



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**New South Wales Aboriginal Land Council**  
(AG2021/8348)

## **NSW ABORIGINAL LAND COUNCIL ENTERPRISE AGREEMENT 2021-2025**

Social, community, home care and disability services

DEPUTY PRESIDENT MANSINI

MELBOURNE, 20 DECEMBER 2021

*Application for approval of the NSW Aboriginal Land Council Enterprise Agreement 2021 – 2025.*

[1] The New South Wales Aboriginal Land Council has applied for approval of a single enterprise agreement known as the *NSW Aboriginal Land Council Enterprise Agreement 2021 - 2025* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (Cth) (the Act).

[2] The application was accompanied by a signature page that did not comply in all respects with Regulation 2.06A of the *Fair Work Regulations 2009* (Cth). An amended signature page was subsequently filed. I consider it appropriate in the circumstances to waive an irregularity in the form or manner in which an application was made, and do so pursuant to s.586(b).

[3] Since the application was made, the Commission inquired about the form of the application, whether the Agreement contains the mandatory terms and raised concerns about whether the Agreement passes the “better off overall” test. Further information and evidence was provided in relation to these matters.

[4] Written undertakings were given in accordance with s.190 of the Act and are attached at Annexure A (Undertakings). The bargaining representatives did not oppose the Undertakings. I am satisfied that the Undertakings will not cause financial detriment to any employee covered by the Agreement and that the Undertakings will not result in substantial changes to the Agreement. Pursuant to s.201(3) of the Act, the Undertakings are taken to be terms of the Agreement.

[5] On the basis of the material contained in the application, further information provided on request of the Commission and the Undertakings, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[6] The CPSU, the Community and Public Sector Union, being a bargaining representative for the Agreement, has given notice under s.183 of the Act. In accordance with s.201(2), I note that the Agreement covers this organisation.

[7] The Agreement was approved on 20 December 2021 and, in accordance with s.54, will operate from 27 December 2021. The nominal expiry date of the Agreement is 20 December 2025.



DEPUTY PRESIDENT

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<AE514358 PR736920>

Annexure A



New South Wales  
Aboriginal Land Council  
ABN 62 726 507 500  
awalc.org.au

IN THE FAIR WORK COMMISSION

FWC Matter No: AG2021/8384

Applicant: NSW Aboriginal Land Council

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Yuseph Deen, Chief Executive Officer for NSW Aboriginal Land Council (“NSWALC”) give the following undertakings with respect to the NSW Aboriginal Land Council Enterprise Agreement 2021 – 2025 (“the Agreement”).

1. I have the authority given to me by the NSWALC to provide this undertaking in relation to the application before the Fair Work Commission.
2. NSWALC has never employed employees as shift workers in the past and has no intention to introduce shift-work rosters. In the event this situation changes, shift-work conditions will reflect the Award and NES provisions.
3. The “roster hours” under the Agreement will not include shift or weekends as ordinary time.
4. NSWALC has not engaged casual employees in the past and has no intention to do so in the future. In the event this situation changes, any casual employees will be paid overtime on the casual loaded rate.
5. In the event of employees raise anomalies with their positioning within the Agreement salary bands, the affected employees can have access to the dispute resolution as per Part J of the Proposed Agreement.
6. Employees also can lodge a grievance concerning their positioning within the Agreement salary as per the NSWALC Grievance and Dispute Resolution Policy and Guidelines.
7. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signed:

Yuseph Deen  
Chief Executive Officer  
NSW Aboriginal Land Council  
Date: 29 November 2021

ALWAYS WAS **ALWAYS WILL BE** ABORIGINAL LAND

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**New South Wales  
Aboriginal Land Council**

**NSW Aboriginal Land Council  
Enterprise Agreement 2021 – 2025**

Note - this Agreement is to be read together with undertakings given by the employer. The undertakings are taken to be a terms of the Agreement. A copy of the undertakings can be found at the end of the Agreement.



## Contents

PART A	Scope .....	5
A.1	Title.....	5
A.2	Purpose.....	5
A.3	Values and principles.....	5
A.4	Performance and productivity initiatives.....	5
A.5	Coverage.....	6
A.6	Definitions .....	6
A.7	Commencement and duration .....	6
A.8	Relationship to other instruments .....	6
A.9	No extra claims.....	7
A.10	Variation .....	7
A.11	Delegation .....	7
Part B	Starting with NSWALC .....	7
B.1	Types of engagement .....	7
B.2	Recruitment and selection .....	8
B.3	Commencement conditions .....	9
B.4	Probation.....	9
B.5	Secondary employment and Conflicts of Interest.....	9
Part C	Remuneration and allowances.....	9
C.1	Job evaluation, classification structure and salary bands .....	9
C.2	Market review, Salary review and performance bonuses.....	10
Employees on unpaid leave.....		11
C.3	Payment of salary .....	11
C.4	Higher duties .....	11
C.5	Superannuation.....	12
C.6	Allowances .....	13
First aid allowance.....		13
Travel expenditure .....		13
C.7	Salary packaging .....	13
Schedule 1	Classifications and salary bands .....	14
Schedule 2	Work level standards.....	15
Part D	Hours of work, flexibility and wellbeing.....	17
D.0	Well Being and Flexibility .....	17
D.1	Hours of work and attendance—General .....	17
Ordinary hours—Full-time employees.....		17

Ordinary hours—Part-time employees .....	18
D.2 9-day Roster Cycle .....	18
D.3 Overtime and time off in lieu (TOIL).....	18
<b>Overtime</b> .....	18
D.4 Recognition of travel time.....	19
Part E Leave .....	19
E.0 Introduction.....	19
E.1 Annual leave.....	19
<b>Cashing out</b> .....	20
E.2 Personal and carer’s leave .....	20
<b>Family and domestic violence</b> .....	21
E.3 Parental leave.....	22
E.4 Compassionate leave .....	23
E.5 Long service leave .....	23
E.6 Community service leave .....	24
E.7 Defence service leave.....	24
E.8 NSWALC Additional Leave Bank.....	25
E.9 Cultural, ceremonial and volunteer leave .....	25
E.10 Christmas closedown .....	25
E.11 Study Leave (Refer F.2 – Study assistance) .....	26
E.12 Purchased leave .....	26
E.13 Cancellation of leave .....	26
E.14 Unauthorised absences.....	26
E.15 Special Leave of absence.....	26
E.16 UNION REPRESENTATION .....	27
Part F Performance and development .....	27
F.1 Learning and development .....	27
F.2 Study assistance .....	28
Study leave .....	28
F.3 Professional costs.....	28
F.4 Performance review .....	28
F.5 Managing for consistent performance.....	29
Part G Leaving NSWALC.....	29
G.1 Termination at NSWALC’s initiative .....	29
G.2 Leaving at the employee’s initiative.....	30
G.3 Abandonment of Employment.....	30
G.4 Employee conduct.....	30
Breaches of the Code of Conduct.....	30
G.5 Right of review for termination.....	31
G.6 Redundancy.....	31

Redundancy entitlements .....	32
Part H Individual flexibility .....	32
Part I Consultation .....	33
I.0 Introduction.....	33
I.1 Major change consultation .....	34
I.2 Change to regular roster or ordinary hours of work .....	35
I.3 Employee Consultative Committee.....	36
Part J Dispute resolution .....	36
J.0 Introduction.....	36
J.1 Internal dispute resolution.....	36
J.2 External dispute resolution .....	37

## **PART A Scope**

### **A.1 Title**

This agreement will be known as the *NSW Aboriginal Land Council Enterprise Agreement 2021-2025 (Agreement)*.

### **A.2 Purpose**

- (1) To set out the terms and conditions of employment for those employees covered by the Agreement;
- (2) To support the New South Wales Aboriginal Land Council (NSWALC) to fulfil its functions under the *Aboriginal Land Rights Act 1983 (ALRA)*;
- (3) To recognise that NSWALC is a unique not for profit, statutory body that is self-funding and subject to public accountability; and
- (4) To cover any ongoing changes made in the work, organisation and performance of NSWALC.

### **A.3 Values and principles**

NSWALC recognises that our organisation is a uniquely Aboriginal organisation that acknowledges the diverse culture and heritage of our people, including our deep connection with and continuing maintenance and preservation of our land and waterways which enrich the life of our country and our people. This agreement facilitates our commitment to support the cultural, social and economic independence of our people.

NSWALC is committed to:

- a. a culture of integrity, commitment, respect, inclusivity and collaboration in all its dealings,
- b. facilitating high performance through its employees by focusing on quality, standards and continuous improvement consistent with NSWALC's functions and expectations of stakeholders,
- c. providing flexible working arrangements to assist employees in achieving an appropriate balance between their work and personal lives recognising the need to balance these flexibilities with NSWALC's aim to perform its functions in the most efficient and effective manner,
- d. assisting employees in developing their capabilities in performing their role within the organisation and promoting improved performance in support of NSWALC's goals and priorities,
- e. maintaining a safe and healthy work environment for all employees, consistent with its ethical and legal obligations, and
- f. respecting and valuing the diversity of its workforce, and providing support to prevent and eliminate harassment, bullying and discrimination in all its forms.

### **A.4 Performance and productivity initiatives**

This Agreement will support continuous improvement in organisation and individual performance and productivity through:

- a. supporting the implementation of the NSWALC Aboriginal Employment Strategy (AES) through the integration of Aboriginal Cultural Knowledge, experience and expertise as elements of NSWALC's performance management framework that will apply to all NSWALC employees.
- b. strengthening the classification framework by implementing consistent work level standards to improve performance management, individual development, and recruitment effectiveness.

- c. supporting the implementation of NSWALC’s performance management framework to ensure strong alignment between NSWALC’s Strategic Plan, the AES, individual performance plans and performance-based remuneration increases.
- d. ensuring appropriate accountability and control measures are in place for employee benefits such as flexible working, study assistance and time off in lieu.

## A.5 Coverage

- (1) The Agreement applies to and binds the following (Parties):
  - a. the NSWALC,
  - b. the Community and Public Sector Union (CPSU); and
  - c. apart from persons in A.5 (2), all persons employed by NSWALC in the classifications listed in **Schedule 1 – classifications and salary bands (Schedule 1)** of this Agreement (Employees).
- (2) This Agreement does not apply to persons employed by NSWALC not covered in **Schedule 1** and/or people employed by NSWALC on a Management Contract and does not cover contractors or consultants.

