



WaterNSW Enterprise Agreement 2022



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Acknowledgement of Country

WaterNSW would like to acknowledge all First Nations people. We would like to pay our respects to all Elders past, present and emerging, and acknowledge their ongoing connection, both spiritually and physically, and commitment to the waters and lands on which we operate.

We recognise their vast cultural knowledge and management of country, and together we are committed to working towards reconciliation. Through our partnerships with First Nations communities, we will care for country and the waterways on all of our operations and infrastructure areas.

1. Part A– About this Agreement

1.1 Name

- (a) This Enterprise Agreement is called the WaterNSW Enterprise Agreement 2022 (Agreement).

1.2 Coverage and duration

- (a) This Agreement will commence operation on the date that is 7 days after the Agreement is approved in accordance with the Fair Work Act and must have a nominal expiry date of 30 June 2023.
- (b) The Agreement must continue to apply beyond its nominal end date until it ceases to apply to the employees or ceases to operate by virtue of the operation of sections 58, 224 or 227 of the Fair Work Act.
- (c) This Agreement will apply to:
 - (i) WaterNSW; and
 - (ii) all employees employed in the classifications listed in Schedule 1 of this Agreement.

The Agreement is intended to be the prevailing terms and conditions of employment and replaces all other awards and agreements governing an employee's terms and conditions of employment.

- (d) This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
- (e) Parties to the Agreement:
 - (i) endeavour to commence renegotiation of this Agreement within the 6 months prior to the nominal expiry date;
 - (ii) recognise the mutual gains which have been achieved through the extensive effort and collaboration in bargaining over the previous two years; and
 - (iii) agree to focus bargaining for the next agreement, in 2023, on pay and related matters.
- (f) No employee will experience a reduction in their annual base pay through the introduction of this Agreement. This includes the value of any legacy allowances that have been incorporated into base pay. In cases where an employee is in receipt of retained grade pay or above grade pay the same principle applies, that is, there will be no reduction in base pay through the introduction of this Agreement.
- (g) WaterNSW will evaluate all positions for which employees are engaged. All positions evaluated within the points range in Schedule 1 are covered by the Agreement.

1.3 Definitions

- (a) **Day** means 7.2 hours in relation to leave entitlements for full-time employees.
- (b) **Employee** means a person:

- (i) employed by WaterNSW; and
 - (ii) who performs work in any state or territory in Australia; and
 - (iii) who is employed in a position within the points range in Schedule 1 of this agreement; and
 - (iv) consistent with the meaning in the Fair Work Act.
- (c) **Fair Work Act** means the *Fair Work Act 2009 (Cth)*.
- (d) **Family member** in relation to an employee means:
- (i) the employee's spouse or former spouse, de facto partner or former de facto partner;
 - (ii) any of the following members of the family of the employee or their spouse or de facto spouse, including step relations as well as adoptive relations:
 - (A) a child or an adult child (including an adopted child, stepchild, foster child or ex nuptial child);
 - (B) a parent;
 - (C) a grandparent;
 - (D) a grandchild;
 - (E) a sibling; or
 - (F) a relationship of traditional kinship.
- (e) **FWC** means Fair Work Commission.
- (f) **Household member** in relation to an employee, means a person who lives with the employee.
- (g) **National Employment Standards** means the National Employment Standards in the Fair Work Act.
- (h) **Ordinary hours** means the total hours of work each week the employee is required to be at work for which the employee receives the annual pay as set out in Schedule 1 of this Agreement.
- (i) **Ordinary rate of pay** means the rate of pay paid for working ordinary hours consistent with the position grade determined in accordance with Schedule 1.
- (j) **Parties** to this Agreement means WaterNSW and WaterNSW employees employed under Schedule 1 of this Agreement.
- (k) **Settlement period** means the 4 week period over which an employee records their time and meets their ordinary hours through time worked and approved leave.
- (l) **Span of ordinary hours** means the period between 6 am until 7 pm Monday to Friday, or Monday to Sunday for shift workers, in which ordinary hours can be worked.
- (m) **Union** means:

- (i) Association of Professional Engineers, Scientists and Managers Australia; and
 - (ii) Australian Services Union NSW; and
 - (iii) CEPU (NSW) Electrical Division; and
 - (iv) The Australian Workers' Union, New South Wales Branch; and
 - (v) The Community and Public Sector Union NSW.
- (n) **Week** means 36 hours in relation to leave entitlements for full-time employees.

