

28th August 2020

Ms Jessica Moore
Industrial Officer
Community and Public Sector Union
160 Clarence Street

By Email: jmoore@psma.asn.au

Sydney NSW 2001

"WITHOUT PREJUDICE"

Dear CPSU Officers and Delegates,

We refer to our recent discussions and correspondence regarding the agreement making process parties are engaged in. We provide the following comments for further discussion at our meeting on Monday 31 August 2020.

Northcott is a not for profit Disability Services provider. Our goal is to provide the best possible service to members of the community and their families that choose to use us as their disability service provider. The intention is to provide this service in a way that maximises their quality of life and minimises any restriction to their capacity to live their fullest life. Northcott is also committed to providing our staff with terms and conditions that are not only fair but attractive to those working in the Disability Services industry whilst being relevant to the disability services industry of 2020.

The terms offered (without prejudice) below are being offered after considering the principles outlined in earlier correspondence, and discussions with parties.

General Principle

The current Enterprise Agreement, registered on 24 May 2017, was subject to a Better Off Overall Test against the Social, Community, Home Care and Disability Award 2010 (SCHADS) and the Health Professionals and Support Services Award 2010 ("HPSS"). That document, inclusive of the undertakings, is utilised as the base document for a New Agreement. The headings below go to areas where this base document is intended to be changed. These changes are determined by a number of factors, specifically i) to accommodate variations to the relevant Modern Awards since 24 May 2017, ii) to include additional terms developed as a result of these agreement making processes, and iii) to capture Northcott staff under one agreement.

Duration - An Agreement with a nominal expiry date of 2 November 2022

The rationale for this timeframe is based on the current environment of change and likely further review of the industrial relations environment for disability services. As such we would be proposing a nominal expiry date of 2 November 2022.

Parties (Scope)

Northcott considers that the unification of employees under one Enterprise Agreement is the fairest as well as most operationally practical and beneficial approach to the agreement making process.

The current agreement is intended to be expanded to include the Nursing classifications as well as extend to the administrative positions of ADM 6, ADM 7 and SS1 classifications currently used by Northcott but engaged under a combination of Award and common law contract provisions.

We maintain that where the nuances of the different workforces need to be accommodated, this can be achieved through the use of caveat and subclauses as well as the attachment of appendix where required. The nature of the provision of Disability Services is determined by the NDIA regardless of classification used to deliver the service and as such the use of a single industrial instrument provides significant clarity for Northcott and its staff.

The intersection of the NES and this Agreement

There are a number of clauses within the Current Enterprise Agreement that copy provisions of the National Employment Standards (NES) (as found in the *Fair Work Act 2009* (Cth)) within including additional or better entitlements. We propose to clarify to all staff that where the NES provides better entitlements than those provided under the EA, the NES provisions will apply.

Further, to:

- (a) avoid confusion;
- (b) avoid offending the NES; and
- (c) ensure the Enterprise Agreement does not fall behind changes in legislation to the NES and other relevant legislation;

we propose to remove clauses that copy but do not add entitlements to the NES provisions.

Undertakings implemented

Although not amounting to any practical change, we propose to insert into the agreement the current Undertakings. See current Enterprise Agreement for more information

Termination

This clause will be varied to accommodate undertaking provided to the Fair Work Commission regarding Notice periods reflecting timeframes in the *Fair Work Act 2009* (Cth).

Redundancy and Severance Payments

Northcott is not intending to alter the current severance provisions. However, notice provisions in the current Enterprise Agreement is unclear in their intent and need to be clarified as follows: Cl 18.10 the Payment of the relevant Notice Periods provided for Redundancy are paid *in lieu of* Notice provided for non-redundancy related termination set out in cl 17.

Pay Rates

Northcott is proposing to introduce a new Support Worker structure. See Table 1 attached. The Support Worker rates proposed for 26 November will apply for the life of the agreement without change and is dependant on the Scope of the Agreement including all Northcott staff.

For all other classifications, Northcott has proposed an offer that incorporates a 2% increase as at 26 November and further discussion to occur around possible wage movements for the financial year July 2021 to June 2022.

Northcott provides an undertaking that where Modern Award rates are varied to exceed the corresponding rate of pay in the Northcott Enterprise Agreement 2020, Northcott will increase rates of pay to match the relevant Modern Award rate of pay.