## A.6 Definitions

ALRA	<i>Aboriginal Land Rights Act 1983(NSW)</i>
CPSU	Community and Public Sector Union
FWA	Fair Work Act 2009 (Cth)
FWC	Fair Work Commission
Market movement	The movement in the Australian salaries market confirmed by reference to the Mercer, Australian General Market survey.
NSWALC	New South Wales Aboriginal Land Council
Superannuation guarantee	Superannuation Guarantee (Amendment) Act
Kinship Group	based on biological relationships such as grandparents, mothers, fathers, uncles, aunties, sisters, brothers, nieces, nephews, cousins or a child in foster care or kinship care that has a cultural or community connection with the employee not limited to biological relationships.
Kinship Care	caring for a child that is either a biological child or has a cultural or community connection with the employee not limited to biological relationships.

## A.7 Commencement and duration

- (1) This Agreement will take effect and have the force of law from 7 days after it is approved by the Fair Work Commission and will have a 4 year term with a nominal expiry date of \_\_\_\_\_2025 (“Period of Operation of this Agreement”).
- (2) Six months before the expiry of this Agreement, the Parties will commence discussions in relation to further agreements.

## A.8 Relationship to other instruments

- (1) To the extent of any inconsistency with a contract of employment, the express terms of this Agreement will prevail.
- (2) The operation of this Agreement is supported by NSWALC policies, procedures and guidelines as amended from time to time. The policies, procedures and guidelines are not incorporated into and do

not form part of this Agreement. The policies, procedures and guidelines provide detail on provisions and conditions relating to employment at NSWALC. If there is any inconsistency between the policies, procedures and guidelines and the terms of this Agreement, the express terms of this Agreement will prevail.

- (3) In the event of a dispute about this Agreement, the parties will have access to the dispute resolution procedures set out in **Part J (Dispute resolution)** of this Agreement to resolve the dispute.

## **A.9 No extra claims**

From the commencement of this Agreement, a person or organisation covered by the Agreement will not pursue further claims for terms and conditions of employment that would have effect during the Period of Operation of this Agreement, except where consistent with the terms of this Agreement.

## **A.10 Variation**

This Agreement may only be varied in accordance with the FWA.

## **A.11 Delegation**

- (1) Where the Agreement implies that approval is required, but a head of power is not specified, the Agreement should be read as meaning the approval of the Chief Executive Officer (CEO) or delegate will be obtained prior to the action occurring.
- (2) The CEO may delegate any or all of the CEO's powers or functions under this Agreement, including this power of delegation, and may do so subject to conditions.
- (3) NSWALC will consider any request made by employees under this agreement thoroughly and in the spirit of the Agreement.

# **Part B Starting with NSWALC**

## **B.1 Types of engagement**

- (1) Employees are engaged to meet the operational needs of NSWALC including on an ongoing, non-ongoing or casual basis. Wherever possible the NSWALC will preference ongoing employment.
- (2) Non-ongoing employees may be engaged to meet short-term operational requirements or a specific task or project.
- (3) Ongoing and non-ongoing employees are engaged in full-time or part-time work in accordance with D.1 (*Hours of work and attendance – General*) of this Agreement.
- (4) Part-time employees are engaged to work for an agreed number of regular hours each fortnight that is less than the ordinary hours of work for a full-time employee. Remuneration and other benefits for part-time employees will be calculated on a pro-rata basis according to hours worked, with the exception of reimbursements and expense-related allowances, which will be paid at the same amount as full-time employees.
- (5) Casual employees may be engaged on an irregular and intermittent basis. Casual employees are engaged on an hourly basis, with no fixed hours and no expectation of continuing employment. Casual employees must be engaged for at least 4 hours per engagement or are entitled to be paid for 4 hours of work for a shorter engagement. Casual employees are entitled to a salary loading of 25% in lieu of all entitlements in this Agreement unless stated otherwise.

## **B.2 Recruitment and selection**

- (1) Engagement of employees will be on the basis of merit and a transparent selection process. Where there is an ongoing vacancy to be filled, it will be subject to internal or external advertisement unless the ALRA and Aboriginal Land Rights Regulation apply, or conversion of an existing non-ongoing employee in accordance with clause (4).
- (2) Recruitment processes will be based on considering the following options in the following order as far as possible and subject to clause (3):
  - a. internal advertisement within the organisation,
  - b. consideration of previous applications for other recruitment processes,
  - c. external advertisement, and
  - d. the use of a recruitment agency to fill short term operational requirements.
- (3) In making a decision under clause (2), NSWALC will consider the operational requirements of NSWALC and the capacity of NSWALC to manage an internal movement to fill the vacancy. NSWALC will use the recruitment method that will serve the broad interests, requirements, and operational needs of NSWALC at that point in time.

### Conversion of casual or non-ongoing employees

- (4) The NSWALC may convert the non-ongoing or casual employment of an employee to ongoing employment if:
  - a. the ongoing employment is in the same classification as and substantially similar to the casual or non-ongoing employment, and
  - b. the employee's employment was initially based on the results of a merit selection process after internal or external advertising.

### Request to convert

- (5) Subject to clause (6), a non-ongoing or casual employee may request that their employment be converted to ongoing employment following continuous and unbroken service over a calendar period of at least 12 months.
- (6) The employee must have worked a pattern of hours on a regular basis in the previous 12 months which, without significant adjustment, the employee could continue to perform as an ongoing employee under the provisions of this Agreement.
- (7) Any request under clause (5) must be in writing and provided to the NSWALC. NSWALC will duly consider a conversion request where it meets the requirements of this clause.
- (8) If the NSWALC does not approve a request under clause (5), the NSWALC will provide the employee with reasons in writing within 21 days of the request being made.

### Notice to employees

- (9) NSWALC will notify casual and non-ongoing employees of their right to request conversion to ongoing employment under clauses (4)-(8) of this section. NSWALC will provide this notification within the first twelve months of the casual employee's initial engagement.

### **B.3 Commencement conditions**

- (1) NSWALC requires all employees to consent to a criminal record check as a condition of their employment prior to commencement or as soon as possible after commencement. NSWALC may also request other relevant employee checks relating to employment as required from time to time.
- (2) If NSWALC considers the results of any checks to be inconsistent with the requirements of the ALRA or other employment requirement, NSWALC will provide the employee with a reasonable opportunity to provide details of any relevant matters to be considered by NSWALC in making a decision as to whether the employee's employment should be terminated.
- (3) NSWALC will consider any submissions made by the employee and may terminate the employee's employment if NSWALC considers the submission does not address the concerns raised in the check and the check remains inconsistent with the requirements of the ALRA or other employment requirement .

### **B.4 Probation**

- (1) An employee who commences with NSWALC will be subject to a probationary period of 6 months. This does not apply to casual employees.
- (2) An employee's performance will be reviewed during the probation period. Before the end of the probation period, NSWALC will make a decision regarding continued employment on the basis of satisfactory performance.
- (3) During the probation period, NSWALC or the employee may terminate the employment by giving 1 weeks written notice.

### **B.5 Secondary employment and Conflicts of Interest**

- (1) An employee must not, without prior written approval of the NSWALC, be engaged or concerned or have any other interest for financial or non-financial advantage that conflicts with the functions of NSWALC or interferes with the performance of the employee's duties.
- (2) To remove doubt, this section applies to employees on periods of leave with or without pay.

## **Part C Remuneration and allowances**

### **C.1 Job evaluation, classification structure and salary bands**

- (1) NSWALC's classification structure and salary bands are set out in **Schedule 1** of this Agreement.
- (2) The work level standards for each band are set out in **Schedule 2 – work level standards** of this Agreement (Schedule 2).
- (3) All employees covered by this Agreement will be provided with a role description developed specifically for their role.
- (4) Employee role descriptions are evaluated using the Mercer CED job evaluation methodology which allocates Work Value Points to the position. The Work Value Points determine the salary band for the position as detailed in Schedule 1.
- (5) NSWALC classifies positions consistently to achieve the following:
  - a. Differentiated pay based upon position contribution and performance.
  - b. Account for specific market pressures either in terms of attraction or retention.



c. Recognise the value of scarce individual skills.

- (6) Prior to re-evaluating a position, employees will be consulted to ensure the role description accurately reflects the work to be undertaken.
- (7) One employee nominee of the CPSU will be trained in the Mercer CED job evaluation methodology.
- (8) An employee may have their role description reviewed at any time where it can be demonstrated the role has substantially changed. An employee is entitled to have their role description reviewed at least once during the Period of Operation of this Agreement.
- (9) Any disagreement about position evaluation will be dealt with according to the dispute resolution procedures of this Agreement.
- (10) At commencement with NSWALC, an employee will normally start at the minimum salary of the salary band applying to the position. The NSWALC may authorise payment of salary above the minimum salary of the salary band considering the qualifications, skills, and experience of the employee.
- (11) Employees are normally paid a salary within the relevant salary band between the minimum of the salary band and the midpoint salary of the salary band.
- (12) Employees can advance beyond the mid-point of the salary band, subject to C.2, individual performance, NSWALC's retention and developmental considerations or, in the case of employees employed before the commencement of this Agreement, as result of transitioning into the new classification structure and salary bands set out in Schedule 1.
- (13) Progression between salary bands generally occurs through promotion or higher duties.
- (14) Nothing in this Agreement prevents NSWALC determining that an employee is paid a salary above that determined for their position.

## **C.2 Market review, Salary review and performance bonuses**

- (1) Annually, NSWALC will review Schedule 1 – classification and salary bands and make an adjustment to the salary bands in keeping with the 50<sup>th</sup> percentile of the Australian General Market Survey as sourced from Mercer.
- (3) Employees are eligible for a salary adjustment at 1 July each year, and a performance bonus paid in the final pay period of the same calendar year, as specified in Schedule 1B – Salary and Performance Matrix (Schedule 1B), based on their performance review (see **F.4(5)**), if:
  - a. the employee has successfully completed probation (where relevant), and
  - b. the employee's performance has been rated as at least 'Meeting Expectations'.
- (4) Non-ongoing employees are eligible for salary adjustments at 1 July each year, and a performance bonus paid in the final pay period of the same calendar year, as specified in Schedule 1B, based on their performance review (see **F.4(5)**), if:
  - a. the employee has successfully completed probation (where relevant), and
  - b. the employee's performance has been rated as at least 'Meeting Expectations' and

- c. the employee is employed on a contract of at least 12 months duration, and
  - d. the employee has completed at least 6 months continuous service in the current performance review cycle.
- (5) Employees whose performance is rated as “Not Meeting Expectations” will be managed in accordance with NSWALC’s procedures for managing unsatisfactory performance (see **F.5**).