1.4 No extra claims

- (a) During the term of this Agreement, there will be no extra wage claims, claims for improved conditions of employment or demands made with respect to the employees covered by this Agreement and, further, that no proceedings, claims or demands concerning wages or conditions of employment with respect to those employees will be instituted before the FWC or any other industrial tribunal.
- (b) Clause 1.4 does not prevent any proceedings with respect to the interpretation, application or enforcement of existing provisions in this Agreement.
- (c) This Agreement will be monitored by the parties covered, to ensure that it is implemented properly. This Agreement may be varied during its term under Part 2-4, Division 7, Subdivisions A and B of the Fair Work Act.

1.5 Principles of this Agreement

This Agreement sets out employment terms and conditions for the employer's employees.

This Agreement should not be interpreted in a way that would hinder WaterNSW's pursuit of the following objectives:

- delivering essential and sustainable water services for the benefit of customers and the community;
- performing its functions safely, efficiently and effectively;
- protecting the environment; and
- protecting public health.

All parties agree to work together to continually improve productivity, flexibility and customer service to ensure that WaterNSW is a successful business. To facilitate this process, all employees will demonstrate WaterNSW's values.

The parties also agree to collaborate for mutual benefit in:

- providing safety for employees and the public;
- building a one team culture;
- rewarding people for performance and outcomes;
- assisting employees to balance their work and private commitments;
- ensuring availability of employees to serve customers and communities;
- providing an environment that is free from bullying, harassment and discrimination;
- making the most efficient use of resources and supporting innovation;
- respecting and valuing diversity; and
- ensuring freedom of association.

The employer acknowledges the right of employees to be represented by their union in relation to workplace health and safety (WHS), their industrial interests and in negotiating industrial change.

1.6 Preventing and eliminating unlawful discrimination

- (a) This Agreement intends to help prevent and eliminate unlawful discrimination in the workplace. Unlawful discrimination includes discrimination on the grounds of race, sex, marital status, disability, sexual orientation, transgender identity, age, and carer responsibilities.
- (b) WaterNSW and its employees will take all reasonable steps to ensure this Agreement is not discriminatory in its effect, either directly or indirectly.
- (c) This clause does not apply to:
 - (i) any conduct or act that is specifically exempt from anti-discrimination legislation; or
 - (ii) offering or providing junior rates of pay to a person under 21.
- (d) This clause does not create any extra legal rights or impose any extra obligations to those created or imposed by the Fair Work Act or the *Anti-Discrimination Act 1977*. Nor does it prevent a party to this Agreement from pursuing matters of unlawful discrimination in any state or federal jurisdiction.

2. Part B – Consultation, workplace change and dispute resolution

2.1 Consultation about workplace change

- (a) When WaterNSW is considering a change in the workplace that may impact employees, it must consult with the employees affected and their representatives.
- (b) WaterNSW may consult using different processes depending on whether the change is major change or less than major change.
- (c) Major change means a change that is likely to have a significant impact on employees. A change to rosters or regular hours of work or a change to production, program, organisation, structure or technology is major change.

Areas in which major change may occur include, but are not limited to:

- (i) redundancy, restructure or redeployment;
 - (ii) introduction of new technology;
 - (iii) career pathways, career development or competencies;
 - (iv) changes to work practice, hours of work or core accountabilities; or
 - (v) change in work location, regular roster or ordinary hours of work.
- (d) WaterNSW will strive to avoid job losses associated with workplace change by working with employees affected and their representatives to develop alternatives such as reskilling and redeployment.