Hours and Rosters

Minimum shift

Northcott agrees to match the minimum shift length of the SCHADS Award from 2 hours to 3 hours.

Break shift length

In addition, it will amend its Enterprise Agreement to match the length of time between shifts as set out in the SCHADS, Nurses and HPSS Award from 8 to 10 hours in length (or 8 by agreement).

Casual Allowances

Casual public holiday, weekend, and overtime allowances will increase by 25% to match the allowances under the SCHADS Award. This results in the following amendments:

	Current (in addition to allowance)	Proposed (in addition to allowance)
Sat	25%	50%
Sun	75%	100%
Public Holiday	125%	150% (double time and a half)
Up to 2 hours	25%	50% (time & a half)
After 2 hours on Mon-Sat	75%	100%
Sundays	75%	100%

Recall (Electronic)

Northcott proposes to insert a clause into the EA for staff generally which stipulates that: an employee who is on-call and required to perform work via telephone or other electronic communication away from the workplace shall be paid at an ordinary rate for time worked if they work for more than one hour within a 24 hour period. After the first hour, they shall continue to be paid at ordinary time for each 15 minute interval.

Domestic Violence Leave

Northcott proposes to implement a clause which will ensure that any employee who accesses leave under section 106B of the *Fair Work Act 2009* (Cth) will be eligible to be paid ordinary pay for up to 5 days per annum. In addition, Northcott undertakes to create a policy which provides that an employee who seeks to access this paid leave can do so in the first instance, by claiming personal/carer's leave and later requesting the leave be reverted to Domestic Violence Leave. It is hoped that this might provide easier access to this leave provision, and ensure confidentiality.

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Long Service Leave

Northcott seeks to clarify that staff who resign after 5 years of service are eligible to be paid out their long service leave upon leaving the organisation.

Northcott intends to continue, for the duration of this agreement, the Long Service Leave that currently applies to staff intended to be covered by the agreement. This includes the grand-parenting of the accelerated accrual after ten years that may currently apply to transferred staff via the copied state awards.

Parental Leave

Northcott proposes to amend parental leave provisions to offer 14 weeks paid leave with up front payment upon commencement of leave, with the option to take leave at half pay for double the length of time.

Further, Northcott is also offering to increase secondary carer's leave from 2 to 4 weeks and reduce the requirements of eligibility for both from 2 years to 1 year of continuous service.

Northcott will agree to a clause that ensures that these benefits are provided to any staff member who commenced parental leave (including unpaid parental leave) on or after 1 April 2020.

Additionally, Northcott will include a clause clarifying that the provisions apply for parental relationships resulting from a surrogacy arrangement.

Community Service Leave

Northcott proposes to ensure that if an employee (other than a casual) takes leave in accordance with the Community Service Leave provisions provided for under Division 8 in the NES they will be paid their Ordinary Pay for up to 5 days (per calendar year).

Ceremonial Leave

Northcott proposes to include a provision to allow an employee who is Aboriginal and Torres Strait Islander to take up to 5 days of unpaid leave each year for ceremonial leave.

NAIDOC Week

Staff have provided feedback in previous years that they were unable to take the day of paid leave during NAIDOC because they were often busy that week representing Northcott in traditional ceremonies and festivals. As a way of thanking our staff and hearing their concerns, Northcott is offering to allow our ATSI staff to take the NAIDOC day of leave in the week of NAIDOC, the week prior, and or the week after. The hope is that this will enable our staff to fully celebrate the week with their community.

Pandemic Leave/compensation

Northcott acknowledges that the current situation in New South Wales with the COVID Pandemic and approach to the industrial relations implications is very fluid. We also acknowledge that the issue may not be resolved prior to the making of a new agreement. While Northcott is not in a position to agree to Pandemic provisions without confirmation of support and funding by State or Federal Governments, we can provide an undertaking that in the event that COVID-19 Pandemic related provisions (otherwise applicable to Northcott) are included in the relevant Modern Awards, Northcott agrees to flow on those provisions.

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Consultation and Dispute Resolution

Northcott acknowledges that further discussion is required with all Unions around this item

Access to Salary Packaging

Salary packaging will be offered to staff covered by this agreement in accordance with Northcott's tax status as a Public Benevolent Institution

This provision will provide significant 'take home pay' benefits to those staff that utilise the salary packaging scheme. The value of this benefit will vary dependant on individual circumstances.