#### Employees on unpaid leave

- (6) Employees on unpaid parental leave on 1 July each year will be eligible for salary adjustment subject to performance assessed after 6 months from the time the employee returns from leave.
- (7) Employees on unpaid leave (excluding parental leave) for 6 months or more on 1 July each year will not be eligible for salary adjustment.
- (8) Employees on unpaid leave for periods in excess of 6 months will not be considered for performance bonus.

### **C.3 Payment of salary**

Employees will be paid fortnightly in arrears by electronic funds transfer into a financial institution account of the employee’s choice.

### **C.4 Higher duties**

- (1) Employees may be assigned to temporarily perform a portion of, or the entire range of the duties of a position at a higher classification, to:
  - a. enable employees to develop or enhance skills and demonstrate higher level competencies, and
  - b. facilitate NSWALC to manage short-term absences and temporary work requirements.
- (2) Ordinarily employees may not be assigned to perform duties in accordance with clause (1) for a period of more than 3 months unless the opportunity has been advertised internally.
- (3) Employees performing a portion of, or the entire range of the duties of a position at a higher classification covered by this Agreement are eligible for payment of higher duties allowance reflective of the portion of the entire range of duties assigned to them for periods of higher duties exceeding 5 days.
- (4) Employees assigned higher duties will be provided with a negotiated work plan incorporating their developmental aspirations, support requirements and the work to be performed. The portion of higher duties allowance will be determined by reference to the work plan.
- (5) Either NSWALC or the employee may, at their discretion, cease a period of higher duties by notification to the other party.
- (6) Employees performing higher duties in a role that takes them beyond salary bands covered by this Agreement, for a period of 4 weeks or longer, will not be eligible to access overtime or TOIL. These employees will instead be eligible for a proportionate amount of executive personal leave as defined in NSWALC’s Management Contracts.

## **C.5 Superannuation**

- (1) NSWALC's default superannuation fund is Aware Super. Unless otherwise specified by an employee, NSWALC will make employer contributions to Aware Super in accordance with clause (2).
- (2) Employer superannuation contributions will be 12%, unless exceeded by the Superannuation Guarantee .
- (3) Employees may choose to sacrifice part of their salary in accordance with C.7 (Salary packaging) of this Agreement. Participation in salary packaging will not affect salary for superannuation purposes.
- (4) NSWALC will make superannuation contributions for employees who earn below the superannuation guarantee contribution (SGC) minimum payment.

### **Additional Employer and Employee Superannuation Contributions**

- (5) In addition to employer contributions noted in C.5 (2), NSWALC will match an employee's personal superannuation contributions with an additional employer superannuation contribution of up to 2%, where:
  - a) The employee has made their superannuation contribution via NSWALC payroll deduction, to a complying superannuation fund; and
  - b) The employee's contribution has been made for a consecutive period of 26 pays, over the Period of Operation of this Agreement, ie the NSWALC employer contribution will be made on the 27<sup>th</sup> consecutive pay.
- (6) An employee, who has had their personal contributions matched by NSWALC, ceases to make their contributions for any period, NSWALC will:
  - Cease any additional employer superannuation contribution for the same period; and
  - Recommence additional employer superannuation contributions of up to 2%, to match any recommenced personal superannuation contribution by the employee and the employee will not have to re qualify to be eligible for the NSWALC's matched contribution.

### **Superannuation payments during parental Leave**

- (7) Employees on parental leave are eligible to receive superannuation payments (C.5(2) and C.5(5)) during the NSWALC paid parental leave component of the period of total parental leave.
- (8) Superannuation payments from NSWALC (C.5 (2) and C.5 (5)) are not paid while the employee is on unpaid parental leave or leave pursuant to E.3(1)(a) and/or otherwise receiving Centrelink payments.
- (9) In the event NSWALC makes any overpayments during the period of parental Leave, the employee accepts they will make repayments promptly to NSWALC.

- (10) If no repayment by the employee occurs within 14 days after being advised by NSWALC, 10% of the overpayment will be deducted from the subsequent pay periods of the employee until the overpayment is corrected.

## **C.6 Allowances**

### First aid allowance

- (1) Employees are eligible to be appointed to undertake the role of First Aid Officer. Employees appointed to perform the role of First Aid Officer are to be paid an allowance of \$33.30 per fortnight. This clause does not apply to casual employees. Payment of the allowance will cease for any period of unpaid leave or any period of paid leave of 2 weeks or more.

### Travel expenditure

- (2) Employees who undertake travel on official business are entitled to have actual travel expenditure, including meals and reasonable incidental expenses, paid in accordance with ATO rates and the NSWALC's Travel Policy and procedure.

## **C.7 Salary packaging**

- (1) Salary packaging is available to full-time and part-time employees and non-ongoing employees on contracts greater than 12 months.
- (2) Items for salary packaging will be provided by NSWALC's salary packaging provider and may be varied during the Period of Operation of this Agreement.
- (3) Any fringe benefits tax incurred in relation to an individual employee because of their salary packaging arrangement will be met by the individual employee.
- (4) Where an employee elects to access salary packaging, the employee's salary for the purposes of superannuation, severance and termination payments, and any other purposes, will be determined as if the salary packaging arrangement had not occurred.
- (5) Where salary packaging provides an employee with less than the rates of pay specified under this Agreement, they will be deemed to have been paid the appropriate rate of pay.
- (6) In the event of legislative changes, NSWALC reserves the right to review these salary packaging arrangements, without increasing the employees' base remuneration.

[Intentionally left blank]

## Schedule 1 Classifications and salary bands

BAND	Minimum Salary	Midpoint Salary	Maximum Salary
Band 1 80 – 107 WVP	\$45,100	\$53,000	\$61,000
Band 2 108 – 144 WVP	\$52,000	\$61,100	\$70,300
Band 3 145 – 193 WVP	\$61,200	\$72,000	\$82,800
Band 4 194 – 259 WVP	\$73,700	\$86,700	\$99,800
Band 5 260 – 347 WVP	\$88,600	\$104,200	\$119,900
Band 6 348 – 464 WVP	\$107,300	\$126,300	\$145,200

\*WVP – Work value points

### Schedule 1 B

#### Salary & Performance Bonus matrix – Market movement < or = 1.5%

Performance Rating	Employee's salary <u>within</u> salary band for their position		Employee's salary <u>over</u> the salary band for their position	
	Salary Increase %	Performance Bonus %	Salary Increase %	Performance Bonus %
Not Meeting Expectations	0%	0%	0%	0%
Meeting Expectations	1.5%	1.3%	0%	1.3%
Consistently Above Expectations	1.5%	1.5%	0%	1.5%
Far Exceeding Expectations	1.5%	2.0%	0%	2.0%

#### Salary & Performance Bonus matrix – Market movement >1.5%

Performance Rating	Employee's salary <u>within</u> salary band for their position		Employee's salary <u>over</u> the salary band for their position	
	Salary Increase %	Performance Bonus %	Salary Increase %	Performance Bonus %
Not Meeting Expectations	0%	0%	0%	0%
Meeting Expectations	% = Market movement (not exceeding 2.5%)	1.3%	0%	1.3%
Consistently Above Expectations	% = Market movement (not exceeding 2.5%)	1.5%	0%	1.5%
Far Exceeding Expectations	% = Market movement (not exceeding 2.5%)	2.0%	0%	2.0%

## Schedule 2 Work level standards

Bands	Knowledge & Experience	Communication	Scope & Impact	Complexity of Work	Leadership & People Management
6	<ul style="list-style-type: none"> <li>Roles at this level typically require advanced knowledge of their work area and well-developed skills within their discipline.</li> <li>Roles exhibit proficiency in applying their knowledge and skills within their discipline.</li> <li>Roles typically require completion of a tertiary degree and relevant prior experience (4-10 years).</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically communicate with stakeholders both within and outside of the organisation to lead others in achieving objectives over competing priorities.</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically work to achieve operational objectives with a direct impact on departmental results.</li> <li>Roles are typically non-routine and require some degree of modification to develop/overhaul operational methods, policies and practices.</li> <li>Roles typically have a degree of autonomy and are required to apply discretion within broad operational boundaries to undertake the work, which is recognised as a reference point for others in relation to best practice.</li> </ul>	<ul style="list-style-type: none"> <li>Roles may be presented with issues that are complex and solutions require improving current processes and procedures.</li> <li>Roles are often required to analyse all alternative courses of action and their associated implications to recommend a best course of action.</li> </ul>	<ul style="list-style-type: none"> <li><b>Professionals:</b> <ul style="list-style-type: none"> <li>Roles work independently and may lead project teams.</li> <li>Roles are often responsible for providing guidance, coaching and training to other employees and assigning work as necessary.</li> </ul> </li> <li><b>People Managers:</b> <ul style="list-style-type: none"> <li>Roles are often responsible for managing diverse groups of employees.</li> </ul> </li> </ul>
5	<ul style="list-style-type: none"> <li>Roles at this level typically require proficiency in applying practical application of their knowledge/discipline.</li> <li>Roles typically require completion of a tertiary degree or equivalent education and/or relevant prior experience (0-4 years).</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically communicate with stakeholders both within and outside of the organisation to influence and convince others to actively contribute to the achievement of objectives.</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically work to achieve operational objectives with some impact on the achievement of departmental results.</li> <li>Work is typically non-routine and may require some adaptation and modification to techniques, processes, procedures and/or guidelines.</li> <li>Roles typically have a degree of autonomy and may be required to apply discretion within broad operational boundaries to undertake the work and provide advice.</li> </ul>	<ul style="list-style-type: none"> <li>Roles may be presented with issues that are complex and solutions require the modification/adaptation of accepted processes and procedures.</li> <li>Roles are often required to decide between alternative courses of action based on changing stakeholder requirements.</li> </ul>	<ul style="list-style-type: none"> <li><b>Professionals:</b> <ul style="list-style-type: none"> <li>Roles typically contribute to projects under limited supervision.</li> <li>Roles are sometimes responsible for providing guidance, coaching and training to other employees and assigning work as necessary.</li> </ul> </li> </ul>
4	<ul style="list-style-type: none"> <li>Roles at this level typically require detailed knowledge of work policies and procedures and are able to apply the functions, methods, structures and operations of their work area.</li> <li>Roles typically require either completion of a tertiary degree with limited experience (0-2 years) or completion of secondary education and/or specialised vocational training with relevant prior experience (minimum of ~3 to 5 years).</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically communicate within the organisation and occasionally communicate outside of the organisation to obtain or provide information requiring interpretation and/or explanation to influence others to cooperate in the achievement of objectives.</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically work to achieve operational objectives with a direct impact on the achievement of results for the work area.</li> <li>Work is typically less routine and may require some deviation from standard practices to achieve objectives.</li> <li>Roles typically have a degree of autonomy and may be required to apply discretion within broad operational boundaries to undertake the work and provide advice.</li> </ul>	<ul style="list-style-type: none"> <li>Roles may be presented with issues that are typically non-routine and solutions require the interpretation of well-established processes and guidelines.</li> <li>Roles may be required to decide between alternative courses of action.</li> </ul>	<ul style="list-style-type: none"> <li><b>Professionals:</b> <ul style="list-style-type: none"> <li>Roles often work under the general supervision of a more experienced professional.</li> </ul> </li> <li><b>Technical/Operational Employees:</b> <ul style="list-style-type: none"> <li>Roles are often responsible for providing guidance, coaching and training to other operational employees within a work area.</li> <li>Roles typically work independently and may be required to lead project teams.</li> </ul> </li> </ul>