- (e) Less than major change is change that may have an impact on employees, but that impact is not significant, and the change does not constitute major change.
- (f) Where the proposed change is major change, WaterNSW must:
 - (i) communicate with the employees affected and their representatives as soon as practicable that a problem, issue or opportunity exists that gives rise to the potential for major change. In this clause “as soon as practicable” means when WaterNSW has enough information to convey about the problem, issue or opportunity to make the communication worthwhile; and
 - (ii) refer the problem, issue or opportunity to the Peak Consultative Group that may establish a Consultative Working Group comprised of representatives of WaterNSW, the employees affected and their representatives. The Peak Consultative Group or the Consultative Working Group will develop a Consultation Plan that will set out a joint program of collaboration and consultation to address the problem, issue or opportunity.
- (g) The parties acknowledge that the source of the problem, issue or opportunity may be external to WaterNSW. In this case, communication may be about a decision that impacts WaterNSW that an external authority requires it to implement. In this case, the problem, issue or opportunity will concern the implementation of this decision rather than the decision itself.
- (h) The members of the Peak Consultative Group or the Consultative Working Group will endeavour to use the interest-based problem-solving process to address the problem, issue or opportunity. This means that they will seek to understand the key needs and concerns of WaterNSW and the employees affected and use the interest-based problem-solving process to strive to reach a mutually beneficial outcome.
- (i) The interest-based problem-solving process is a collaborative problem-solving process involving:
 - (i) defining the problem, issue or opportunity;
 - (ii) identifying the stakeholders and their interests;
 - (iii) sharing relevant information;
 - (iv) developing a range of options;
 - (v) establishing agreed criteria by which to evaluate options; and
 - (vi) striving to reach consensus on the best available option or options.
- (j) The criteria are to be developed by the Peak Consultative Group or Consultative Working Group. Criteria to be considered include:
 - (i) safety, hardship of those affected;
 - (ii) workload of those affected and that of any remaining employees;
 - (iii) job security;
 - (iv) building mutual respect;
 - (v) job satisfaction;
 - (vi) tangible productivity improvement; and
 - (vii) any legislative requirements.

- (k) The parties acknowledge that consensus cannot be mandated. It is the goal of the process, not an obligation. If consensus is not reached or is not within reach within a reasonable timeframe (where reasonable timeframe means sufficient time to complete the steps in subclause 2.1(o)), WaterNSW may decide to address the problem, issue or opportunity.
- (l) If consensus is reached, the Peak Consultative Group or the Consultative Working Group must consider how to consult about the outcome of the interest-based problem-solving process with the employees affected. In this case, and if consensus is not reached, WaterNSW will follow the steps set out in subclause 2.1(o) below. The consultation process followed must provide opportunity for the views of employees to be given, and for those views to be genuinely considered, in particular, where there has been a change to rosters or to ordinary hours of work.
- (m) Once a decision is implemented, a joint review of the impact of the change will be undertaken. The review will be identified as part of the Consultation Plan and jointly conducted at the most appropriate juncture to assess the impact of the change.
- (n) Where the proposed change is less than major change, WaterNSW will follow the consultation steps in subclause 2.1(o) (i) to (vii) or follow the process for major change in subclause 2.1(h) to (n).
- (o) Consultation steps are:
 - (i) communicate the proposed change to the employees affected and their representatives by an informal exchange;
 - (ii) explain the reason behind the proposed change to the employees affected and their representatives, and communicate any measures to avert or mitigate any negative impacts;
 - (iii) invite the employees affected and their representatives to provide feedback about the proposed change orally or in writing, including measures to avert or mitigate any negative impacts;
 - (iv) consider the feedback given by the employees affected and/or their representatives;
 - (v) provide a response to the feedback given to the employees affected and/or their representatives;
 - (vi) amend the proposed change as decided by WaterNSW; and
 - (vii) communicate the change to the employees affected and/or their representatives.

