide by the provisions of the NES (in the <i>Fair Work Act 2009</i> (Cth)) notwithstanding the content of our Enterprise Agreement. Accordingly, Northcott does not propose at this stage to implement a clause regarding flexible working arrangements so that it avoids offending the NES or misleading staff in relation to it. We do not object, however, to referring to it within the Enterprise Agreement.
18	There will be no unpaid meal breaks.	<p>Northcott does not agree. Northcott maintains that employees should avail themselves of a break from work as per the Award and current Enterprise Agreement provisions. Northcott also considers that the industrial principle of 'a fair days work for a fair days pay' insofar as where staff are not required to work on their break it is not appropriate to remunerate for the period of the break.</p> <p>We note that in our discussion on 30 July, you noted a number of concerns in the management of breaks/rosters around breaks. Northcott considers these concerns to be suitable discussion points for continuous JCCs.</p>
19	Increase to the minimum shift length.	<p>See minimum shift length provisions offered in Letter. On 30 July you requested a 5 hour minimum shift length. Northcott does not agree to extend the minimum shift length to 5 hours, but proposes (as set out in the letter) to increase minimum shift lengths to 3 hours instead of 2.</p> <p>Northcott intends to continue discussing the use of short shifts in JCCs to ensure fair and efficient rostering practices are maintained</p>
20	No provision for sleepover shifts, or ensure there are very strict provisions/criteria for sleepover shifts.	Northcott does not agree to remove Sleepover shifts. Northcott understands that this claim is to remove completely the current provision relating to sleepover shifts. Northcott is prohibited from seeking funding for a staff member to be paid at awake shift rates unless we can prove to the NDIA that it is necessary for the

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		<p>staff member to be awake for the shift.</p> <p>Alternatively, you requested that the current EA clause should be replaced by the current CSA clause 10(v) for when and how sleepover shifts can be used.</p> <p>Northcott does not agree that these reflect current industrial standards.</p>
Leave:		
21	That delegates will be released from duty and be regarded as on duty, therefore not have to apply for leave to attend meetings in their capacity as a delegate, including attendance at delegates councils.	<p>Northcott does not agree to the release of delegates for the purposes of attending Union Councils. In discussions on 30 July, you clarified that you seek that CSA provisions in this respect replace the current Enterprise Agreement provisions. Northcott notes that such a provision does not reflect the current status of Northcott as a not for profit, nor the current industrial standards within this sector.</p> <p>However, Northcott is prepared to continue discussions on this point to consider whether any amendments can occur to capture the needs of CPSU members and Northcott's management</p>
22	Improvements to the paid Domestic Violence Leave that currently exists within the copied State awards. Including access to additional leave specifically for the purpose of attending medical appointments, legal proceedings, re-housing and other activities related to escaping a domestic violence situation	See Domestic Violence Leave provisions offered in Letter. During discussions on 30 July, it was clarified that this claim is for 10 days of paid domestic violence leave. Northcott agrees to include a provision to ensure staff accessing the Domestic and Family Violence unpaid leave do not lose pay for those days.
23	Improvements to paid parental leave with the introduction of payment for surrogacy.	See Parental Leave provisions offered in Letter.. During discussions on 30 July, you requested that Northcott increases the number of weeks of paid leave to 16 or 18 weeks of paid primary carer's leave. Northcott propose to increase the number of weeks but not to that extent.
24	Leave entitlements will be adjusted to ensure there is no loss of leave if there are any adjustments to the hours of work.	In discussions you noted that if the current scope remains, CPSU propose that staff (such as admin CSA staff; ie rostering team) will continue to accrue leave at their current rates, even though the work week would change from 35 to 38 hours per week. Northcott is willing to consider this further as a component of the Grand parenting provisions.
General Conditions:		