Bands	Knowledge & Experience	Communication	Scope & Impact	Complexity of Work	Leadership & People Management
3	<ul style="list-style-type: none"> <li>Roles at this level typically require broad knowledge of work policies and procedures and are able to apply the functions, methods, structures and operations of their work area.</li> <li>Roles typically require completion of either secondary education, specialised vocational training or relevant prior experience (minimum of ~2 to 4 years).</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically communicate within and outside their immediate work area on matters that involve obtaining or providing information, typically requiring interpretation and/or explanation to gain cooperation from stakeholders to resolve minor issues.</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically work to deliver on day-to-day objectives following a defined standard output or set of procedures with a direct impact on the achievement of results for the work area.</li> <li>Work is typically repetitive, routine and well-defined and may require some deviation from standard practices to achieve objectives.</li> <li>Roles have a limited amount of autonomy / discretion as to how to achieve objectives.</li> </ul>	<ul style="list-style-type: none"> <li>Roles may be presented with issues that are typically routine and solutions may require the interpretation of well-established activities/processes.</li> <li>Established processes and guidelines do not always cover the situation faced.</li> </ul>	<ul style="list-style-type: none"> <li>Roles are typically responsible for providing guidance, coaching, and training to other operational employees within a work area.</li> <li>Roles work independently under limited supervision and may instruct other employees in the completion of tasks.</li> </ul>
2	<ul style="list-style-type: none"> <li>Roles at this level typically require basic knowledge of work policies and procedures and are able to understand and apply technology, work practices, workflow and work procedures within their work area. Roles typically require completion of either secondary education, specialised vocational training or relevant prior experience (minimum of 1~3 years).</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically communicate within and outside the immediate work area on matters that involve obtaining or providing information requiring limited interpretation or explanation to resolve minor problems.</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically work to deliver on day-to-day objectives following a defined standard output or set of procedures with limited impact on the achievement of results for the work area.</li> <li>Work is typically repetitive, routine and well-defined and may require some deviation from standard practices to achieve objectives.</li> <li>Roles typically have no autonomy/discretion as to how to achieve objectives.</li> </ul>	<ul style="list-style-type: none"> <li>Roles may be presented with issues that are routine with clearly prescribed solutions. Roles typically follow a well-established and familiar set of activities/processes to derive a solution, however occasionally the established activities/processes do not cover the solution.</li> </ul>	<ul style="list-style-type: none"> <li>Roles are focused on self-development. Roles work under moderate supervision.</li> </ul>
1	<ul style="list-style-type: none"> <li>Roles at this level require limited knowledge of work policies and procedures within their work area.</li> <li>Roles do not typically require advanced education or prior experience.</li> </ul>	<ul style="list-style-type: none"> <li>Roles communicate within their immediate work area on matters that involve obtaining or providing information requiring no explanation or interpretation to resolve minor issues.</li> </ul>	<ul style="list-style-type: none"> <li>Roles typically work to deliver on day-to-day objectives following a defined standard output or set of procedures.</li> <li>Work is typically repetitive, routine and well-defined with specific instructions or standard work procedures in place to achieve objectives.</li> <li>Roles have no autonomy/discretion as to how to achieve objectives.</li> </ul>	<ul style="list-style-type: none"> <li>Roles may be presented with issues that are routine with clearly prescribed solutions.</li> <li>Roles follow a well-established and familiar set of activities/processes to derive a solution.</li> </ul>	<ul style="list-style-type: none"> <li>Roles are focused on self-development.</li> <li>Roles are closely and continuously supervised.</li> </ul>

## Part D Hours of work, flexibility and wellbeing

### D.0 Well Being and Flexibility

- (1) NSWALC is committed to a workplace culture that promotes a healthy work life balance and supports employees to balance their work commitments with other responsibilities such as family, care responsibilities and other personal commitments. In keeping with that commitment, this Agreement contains measures and entitlements for flexibility and wellbeing.
- (2) Balanced against this is the need for hours of work to be undertaken at all appropriate times for the genuine needs of NSWALC and the many peoples across NSW who rely on our essential services.
- (3) NSWALC will provide access to a confidential, professional counselling service via the Employee Assistance Program at no cost to the employee.
- (4) NSWALC may nominate contact harassment officers to provide support to employees outside of the usual availability of support through their Manager.
- (5) Nominations for the role of contact harassment officer are voluntary in nature.
- (6) Where such nomination is accepted, NSWALC is committed to suitable training of these officers.

### D.1 Hours of work and attendance—General

- (1) The NSWALC may approve all matters relating to hours of work and attendance in accordance with the provisions outlined in this Part.
- (2) All employees are required to maintain a reliable and accurate record of their attendance on a daily basis, to be submitted every fortnight by electronic or other approved means.
- (3) Employees are entitled to an unpaid meal break of between 30 minutes and an hour, or a prior approved meal break of up to 2 hours, between midday and 2:00pm.
- (4) An employee must take an unpaid meal break of a minimum of 30 minutes after 5 continuous hours of work.
- (5) Employees may take brief ad hoc breaks during the workday aside from their meal break. For example: religious, cultural, morning and afternoon tea, health or wellbeing breaks that require accommodation during their hours of work. These breaks should be agreed in advance with the Manager if they are to become a regular part of the employee's daily pattern for more than 10 consecutive working days or are recurring or cyclical in nature.
- (6) Under this Agreement, the following definitions apply:

**Ordinary hours** – for full time employees means 70 hours per fortnight .

**Core hours** – are the hours between 9:30 am to midday and 2:00 pm to 3.30 pm.

**Roster Cycle** – is a 2-week cycle period beginning on a Monday.

**Roster Hours** – Ordinary hours worked as either:

- A Roster Cycle of 10 days a fortnight working 7 hours per day ; or
- A Roster Cycle of 9 days a fortnight working 7.78 hours per day (7 hours and 46 minutes per day)(**9 Day Roster Cycle** ).

**Bandwidth** – is a 11-hour period from 7:30am to 6:30pm Monday to Friday, except on a public holiday.

#### Ordinary hours—Full-time employees

- (7) An employee's pattern of ordinary hours should be agreed between the employee and their manager. An employee's ordinary hours can be varied by agreement between the employee and the manager to accommodate operational or personal requirements.
- (8) From time to time, employees may be required to work outside the usual Bandwidth to meet



operational requirements. For example, Zone employees commencing at 2.30pm and concluding at 11.00pm to attend Local Aboriginal Land Council meetings. Where operationally possible these adjustments will be agreed two weeks in advance.

- (9) Employees whose work requires that they be available for direct contact with the public, or those with other operational requirements, may be required to design their ordinary hours around business hours, being 9.00am to 5.00pm, Monday to Friday.

#### Ordinary hours—Part-time employees

- (10) Employees may be engaged on a part-time basis for less than 35 hours per week.
- (11) The ordinary hours for part-time employees are set out in the employee's part-time work agreement which states the hours to be worked and the start and finish times for each day. Part-time employees must work at least 3 hours on any agreed working day.
- (12) Part-time employees may not vary their part-time hours agreement or access full-time hours without the agreement of the NSWALC. NSWALC may not vary the part-time hours agreement without the agreement of the employee.
- (13) Full-time employees may enter into a part-time work agreement for a specified time period with the agreement of both the employee and the NSWALC. At the end of the part-time work agreement the employee will return to full-time work.

## D.2 9-day Roster Cycle

- (1) Where operational requirements permit, NSWALC may agree to a full-time employee working a 9-day Roster Cycle provided that:
  - a. Employees have completed their probation period.
  - b. A Rostered Day Off ("RDO") pattern of work is agreed prior to each Roster Cycle.
  - c. A roster of employees will be established by each business unit to ensure operational requirements are met and the minimum possible number of employees are on an RDO at the same time.
- (2) NSWALC or the employee may, by agreement, substitute the day the employee is to take their RDO for another day within the same Roster Cycle.
- (3) If in an exceptional circumstance, NSWALC requires the Employee to work on their proposed RDO for the Roster Cycle, the RDO (i.e. 7 hours) is accrued and TOIL and overtime payments do not apply.
- (4) In exceptional circumstances RDO's may accrue up to a total of 6 days providing a rostered leave management plan is put in place following the second RDO accruing. NSWALC may direct employees to take their RDO for any RDO accruing for more than 6 months.
- (5) Upon termination of employment, an adjustment will be made to ensure the full RDO entitlement and no more has been provided. Where more RDO entitlement has been afforded than the employee is entitled to, the outstanding amount is deducted from their termination payments. And employees who have received less than their full RDO entitlement will have the outstanding amount added to their final termination payment.