2.2 Peak Consultative Group

- (a) The Peak Consultative Group will take the place of the Joint Consultative Committee established under the WaterNSW Enterprise Agreement 2018. The Peak Consultative Group will focus on strategic issues that relate to the purpose and functioning of WaterNSW, issues that affect the relationship between WaterNSW, employees and the unions, and workplace change. The Peak Consultative Group will endeavour to use the interest-based approach and members will undertake training in the use of the interest-based problem-solving process.
- (b) The purpose of the Peak Consultative Group is to:
 - (i) enable WaterNSW to keep its employees, and the unions representing them informed;
 - (ii) enable unions and their members to keep WaterNSW informed;
 - (iii) allow employees to have input in the decisions of management;

- (iv) facilitate the exchange of views between employees, unions and management;
 - (v) provide a forum for the exploration and understanding of “best practice” and its application within WaterNSW;
 - (vi) raise ideas and concepts and provide a forum to discuss improvements in WaterNSW’s performance and efficiency;
 - (vii) enable the establishment of mechanisms to gauge and report on productivity;
 - (viii) receive regular briefings on the status of employment of WaterNSW employees;
 - (ix) undertake consultation and collaboration concerning workplace change in accordance with clause 2.1 – Consultation about workplace change; and
 - (x) monitor the implementation of the Agreement.
- (c) The Peak Consultative Group will not address individual employee matters that are to be addressed in accordance with clause 2.4 – Dispute resolution.
 - (d) The Peak Consultative Group’s Terms of Reference will be developed during the life of this Agreement.

2.3 Roles and responsibilities

- (a) There are specific roles for each of the participants in the consultation process.
 - (i) Employees:
 - (A) constructively engage in the consultation process;
 - (B) share relevant information; and
 - (C) contribute to management decision-making.
 - (ii) Management:
 - (A) lead the consultation process in a manner that informs employees on an issue that directly or indirectly affects their employment or working conditions;
 - (B) foster information sharing, collaboration and a relationship of mutual trust;
 - (C) provide employees with the opportunity to influence decisions that affect their work and quality of life;
 - (D) demonstrate their commitment to developing an interest-based approach; and
 - (E) make decisions and implement changes based on consideration of the information, interests and options identified during the consultation process.
 - (iii) Unions and employee representatives:
 - (A) legitimate stakeholders and representatives of their constituents;
 - (B) constructively engage in the consultation process; and
 - (C) share relevant information and contribute to management decision-making.

- (b) As long as WaterNSW is able to carry out its operational requirements, union delegates will be released from the performance of their normal duties, but be considered to be 'on duty', when required to undertake any of the following activities in their role as union delegate:
- (i) attendance at Peak Consultative Group and Consultative Working Group meetings;
 - (ii) attendance at work health and safety (WHS) meetings and activities as a WHS representative;
 - (iii) attendance at meetings with WaterNSW requiring an employee to attend in the capacity of union delegate;
 - (iv) attendance at a disciplinary meeting where an employee requires a delegate to be in attendance;
 - (v) attendance at a dispute meeting where an employee requires a delegate to be in attendance;
 - (vi) giving evidence in court or a similar body;
 - (vii) presenting information about the union to new employees inducted at WaterNSW; and
 - (viii) distributing official information from the delegate's union at the workplace at an agreed time convenient with WaterNSW management, unless otherwise agreed between WaterNSW and the union delegate. Distribution time is to be kept to a minimum and is to be undertaken at a time convenient to the workplace.
- (c) Where union delegates are carrying out 'on duty' union delegate functions as described in subclause 2.3(b), WaterNSW will:
- (i) allow the union delegate reasonable preparation time before attending meetings with management;
 - (ii) allow for reasonable travel time to and from meetings;
 - (iii) meet the approved travel and accommodation costs incurred from meetings called by WaterNSW management;
 - (iv) re-credit any leave applied for on the days that 'on duty' union delegate responsibilities are required; and
 - (v) provide delegates with reasonable access to the following facilities for authorised union activities:
 - (A) telephone and email if available;
 - (B) employee noticeboards for material authorised by the delegate's union; and
 - (C) workplace conference or meeting facilities, where available, for meetings with members as agreed with WaterNSW and the delegate's union.