25	Improvements to secure employment through the addition of the conversion of term employees to ongoing employment, with the employee's agreement, as well as conversion for employees working long term with higher duties.	<p>Northcott's current Enterprise Agreement reflects the current Modern Award and <i>Fair Work Act 2009</i> (Cth) in relation to the conversion of casual and part-time staff to other part-time and full-time. Northcott is of the opinion that its current provisions are sufficient for this purpose.</p> <p>Northcott is willing to further discuss the claim regarding conversion for employees working higher duties for an extended period of time however we consider that this issue is more appropriately addressed in the Consultative Committee forum.</p>
26	Inclusion of a process for the management of conduct and performance, including the prohibition on suspension without pay. These processes are to be in accordance with the principles of natural justice.	<p>Northcott does not agree. Northcott does not suspend a person without pay (except casual staff) if they are under investigation. In discussions on 30 July, it was explained that this claim also included a request that Northcott repay casual staff for any loss of pay they may have endured during a period of suspension if allegations against them are cleared. Northcott is of the opinion that as a casual employee, there is no guarantee of work and therefore, it would not be appropriate to back pay casualls in this way.</p> <p>In relation to including 'natural justice' principles into the Enterprise Agreement, Northcott's opinion is that it's current policies, procedures, and legal obligations (including the <i>National Disability Insurance Scheme (Procedural Fairness) Guidelines 2018</i> (Cth)) obliges Northcott and its managers to engage Natural Justice Principles during investigations/performance management and misconduct process.</p> <p>Northcott does not agree such a claim is appropriate in Enterprise Agreement. An EA is created to set out the binding entitlements available to employees. It is not appropriate to include broad principles of 'natural justice'; being principles which cannot easily be enforced.</p> <p>Finally, Northcott encourages members of the CPSU to raise any concerns they have that natural justice has not been followed directly with their relevant manager or in JCCs.</p>
27	Dispute resolution clause in accordance with the <i>Fair Work Regulations</i> is to include compulsory arbitration.	Northcott does not agree to include arbitration powers for the purposes of resolving disputes into the Enterprise Agreement.
28	That the Agreement will explicitly provide a zero tolerance of all forms	Northcott does not agree. Please see response to item 26. The relevant laws in

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	of discrimination, bullying and harassment; will provide a specific framework for dealing with allegations of discrimination, bullying and harassment, and will contain specific measures to prevent repetition of such behaviour in individuals, and within work units.	respect to discrimination, bullying and harassment are the <i>Fair Work Act 2009</i> (Cth), the <i>Anti-Discrimination Act 1977</i> (NSW) and the discrimination acts of the Commonwealth.
29	Monthly team meeting will occur for Supported Independent Living employees. These team meetings are to be four hours in length and regular casuals working at the site are to attend in paid time.	Northcott does not agree to include this provision in the Enterprise Agreement. Notwithstanding that, we undertake to include discussion around this matter in the Joint Consultative Committees facilitated by the Agreement.
30	Employees cannot be adversely affected at work because they are experiencing domestic violence - for example not being disciplined for job performance problems or denied opportunities for promotion	Northcott agrees in principle to the stated intent of this provision. We note that the CPSU provided an undertaking on the 30 th of July 2020 to provide a draft clause relating to this provision which to date has not been received.
31	The agreement requires parties to commence bargaining at least four months prior to the nominal expiry date.	Northcott does not agree. According to the <i>Fair Work Act 2009</i> (Cth), parties are prohibited from bargaining before the nominal expiry date. To include in the Enterprise Agreement such a clause would be inconsistent with the provisions of the Act.
32	All employees shall be provided with supervision and training.	Northcott does not agree. As discussed on 30 July, this claim was in response to the fact that casual staff are not receiving consistent supervision or training. Northcott does not agree a provision making it mandatory for supervision to occur would amend this issue nor appropriate for an Enterprise Agreement. Northcott does not agree to include this provision in the Enterprise Agreement. Notwithstanding that we undertake to include discussion around this matter in the Joint Consultative Committees facilitated by the Agreement.
33	The CPSU NSW seeks a 3-year agreement subject to the outcome of negotiations.	Please see covering letter
34	The CPSU NSW reserves the right to raise additional bargaining issues as they arise during the course of bargaining negotiations	