## D.3 Overtime and time off in lieu (TOIL)

### Overtime

- (1) Where operational requirements make it necessary, NSWALC may direct an employee to work in excess of Roster Hours on any day. NSWALC must give reasonable notice about the requirement to work overtime and be mindful of the personal responsibilities of the employee. An employee may refuse to work additional hours if they are unreasonable.
- (2) An employee who is directed to perform work in excess of their Roster Hours on a given day is eligible for either TOIL or an overtime payment. The period of TOIL that an employee is entitled to

take is equivalent to the overtime payment that would have been made.

- (3) Where a period of overtime is not continuous with Roster Hours worked, the minimum period of overtime payment for such work will be calculated as if the employee had worked for 3 hours. When determining whether a period is continuous with Roster Hours worked, meal breaks should not be regarded as breaking continuity.
- (4) Overtime payments are calculated at the employees base hourly rate.
  - a. Monday to Saturday: 1.5 times the hourly rate for the first 3 hours each day and double the hourly rate thereafter,
  - b. Sunday: double the hourly rate, and
  - c. Public holiday: 2.5 times the hourly rate.
- (5) Where an employee is directed to work overtime for at least 3 hours in excess of their Roster Hours or for 5 hours or more on a Saturday, Sunday or public holiday, they will be reimbursed for reasonable meal expenses, in accordance with amounts set by the Australian Taxation Office for the current financial year.
- (6) TOIL in lieu of payment for overtime must be taken within 3 months of the overtime being worked. Otherwise, payment for the overtime will be made to the employee.

#### **D.4 Recognition of travel time**

- (1) If a NSWALC employee is required to travel for official business outside of the employee's Roster Hours and the travel time exceeds the employee's usual travel time from home to work, the employee will be paid for the additional travel time at their normal hourly rate (TOIL may be taken however overtime rates will not apply), less 30 minutes either way to recognise their normal travel time to and from work. To remove any doubt, attendance at conferences or other learning and development opportunities requested by the employee are not included in this clause.

## **Part E Leave**

### **E.0 Introduction**

NSWALC seeks to provide a balanced approach to employee and organisational needs in relation to the provision and taking of an extensive range of leave. The differing types of leave consist of those provided to all Australian employees under the National Employment Standards (NES) and as well, a number of additional forms of leave designed for the specific needs of NSWALC employees. These forms of leave provide employees with access to entitlements that go beyond the National Employment Standards

### **E.1 Annual leave**

- (1) Annual leave is underpinned by the NES and the following clauses.
- (2) NSWALC is committed to assisting its employees to have a reasonable work/life balance and acknowledges the value in having employees access their annual entitlements on a regular basis. Employees are encouraged to take their full annual leave entitlement each calendar year.
- (3) A full-time employee is entitled to 20 working days paid annual leave. Where an employee works part-time, the employee's annual leave entitlement will accrue on a pro rata basis. Annual leave will accrue progressively according to the Ordinary Hours of work and accumulates from year to year.

- (4) Where an employee's annual leave accrual is approaching 30 days for a full-time employee or a pro rata amount for a part-time employee, the employee and the employee's manager should discuss and agree on a leave management plan to reduce the amount of accrued annual leave.
- (5) Employees who have accrued an annual leave credit of 30 days or more may be directed by NSWALC to take annual leave and enter into a leave management plan to bring leave back within the 30 day threshold within 6 months.

### **Cashing out**

- (6) The NSWALC may approve requests to cash out annual leave provided that the employee:
  - a. has taken at least 10 days annual leave at the same time as the request or has taken a block of 10 days annual leave (pro-rata for part-time employees) in the preceding 12 months, and
  - b. retains at least 4 weeks of annual leave after the cash out as required by the FW Act, and
  - c. has only one occurrence of cashing out per 12 months.
- (7) A written agreement will be entered into for the cashing out of the annual leave. Cashed out annual leave will be paid at the rate that would have been payable if the leave had been taken at the time of cashing out.
- (8) For a period of 12 months, following ratification of the Agreement, employees may be able to cash out a maximum of 6 weeks annual leave providing they have met clause E.1 (6) (a) and (6)(b).

### **E.2 Personal and carer's leave**

- (1) Personal and carer's leave is underpinned by the NES and the following clauses.
- (2) Personal and carer's leave gives employees access to paid leave to be used when they are absent:
  - a. due to personal illness or injury including attendance at medical appointments,
  - b. due to a member of the employee's immediate family, kinship group or household requiring care or support related to an illness or injury,
  - c. to provide care or support for a member of the employees immediate family, kinship group or household who is affected by an unexpected emergency or special circumstance,
  - d. to deal with the impact of family and domestic violence – see E.2 (14) (including but not limited to attending court proceedings, attending police appointments or making arrangements for alternative accommodation or childcare), or
  - e. as a result of special or exceptional circumstances.
- (3) Consistent with the NES, full-time employees are entitled to 10 paid days (or the part-time equivalent) personal & carer's leave annually. An employee's entitlement to paid personal & carer's leave accrues progressively during a year of service according to the employee's Ordinary Hours of work and accumulates from year to year.
- (4) Full-time employees are also entitled to an additional 5 paid days (or the part-time equivalent) of leave annually which will accrue on the same basis as personal leave but will be added to their NSWALC Additional Leave Bank (see E.8).

- (5) Personal leave may be granted without pay where other leave credits for annual leave, long service leave or Additional Leave Bank are exhausted. The NSWALC may also grant additional paid personal & carer's leave in special or exceptional circumstances where an employee has exhausted paid leave credits.
- (6) Personal & carer's leave will not be paid out on separation from NSWALC.
- (7) An employee is required to provide evidence to be entitled to paid personal leave where the employee is absent from work:
  - a. for a period in excess of 3 consecutive days,
  - b. for any absences in excess of 10 days where a medical certificate has not been provided (pro-rata for part-time employees) in the preceding 12 months, and/or
  - c. for any period on annual leave during which the employee seeks paid personal & carer's leave.
- (8) Evidence for the purposes of personal & carer's leave means:
  - a. a medical certificate from registered health practitioners and registered health providers,
  - b. if it was not reasonably practicable for the employee to obtain a medical certificate, a statutory declaration which identifies the category of leave specified in clause (2), and/or
  - c. with the prior agreement of the NSWALC, another form of evidence or no evidence.
- (9) Evidence for the purposes of leave to deal with family and domestic violence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.
- (10) If an employee has a personal illness or injury which requires ongoing treatment and/or may result in the employee taking personal & carer's leave for illness or injury on a regular or intermittent basis, and the NSWALC has received medical evidence confirming the ongoing condition, the NSWALC may approve future leave based on the initial medical evidence if that medical evidence supported the future absence.
- (11) NSWALC may also request evidence in other circumstances, for example where repeated and frequent single day or short-term absences occur; or the employee has a pattern of taking a particular day off (e.g. every Monday).

### **Family and domestic violence**

- (12) NSWALC is committed to supporting employees affected by family and domestic violence. Employees are encouraged to discuss the avenues of support available with their manager or Human Resources or contact harassment officers.
- (13) An employee experiencing domestic and family violence may also access 5 additional days per year of paid domestic violence leave for the purposes of attending legal proceedings, securing appropriate accommodation, counselling, appointments with legal practitioners or other activities associated with the experience of domestic and family violence.
- (14) Leave is available to employees affected by family and domestic violence, or to provide support to a

member of their family or kinship group who is affected by family and domestic violence. Employees may use existing entitlements to personal & carer's leave provided by E.2 of this Agreement.

- (15) In the case where entitlements are exhausted, employees may apply for additional paid personal & carer's Leave in accordance with paragraph (5) of E.2 of this Agreement, and will be required to provide a medical certificate or a plan of treatment from the treating medical practitioner which can be in advance of subsequent accruals. Other types of supporting documents which may be provided in lieu of medical documents include documents issued by the police service, a court or a family violence support service or a statutory declaration.
- (16) These provisions apply in addition to any entitlements available under the National Employment Standards in accordance with Subdivision CA, Division 7, Part 2-2 [Unpaid family and domestic violence leave] of the FWA.

### **E.3 Parental leave**

- (1) (a) An Employee who is pregnant and requires time away from work is entitled to 9 weeks of unpaid leave prior to the expected date of birth after completing 40 weeks of continuous service. The employee may use existing leave entitlements provided for by this Agreement.
- (b) Employees who are required to take time away from work for the birth or adoption of a child are entitled to 12 months of parental leave from the birth or adoption of a child after completing 40 weeks of continuous service (Parental Leave) . At the beginning of parental leave:
- (i) if the employee is the primary caregiver, the employee is entitled to 14 weeks paid leave, or
  - (ii) if the employee is the supporting partner, the employee is entitled to "short other parent leave" of up to 8 weeks of which up to 4 weeks is paid leave. The supporting partner is also entitled to unpaid "other parent leave" for a period not exceeding 12 months, less any "short other parent leave" already taken. "Other parental leave" may commence at any time up to 2 years from the date of birth or adoption of a child.
- (2) Employees who adopt a child, and who have responsibility for the care of that child, are entitled to parental leave, where:
- a. the child is under 16 years of age, and
  - b. the child is not (otherwise than because of the adoption) a child of the employee or the employee's spouse/partner, and
  - c. the child did not previously live with the employee for a period of six months or more as at the day of placement.
- (3) In addition, the provisions of clause (2) also apply to the placement of a child where:
- a. the employee becomes the primary caregiver of a child through formal foster care or kinship care arrangements for a period of more than 12 months, or
  - b. the employee is granted custody and guardianship of a child as a result of a guardianship order (or equivalent permanent care order).
- (4) Eligible employees are entitled to an extension of unpaid parental leave for a further period of up to 12 months, immediately following the end of the initial 12-month period.
- (5) Paid parental leave counts as service for all purposes. For the avoidance of doubt, this includes paid

parental leave granted in accordance with the provisions of clauses (1)(b), (2) and (3). Unpaid parental leave will not count as service for any purpose, however, will not result in a break in service.