Consultation and Dispute Resolution

Northcott acknowledges that further discussion is required with all Unions around this item

Response to Claims

For a response to each claim, please see Annexure 1

Copied State Awards

Northcott maintains that to be in a position where it can operate within the Disability Services environment that exists in 2020 it must be able to administer staff with employment provisions that most closely reflect the Modern Awards. The terms and conditions of the Transferred instruments that continue to apply to staff that transferred from FACS in November 2017 restrict Northcott's capacity to administer staff with the flexibility required to provide the best level of service and quality of life for our customers. Additionally, the inclusion of provisions that incur costs not supported by the NDIS funding arrangements and price modelling jeopardises the ongoing sustainability of the services and staffing models we currently apply. As such, while Northcott wishes to continue to discuss the grand-parenting of selected items of the Copied State Award (to mitigate some of the loss); it is our initial position that the majority of the provisions of the Copied State Awards should not be continued in any new agreement.

Scope

As outlined above, Northcott considers it imperative due to the nature of the business and its funding models that a single agreement be created for all Agreement staff.

Copied State Award Pay Rates

Northcott is unable to maintain the rates of pay provided for in the Copied State Awards relevant to Disability Support Workers. These rates are significantly higher than the Modern Award rates for the role required to be undertaken by Northcott, they are significantly higher than the industry rates generally and they are significantly higher (more than \$8 per hour) than the rate currently paid by Northcott for Support Workers.

In addition to these points we attach a table summarising our position in relation to the items in your Log of Claims.

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Grand-Parenting initiatives

Long Service Leave

Long Service Leave provisions that include accelerated accrual provisions for service after ten years would be preserved for those in receipt of this provision for the life of the agreement.

DSW Rates (Salary Maintenance until 17 February)

Northcott would agree to delay the change for Disability Support Workers to the new rates of pay outlined in the pay scales provided in this document until after the 17th of February. This would be to allow time for those staff on the higher rates provided by the Copied State Awards to prepare for new fortnightly incomes.

CPSU – One off compensation Payment

In light of the identified disadvantage of a significant reduction in hourly rate for some Disability Support Workers Northcott acknowledges that an amount paid in compensation on successful ballot of the agreement would be appropriate for those affected staff. For those staff currently employed as DSW 4 or higher a one off compensation payment of three (3) weeks of contracted hours at current hourly rates would be paid. This payment would occur the week of the 23rd of November 2020.

Kind regards,



**Glenn Tyrrell,
HR Manager, Northcott**

Table 1

Proposed Support Worker Descriptors

Descriptors for Support Workers

Level 1 Trainee - trainee schemes and associated rates as per the modern awards.

Level 2.1 Support Worker (New entry) – This rate is to be utilised for circumstances where new starters commence with minimal to no experience in support work with disability customers. This classification level is only intended to be applied for a 6 months period in conjunction with probationary principles.

Level 2.2 Support Worker (Experienced) – intended commencement point for experienced support worker. No requirement to work with complex customers.

Level 2.3 Support Worker (Complex) – To be utilised at employers discretion in conjunction with workplace circumstances and individuals confirmed competency around complex care (Training to be provided by Northcott to achieve competency at required level).

This level is remunerated same as rate of Level 3. *This rate will only apply while circumstances stated as required continue to exist (i.e. complex customer in residence). Once those circumstances cease to exist the substantive Level 2.2 rate will again apply.*

Level 3.1 Support Worker (Complex - by appointment only) – this classification is utilised by the employer where a clear and ongoing need for a complex worker in a house or group of houses is identified. The position description and contract of employment will need to emphasise mobility across houses/products.

Pay Point/Band	Descriptor	Current Comparable Rate P/H	Proposed Rate P/H
Trainee Support Worker	As per traineeship	As per SCHCADS Award	
2.1 Support Worker (new entry)	6 months only, progression to 2.2 automatic excluding any performance issues. Performance manages/probation mechanisms should regulate.	Sup 1 \$23.75/h	\$25.95

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2.2 Support Worker		Sup 2 \$26.95	\$28.95
2.3 Support Worker <i>Standard-working periodically at Complex</i> (Ad-hoc rate)	Where trained and confirmed competent;(RPL available) And Required to work with complex customer. <i>i.e. - customer in house confirmed as being funded for complex care</i>	No current comparable rate	\$30.95
3.1 Complex	By appointment		\$30.95