- (6) Employees may take paid parental leave at half pay. For the avoidance of doubt, this includes parental leave of up to 28 weeks at half pay for primary caregivers and 8 weeks at half pay for supporting partners granted in accordance with the provisions of clauses (1)(b), (2) and (3). When taken at half pay, only the full pay equivalent period will count as service for all purposes. Employees may also take paid parental leave as a lump sum.
- (7) Employees applying for parental leave as a primary caregiver must submit their application no less than 8 weeks prior to the commencement date of the leave and are to confirm the date on which the parental leave is intended to start, the period of leave taken and payment preference for parental leave at least 4 weeks prior to the commencement date of the leave. Employees applying for leave pursuant to E.3.1(a) must submit their application as soon as practicable prior to the commencement date of the leave. NSWALC will inform the Employee of their entitlements and their obligations under this Agreement.
- (8) Documentary evidence must be submitted with an application for parental leave and if leave is sought pursuant to E.3.1(a). Documentary evidence may include a birth certificate, medical certificate showing estimated date of delivery or evidence of approval for adoption or enduring parental responsibilities.
- (9) An Employee who has returned to full time duty without exhausting their entitlement to 12 months unpaid parental leave is entitled to revert back to such leave. This may be done once only, and a minimum of 4 weeks' notice (or less if acceptable to the NSWALC) must be given.
- (10) An Employee may elect to take available annual leave at half pay in conjunction with parental leave provided that:
  - (a) Accrued annual leave at the date parental leave commences is exhausted within the period of parental leave;
  - (b) The total period of parental leave is not extended by the taking of annual leave at half pay.

#### **E.4 Compassionate leave**

- (1) An employee is entitled to 3 days of paid compassionate leave for each occasion when a member of the employees immediate family or household or someone they provide significant care or support for:
  - a. contracts or develops a personal illness or sustains a personal injury that poses a serious threat to their life, or
  - b. dies.
- (2) The NSWALC may approve additional paid compassionate leave on a case-by-case basis.

#### **E.5 Long service leave**

- (1) An eligible employee is entitled to 2 months (8.67 weeks) long service leave on ordinary pay after 10 years of continuous service. Thereafter, an employee is entitled to long service leave at the rate of 4.33 weeks for each additional 5 years of continuous services.

- (2) Employees may take long service leave at half pay. When taken at half pay, only the full pay equivalent period will count as service for all purposes.
- (3) Subject to the provisions of clauses (1) and (2), long service leave will be otherwise in accordance with the *Long Service Leave Act 1955 (NSW)*, except for employees with service prior to 17 February 2003 who will be eligible to the provisions of s.55 of the *Public Sector Employment and Management Act 2002*.
- (4) The provisions of the *Long Service Leave Act 1955 (NSW)* apply to all employees who commence employment with the NSWALC on or after 17 February 2003.
- (5) Employees shall be entitled to pro-rata long service leave after 7 years continuous service with NSWALC. Employees wishing to access this clause must take a minimum of one-month long service leave.

## **E.6 Community service leave**

- (1) Employees are entitled to community service leave for the purposes of:
  - a. jury service,
  - b. voluntary emergency activity with a recognised emergency management authority, or
  - c. an eligible community service activity prescribed in accordance with section 109 [Meaning of eligible community service activity] of the FWA.
- (2) Participation in voluntary emergency management activities include training, emergency responses, reasonable recovery time and ceremonial duties. The NSWALC may determine whether any or all of the leave taken to participate in voluntary emergency management activities will be with or without pay.
- (3) Employees on paid community service leave, other than casual employees, will be paid in accordance with their Ordinary Hours of work less any amount of payment the employee may be eligible to from attending.
- (4) Documentary evidence must be submitted to the NSWALC when applying for community service leave.

## **E.7 Defence service leave**

- (1) Employees are entitled to defence service leave to enable them to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or ADF Cadets obligations.
- (2) Employees are entitled to paid defence service leave up to 4 weeks during each financial year, and an additional 2 weeks in the first year of ADF Reserve Service for the purpose of fulfilling service in the ADF Reserve.
- (3) Defence service leave counts as service for all purposes with the exception of unpaid leave to undertake CFTS. Unpaid leave to undertake CFTS counts as service for all purposes except annual leave.
- (4) Employees on paid defence service leave, other than casual employees, will be paid in accordance with their Ordinary Hours of work less any amount of payment the employee may be eligible to from attending.

## **E.8 NSWALC Additional Leave Bank**

- (1) All NSWALC employees will have an Additional Leave Bank available to them. This Additional Leave Bank will accumulate on the basis of:
  - 5 days per year on the same basis as personal and carer's leave for full time employees (or the pro-rata equivalent).
- (2) The NSWALC Additional Leave Bank is intended to provide employees with additional flexibility to attend and participate in scheduled breaks from the workplace. For example; taking a wellbeing break, a health day, facilitating Aboriginal or Torres Strait Islander employees returning home and going back to country.

## **E.9 Cultural, ceremonial and volunteer leave**

- (1) NSWALC recognises the obligations placed on our employees and in particular our Aboriginal and Torres Strait Islander employees to participate in ceremonial activities and other cultural obligations or events associated with their cultures.
- (2) Employees will be granted one paid leave day per year to participate in NAIDOC week activities. That day will be nominated by NSWALC and communicated in advance.
- (3) Employees may also access up to 4 days paid non-accruing cultural, ceremonial and volunteer leave in a calendar year to participate in cultural and ceremonial events or to volunteer.
- (4) By written application, employees may apply to NSWALC for a period of this leave by submitting full details of the request and followed by proof of participation.
- (5) Employees of NSWALC are encouraged to become involved in volunteer activities with recognised Aboriginal organisations and charities, particularly those that enable our Aboriginal employees to return home and go back to country.
- (6) Employees during their participation in approved cultural, ceremonial or volunteer leave are not there to represent NSWALC and must not speak on behalf of NSWALC.
- (7) Employees seeking greater than 4 days leave may supplement if required by accumulated annual leave or from their NSWALC Additional Leave Bank. All applications for cultural, ceremonial and volunteer leave require pre-approval.
- (8) Cultural, ceremonial and volunteer leave is only available to employees with annual leave balances within the 30 day threshold or those who have an approved leave plan in place.

## **E.10 Christmas closedown**

- (1) NSWALC will close over the Christmas / New Year's period for a 10-day period and notify employees prior to the 31<sup>st</sup> October each year.
- (2) Employees will be provided the following time off for this period:
  - a. 3 declared public holidays i.e. Christmas, Boxing and New Year's days,
  - b. 4 days Special Seasonal Leave,
  - c. 3 days from the employee's own leave credits for example annual leave.
- (3) Only employees within the 30 day threshold balances of annual leave or with an approved leave plan will receive the 4 days Special Seasonal Leave on a paid basis.
- (4) Payment of the Special Seasonal Leave will be in accordance with the employee's Ordinary Hours of work. If an employee is absent on leave without pay or at half pay on both sides of the closedown period, payment for the closedown days will be in accordance with the entitlement for that form of



leave.

### **E.11 Study Leave (Refer F.2 – Study assistance)**

- (1) Employees undertaking an approved study program or course may be eligible for paid or unpaid leave. (See F.2 Study Assistance).

### **E.12 Purchased leave**

- (1) Employees may, with the approval of the NSWALC, participate in the purchased leave scheme. The scheme allows employees to access up to 4 weeks additional paid leave by reducing annual salary by a factor of up to 4/52 over a 12-month period.
- (2) Purchasing leave is not available when an employee has an existing leave balances in excess of 30 days annual leave.
- (3) The minimum amount of leave that can be purchased is one week. Additional leave can only be purchased in weekly instalments up to the maximum of 4 weeks in a calendar year.
- (4) Purchased leave on half pay will not be approved.
- (5) Employees who choose to participate in the purchased leave scheme may not take annual leave at half pay while participating in the scheme.
- (6) Participation in the purchased leave scheme is to be applied for and taken in accordance with general leave provisions and must take into account operational requirements and personal circumstances. The timing and expected pattern of paid leave to be discussed with and approved by the manager.
- (7) Participation in the purchased leave scheme is by a separate agreement in writing for each 12-month period between the employee and the NSWALC. The employee must take all leave purchased within the period of the agreement. Any remaining leave not taken at the end of the agreement will be paid to the employee as if the employee had taken the leave.

### **E.13 Cancellation of leave**

Where an employee's leave is cancelled by NSWALC and they are recalled to work, reasonable travel costs, travelling time, incidental costs and any other unavoidable costs arising will be reimbursed where they are not recoverable under insurance or from another source. All unused leave will be re-credited.

### **E.14 Unauthorised absences**

- (1) Where an employee is absent from work without approval, all pay and other benefits under this Agreement cease to be available until the employee resumes duty or is granted leave.
- (2) Where an employee is absent from work without approval for 3 consecutive working days, action on the grounds of non-performance of duties (abandonment of employment) may commence which may result in the employee's employment being terminated.

### **E.15 Special Leave of absence**

- (1) Where an employee has exhausted their leave entitlements and wishes to take leave they may apply for 'special leave of absence'.
- (2) Special leave of absence will be considered by NSWALC following proposal from the employee

outlining their situation, the amount of time away from the workplace required and other considerations.

- (3) Special leave of absence may be granted on full or part pay or as leave without pay. Special leave of absence without pay does not count towards service.
- (4) Where an employee is granted special leave of absence without pay for a period of 10 consecutive working days or less, the Employee shall be paid for any proclaimed public holidays which falls during such leave without pay.
- (5) Where special leave of absence is granted as 'paid leave', public holidays are paid.
- (6) Where an Employee is granted special leave of absence without pay which, when aggregated, does not exceed 5 working days in a period of twelve (12) months, such leave shall count as service for accrual of annual leave and other leave benefits.

## **E.16 UNION REPRESENTATION**

- (1) An employee who has been appointed as a union representative will be allowed reasonable paid time, and will be considered to be on duty, for the conduct of authorised union activities.
- (2) A maximum of 12 days in every 2 calendar years may be accessed by an appointed union representative to attend external union meetings, trade union training courses and such associated activities, provided that adequate written notice has been given to the CEO.
- (3) Union meetings with their members should be held during meal breaks or other work breaks, and may only be held during working hours if agreed to by the CEO.
- (4) NSWALC will include in individual employee induction packages an application form for the CPSU. will provide employees a payroll deduction facility for the payment of union membership fees.

# **Part F Performance and development**

## **F.1 Learning and development**

Employee development and career planning are encouraged to gain formal and informal experiences to support the employees career goals. A broad range of experiences can be considered. For example, mentoring, on-the-job training, projects, acting in and secondments.

NSWALC also provides for cultural, ceremonial and volunteer leave (seeE.9) along with study leave (see F.2) for employees to access to enhance their career development and learning experiences.

- (1) NSWALC is committed to assisting employees to develop their capabilities in performing their role within the organisation and to promote improved performance in support of NSWALC's goals and priorities.
- (2) Learning and development includes specific training required and provided by NSWALC such as Aboriginal cultural knowledge, workplace health and safety training, informal learning and development such as ad hoc professional development seminars delivered internally, formal training and professional development short courses and approved programs or courses of study resulting in a qualification.
- (3) The entitlements under this Part for approved programs or courses of study do not limit an

employee's eligibility for other essential learning and development activities including short training courses and seminars.

## **F.2 Study assistance**

### **Study leave**

- (1) Employees undertaking an approved study program or course may be eligible for paid or unpaid leave. Eligible employees may request up to a maximum of 4 hours per week of paid leave during a period of study.
- (2) In making a decision on a request for study leave, the NSWALC must consider:
  - a. operational considerations including the impact on the delivery of business objectives, the impact on other employees and available resources,
  - b. the relevance of the study program to the business needs of NSWALC,
  - c. the benefit of the study program to the employee and NSWALC,
  - d. the employee's overall learning and development needs,
  - e. the employee's length of service and performance, and
  - f. any other consideration relevant on a case-by-case basis.

## **F.3 Professional costs**

NSWALC may reimburse an employee up to a maximum of \$500 each calendar year for professional memberships, accreditation or registrations which are required for the performance of the employee's duties or which provide a direct benefit to NSWALC.

## **F.4 Performance review**

- (1) NSWALC is committed to a culture of high performance with a focus on quality, standards and continuous improvement through performance management.
- (2) A performance agreement is developed annually at the yearly review cycle for the following year. Workplans are developed to support the achievement of the performance agreement and are reviewed each fortnight.
- (3) A work plan will be developed for all employees, except employees engaged for a period of less than 3 continuous months.
- (4) An employee's performance agreement must include measurable performance objectives which are aligned with NSWALC's strategic and operational business planning activities, the employee's role description and behavioural expectations as agreed between the employee and manager.
- (5) An annual review of each employee's performance will occur. Performance will be assessed against performance objectives and behaviours expected in the role. An overall rating will be determined on a 4-point rating scale as outlined below:
  - Far exceeds expectations
  - Consistently above expectations

- Meeting expectations
  - Not meeting expectations
- (6) An employee may raise a concern in relation to their annual performance review by following the Grievance Handling Policy & Procedure, if their concerns cannot be resolved directly with their Manager.

## F.5 Managing for consistent performance

NSWALC will work with employees to enable employees to have a consistent level of performance or behaviour within our workplace. At times Managers may need to work with employees on their performance and or behaviour so that it meets performance or behaviour expectations. In the case of behaviour, the Code of Conduct Policy applies.

- (1) Underperformance is identified when a manager makes an assessment that an employee's performance is not meeting expectations.
- (2) Where underperformance or behaviour concerns are identified, NSWALC will work with the employee to improve performance to the standard required or behaviour to within policy guidelines.
- (3) Underperformance and behaviour concerns will be managed in accordance with NSWALC's policies and procedures following the principles of natural justice and procedural fairness.
- (4) If performance or behaviour has not improved following a period of working to improve performance or behaviour or if the matter has required investigation, NSWALC may:
  - a. issue a final warning,
  - b. terminate employment due to unsatisfactory performance or behaviour, or
  - c. reassign the employee to alternative duties at their classification where the NSWALC is satisfied that the alternative role is appropriate.

## Part G Leaving NSWALC

### G.1 Termination at NSWALC's initiative

- (1) NSWALC will provide non-ongoing and ongoing employees with not less than 4 weeks written notice prior to termination of their employment unless:
  - a. the employee is subject to a probationary period, in which case the written notice period is outlined in **B.4 Probation**, or
  - b. the employee is over 45 years of age and has completed at least 2 years of continuous service, in which case the written notice period is 5 weeks or any other period required by the NES.
- (2) NSWALC may agree to pay out an employee's notice period at its discretion.
- (3) NSWALC shall have the right to dismiss an employee without notice for conduct that justifies instant dismissal.

## **G.2 Leaving at the employee's initiative**

An employee should provide NSWALC with not less than 4 weeks written notice of the employee's intention to resign other than during the probationary period. NSWALC may agree to a shorter period of notice.

## **G.3 Abandonment of Employment**

- (1) An employee who is absent from duty without authorization for a period exceeding 3 continuous days is to be mailed or couriered a certified letter to their last known address requesting the reason for the absence; directing the employee to resume duty within a specified time, and advising of the prospect of termination if the direction is not followed.
- (2) If the employee does not resume duty within the specified period or fails to provide a satisfactory reason for their unauthorised absence, their employment may be terminated.

## **G.4 Employee conduct**

- (1) NSWALC has a Code of Conduct which requires the highest standards of honesty, integrity, respect and fairness in all business conduct.
- (2) In accordance with the Code of Conduct, NSWALC employees must:
  - a. behave honestly and with integrity and in a way that upholds NSWALC's values and the good reputation of NSWALC,
  - b. act with care and diligence in the course of their employment,
  - c. treat everyone with respect and courtesy and without harassment,
  - d. comply with all applicable Australian laws,
  - e. comply with any lawful and reasonable direction given by a member of NSWALC's employees who has authority to give the direction,
  - f. maintain appropriate confidentiality,
  - g. take reasonable steps to avoid any conflict of interest (real or apparent) in connection with their NSWALC employment and disclose details of any material personal interest of the employee in connection with their NSWALC employment,
  - h. use NSWALC's resources in a proper manner and for a proper purpose,
  - i. not provide false or misleading information in connection with their NSWALC employment,
  - j. not improperly use NSWALC information or the employee's duties, status, power or authority to gain, or seek to gain, a benefit or an advantage for the employee or for any other person, or to cause or seek to cause detriment to NSWALC or any other person, and
  - k. comply with any other conduct requirement that is prescribed by NSWALC's policies.

### **Breaches of the Code of Conduct**

- (3) NSWALC may investigate any alleged breach of the Code of Conduct internally or with external assistance.
- (4) Any investigation of an alleged breach of the Code of Conduct will be conducted in accordance

with the principles of procedural fairness and natural justice.

- (5) During an investigation, an employee may be suspended with or without pay.
- (6) The NSWALC may impose the following sanctions on an employee who is found to have breached the Code of Conduct:
  - a. counsel the employee,
  - b. issue a verbal or written warning and place a record on the employee's file, and/or
  - c. terminate the employee's employment.
- (7) The dispute resolution clauses at **Part J**(*Dispute resolution*) may apply to an employee who is dissatisfied with a decision taken by NSWALC under clause G.4 (6) with the exception of termination of employment.
- (8) Nothing in this Agreement prevents NSWALC from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with section 123(1)(b) of the FW Act.

## **G.5 Right of review for termination**

To avoid doubt, this Agreement does not provide the employee with any rights or remedies in relation to the termination of, or a decision to terminate, their employment. Termination of employment, or a decision to terminate employment, cannot be reviewed under the dispute resolution procedure contained in this Agreement.

## **G.6 Redundancy**

- (1) This section applies to all full time and part time employees covered by this Agreement excluding:
  - a. an employee subject to a probationary period,
  - b. an employee on a non-ongoing contract, or
  - c. a casual employee.
- (2) Consistent with the consultation provisions in this Agreement, NSWALC will consult with employees during workplace change which will include notification of whether redundancy is likely and the process to identify affected employees.
- (3) NSWALC will as far as possible avoid involuntary redundancies and will throughout the process take all reasonable steps to transfer an employee identified for redundancy to a suitable vacancy at an equal classification within NSWALC.
- (4) An employee may be identified for redundancy if NSWALC no longer requires the job to be done by anyone, including in one or more of the following circumstances:
  - a. there is a greater number of employees at their classification than is necessary for the efficient and economical operation of NSWALC,
  - b. the position is not required because of changes in the operational requirements of NSWALC,
  - c. the services of any employee cannot be effectively used because of technological, structural or

other organisational change, and/or

- d. the duties usually performed by the employee are to be performed in a different locality and the employee is not willing to perform the duties at the other location.

(5) Where redundancy is identified, NSWALC will:

- a. advise in writing the employee(s) directly affected of the situation, the reasons and scope,
- b. discuss the redundancy and reassignment processes with affected employees, and
- c. hold discussions with the employee(s).

### Redundancy entitlements

(6) An employee is entitled to the following redundancy pay, subject to any minimum amount the employee is entitled to under the NES:

- a. 4 weeks notice or 5 weeks notice for employees over 45 years of age with at least 5 years continuous service; plus
- b. 8 weeks redundancy pay; plus
- c. 3 weeks pay for each completed continuous year of service, and
- d. a pro rata payment for completed continuous months of service since the last completed year of service.

(7) The minimum amount of redundancy pay is an amount equal to 12 weeks salary and the maximum amount payable is an amount equal to 48 weeks salary. Employees who joined NSWALC prior to the date of ratification of this Agreement will receive the redundancy payment which affords them the higher redundancy payment by calculating the difference between the immediate prior enterprise agreement (2016 – 2020) and this Agreement.

(8) Redundancy pay is calculated on a pro rata basis for any period of service when the employee worked part- time, subject to any minimum amount the employee is entitled to under the NES.

## Part H Individual flexibility

(1) NSWALC and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

- a. the arrangement deals with one or more of the following matters:
  - i. arrangements about when work is performed,
  - ii. overtime rates,
  - iii. penalty rates,
  - iv. allowances,
  - v. remuneration,

- vi. leave, and
    - b. the arrangement meets the genuine needs of NSWALC and the employee in relation to one or more of the matters in paragraph a., and
    - c. the arrangement is genuinely agreed to by NSWALC and the employee.
- (2) NSWALC must ensure that the terms of the individual flexibility arrangement:
- a. are about permitted matters under section 172 of the FW Act,
  - b. are not unlawful terms under section 194 of the FW Act, and
  - c. result in the employee being better off overall than the employee would be if no arrangement were made.
- (3) NSWALC must ensure that the individual flexibility arrangement:
- a. is in writing,
  - b. includes the name of the employer and employee,
  - c. is signed by the NSWALC and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee,
  - d. includes details of:
    - i. the terms of this Agreement that will be varied by the arrangement,
    - ii. how the arrangement will vary the effect of the terms of this Agreement,
    - iii. how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement, and
  - e. states the day on which the arrangement commences and, where applicable, when the arrangement ceases.
- (4) NSWALC must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) NSWALC or the employee may terminate the individual flexibility arrangement:
- a. by giving no more than 28 days written notice to the other party to the arrangement, or
  - b. if the NSWALC and employee agree in writing at any time.

## **Part I Consultation**

### **I.0 Introduction**

- (1) Consultation includes the sharing of information and providing a genuine opportunity for employees to put their views to the appropriate decision-maker and for those views to be properly considered as part of the decision-making process.



- (2) If NSWALC:
- a. has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees, or
  - b. proposes to introduce a change to the regular roster or ordinary hours of work of employees, NSWALC will engage in consultation in accordance with this Part.
- (3) In this Part **relevant employees** means the employees who may be affected by a change referred to in clause (2).

### **I.1 Major change consultation**

- (1) For a major change referred to in paragraph a. of clause (2) of Section I.0:
- a. NSWALC must notify the relevant employees of the decision to introduce the major change, and
  - b. this section applies.
- (2) The relevant employees may appoint a representative for the purposes of the procedures in this Part.
- (3) If:
- a. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation, and
  - b. the employee or employees advise NSWALC of the identity of the representative, NSWALC must recognise the representative.
- (4) As soon as practicable after making its decision, NSWALC must:
- a. discuss with the relevant employees:
    - i. the introduction of the change,
    - ii. the effect the change is likely to have on the employees,
    - iii. measures NSWALC is taking to avert or mitigate the adverse effect of the change on the employees, and
  - b. for the purposes of the discussion provide, in writing, to the relevant employees:
    - i. all relevant information about the change including the nature of the change proposed,
    - ii. information about the expected effects of the change on the employees, and
    - iii. any other matters likely to affect the employees.
- (5) However, NSWALC is not required to disclose confidential or commercially sensitive information to the relevant employees.

- (6) NSWALC must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (7) If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of NSWALC, the requirements set out in clause (1)(a) and clauses (2) and (4) are taken not to apply.
- (8) In this term, a major change is likely to have a significant effect on employees if it results in:
  - a. the termination of the employment of employees,
  - b. major change to the composition, operation or size of NSWALC's workforce or to the skills required of employees,
  - c. the elimination or diminution of job opportunities (including opportunities for promotion or tenure),
  - d. the alteration of hours of work,
  - e. the need to retrain employees,
  - f. the need to relocate employees to another workplace, or
  - g. the restructuring of jobs.

## **I.2 Change to regular roster or ordinary hours of work**

- (1) For a change referred to paragraph b. of clause (2) of Section I.0:
  - a. NSWALC must notify the relevant employees of the proposed change, and
  - b. this section applies.
- (2) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (3) If:
  - a. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation, and
  - b. the employee or employees advise NSWALC of the identity of the representative, NSWALC must recognise the representative.
- (4) As soon as practicable after proposing to introduce the change, NSWALC must:
  - a. discuss with the relevant employees the introduction of the change,
  - b. for the purposes of the discussion—provide to the relevant employees:
    - i. all relevant information about the change, including the nature of the change,
    - ii. information about what NSWALC reasonably believes will be the effects of the change on the employees,
    - iii. information about any other matters that NSWALC reasonably believes are likely to affect the employees, and
  - c. invite the relevant employees to give their views about the impact of the change (including any

impact in relation to their family or caring responsibilities).

- (5) However, NSWALC is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (6) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

### **I.3 Employee Consultative Committee**

NSWALC and its employees are committed to working collaboratively to promote a productive and cohesive workplace. In order to provide a forum to discuss issues affecting NSWALC's workplace, an NSWALC Consultative Committee will meet once per annum unless there is a demonstrated need for additional meeting/s in accordance with the Committee's terms of reference.

## **Part J Dispute resolution**

### **J.0 Introduction**

- (1) If a dispute relates to a matter arising under this Agreement, or the NES, or whether NSWALC had reasonable business grounds to refuse a request for flexible working arrangements (s.65(5) of the *Fair Work Act 2009* (Cth)), the dispute will be settled in accordance with this Part.
- (2) An employee(s) who is/are a party to the dispute may appoint a representative for the purposes of the procedures in this Part.


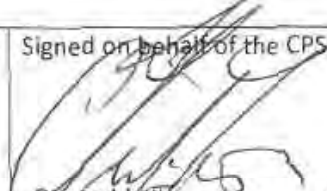
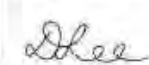
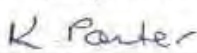


### **J.1 Internal dispute resolution**

- (1) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
- (2) An internal dispute resolution process must be followed to try to resolve the dispute in the below order unless there are reasonable grounds for these steps not to be followed:
  - a. A party to the dispute should raise the matter in dispute with their immediate supervisor and seek to resolve the matter.
  - b. If the matter is not resolved at paragraph a. above, the party to the dispute should refer the matter to the supervisor's line manager who should seek to resolve the matter.
  - c. If the matter is not resolved at paragraph b. above, the party to the dispute should refer the matter to the Human Resources Senior Manager or NSWALC to resolve the matter.
  - d. If the matter is not resolved at paragraph c. above, the matter will be referred to the NSWALC who will make the final decision on the matter in dispute.
- (3) The internal dispute resolution procedures must be completed in a timely manner having regard to the complexity of the matter in dispute and the need for adequate consideration of an appropriate resolution.

## J.2 External dispute resolution

- (1) If the internal dispute resolution process above does not resolve the dispute to the satisfaction of the parties, a party to the dispute may refer the matter to FWC.
- (2) The FWC may deal with the dispute in 2 stages:
  - a. the FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation, and
  - b. if the FWC is unable to resolve the dispute at the first stage, the FWC may then:
    - i. arbitrate the dispute, and
    - ii. make a determination that is binding on the parties.
- (3) While the parties are trying to resolve the dispute using the procedures in this term:
  - a. an employee must continue to perform their work as they would normally in accordance with established custom and practice at NSWALC as existed prior to the dispute arising, unless they has a reasonable concern about an imminent risk to their health or safety, and
  - b. an employee must comply with a direction given by NSWALC to perform other available work at the same workplace, or at another workplace, unless:
    - i. the work is not safe,
    - ii. applicable occupational health and safety legislation would not permit the work to be performed,
    - iii. the work is not appropriate for the employee to perform, or
    - iv. there are other reasonable grounds for the employee to refuse to comply with the direction.
- (4) The parties to the dispute agree to be bound by a decision made by FWC in accordance with this term

### SIGNATORIES TO THE AGREEMENT

<p>Signed on behalf of the NSWALC</p>  <p>Yuseph Deen Chief Executive Officer 09/11/2021 33 Argyle St Parramatta NSW 2150</p>	<p>Signed on behalf of the CPSU</p>  <p>Stewart Little Branch Secretary CPSU 10/11/2021 160 Clarence St Sydney NSW 2000</p>	<p>Signed on behalf of the employee bargaining representatives</p>  <p>Diane Lee 09/11/2021 33 Argyle St Parramatta NSW 2150</p>
<p>In the presence of:</p> <p>Witness Name: Kerry Porter Signature: </p> <p>33 Argyle St Parramatta NSW 2150</p>	<p>In the presence of:</p> <p>Witness Name: <del>THOMAS PORTER</del> Signature: </p> <p>160 Clarence St Sydney NSW 2000</p>	<p>In the presence of:</p> <p>Witness Name: Andrew Lee Signature: </p> <p>33 Argyle St Parramatta NSW 2150</p>



**New South Wales  
Aboriginal Land Council**  
ABN 82 726 507 500  
alc.org.au

**IN THE FAIR WORK COMMISSION**

**FWC Matter No:** AG2021/8384

**Applicant:** NSW Aboriginal Land Council

Section 185 – Application for approval of a single enterprise agreement

**Undertaking – Section 190**

I, Yuseph Deen, Chief Executive Officer for NSW Aboriginal Land Council (“NSWALC”) give the following undertakings with respect to the NSW Aboriginal Land Council Enterprise Agreement 2021 – 2025 (“the Agreement”).

1. I have the authority given to me by the NSWALC to provide this undertaking in relation to the application before the Fair Work Commission.
2. NSWALC has never employed employees as shift workers in the past and has no intention to introduce shift-work rosters. In the event this situation changes, shift-work conditions will reflect the Award and NES provisions.
3. The “roster hours” under the Agreement will not include shift or weekends as ordinary time.
4. NSWALC has not engaged casual employees in the past and has no intention to do so in the future. In the event this situation changes, any casual employees will be paid overtime on the casual loaded rate.
5. In the event of employees raise anomalies with their positioning within the Agreement salary bands, the affected employees can have access to the dispute resolution as per **Part J** of the Proposed Agreement.
6. Employees also can lodge a grievance concerning their positioning within the Agreement salary as per the NSWALC Grievance and Dispute Resolution Policy and Guidelines.
7. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signed:

Yuseph Deen  
Chief Executive Officer  
NSW Aboriginal Land Council  
Date: 29 November 2021

**ALWAYS WAS ALWAYS WILL BE ABORIGINAL LAND**

Head office	Western Zone	Northern Zone	Northern Zone (Tamworth)	Eastern Zone	Southern Zone	Far Western Zone
Level 5, 33 Argyle Street Parramatta NSW 2150	2/36 Darling Street Dubbo NSW 2830	Suite 5, Level 1 66-90 Harbour Drive Coffs Harbour NSW 2450	2/158 Marius Street Tamworth NSW 2340	Suite 23, 207 Albany Street North Gosford NSW 2250	Unit 22, 2 Yallourn Street Fyshwick ACT 2609	Ground Floor Suite 49 Oxide Street Broken Hill NSW 2880
PO Box 1125 Parramatta NSW 2124	PO Box 1196 Dubbo NSW 2830	PO Box 1912 Coffs Harbour NSW 2450	PO Box 890 Tamworth NSW 2340	PO Box 670 Gosford NSW 2250	PO Box 619 Queanbeyan NSW 2620	Ph: 08 8087 7909 Fax: 08 8087 3851
Ph: 02 9689 4444 Fax: 02 9687 1234	Ph: 02 6885 7000 Fax: 02 6881 6268	Ph: 02 6659 1200 Fax: 02 6650 0420	Ph: 02 6766 4468 Fax: 02 6766 4469	Ph: 02 4337 4700 Fax: 02 4337 4710	Ph: 02 6124 3555 Fax: 02 6280 5650	