2.4 Dispute resolution

- (a) If a dispute relates to a matter under this Agreement, or the National Employment Standards, the following procedure will be used.
- (b) The parties will endeavour to resolve the dispute in a timely manner at the workplace level by discussions between the employee or employees concerned and the relevant supervisor, or

subsequently either through discussions with more senior levels of management where appropriate or through alternative dispute resolution methods.

- (c) Where the dispute involves confidential or other sensitive information (including issues of harassment, bullying or discrimination) making it impractical or inappropriate for the employee to notify a supervisor or manager, they may notify the next appropriate level of management or their human resources representative.
- (d) Tier 1 disputes
 - (i) Tier 1 disputes will be resolved at the local level as far as practicable and in a timely manner, with the involvement of the following:
 - (A) the employee(s) concerned;
 - (B) the employee's chosen support person (who may be a union representative or other individual) (if requested by the employee(s)); and
 - (C) the supervisor and manager (if required).
- (e) Tier 2 disputes
 - (i) If the issue or dispute is not resolved at Tier 1 level or is a corporate-wide issue, it may be referred to the Tier 2 level with involvement of the following:
 - (A) the employee(s) concerned;
 - (B) the employee's chosen support person or union organiser (or other person designated by the union organiser);
 - (C) relevant senior manager(s), affected local manager(s), and Manager Industrial Relations (or other person designated by the Manager Industrial Relations); and
 - (D) an independent third-party facilitator may be engaged to assist in resolving the issue or dispute, if agreed by all affected parties.
- (f) Tier 3 disputes
 - (i) If discussions at the workplace level do not resolve the dispute, and all appropriate steps have been taken in accordance with clauses 2.3 – Roles and responsibilities and 2.4 – Dispute resolution, a party to the dispute may refer the matter to the FWC.
 - (ii) 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:
 - a. arbitrate the dispute; and
 - b. make a determination that is binding on the parties.
 - (iii) Either party to the dispute may nominate or appoint another person, organisation or association to accompany and/or represent them in a Tier 3 dispute.

- (g) While the parties are trying to resolve the dispute using the procedures in this clause:
 - (i) an employee must continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety; or
 - (ii) an employee must comply with a direction given by WaterNSW to perform other available work at the same workplace or at another workplace, unless:
 - (A) the work is not safe; or applicable work health and safety (WHS) legislation would not permit the work to be performed; or
 - (B) the work is not appropriate for the employee to perform; or
 - (C) there are other reasonable grounds for the employee to refuse to comply with the direction.
- (h) While a dispute is being dealt with under this dispute resolution procedure, a union may apply to the FWC for a recommendation or interim order imposing the status quo (that is, the situation that existed immediately prior to the issue that gave rise to the dispute) for a period of up to 8 weeks after the application for the recommendation or order or longer period as the FWC may determine.
- (i) The parties to the dispute agree to be bound by a decision made by the FWC subject to the parties' rights of appeal under the Fair Work Act.

3. Part C – Terms of employment and engagement

3.1 Employment – starting employment and probation periods

- (a) The employment of all new employees will be subject to a 6 month probationary period.
- (b) Feedback will be provided to the employee at regular intervals during the probationary period.

3.2 Types of employment – permanent full-time employment

- (a) Full-time employees are those employees engaged to work 36 ordinary hours per week (144 hours per 4 week settlement period) on a permanent basis.

3.3 Types of employment – part-time employment

Part-time employees are those employees working less than 36 hours per week on a permanent part-time basis.

- (a) The employee and WaterNSW must agree on the ordinary hours of work at the start of employment and may be varied in accordance with the clause 4.2 – Flexible working hours arrangement.
- (b) A part-time employee may be required to work reasonable additional ordinary hours or overtime hours at the appropriate rate as outlined in clause 4.6 – Overtime.
- (c) Part-time employees are paid a pro-rata salary based on the proportion that their hours bear to those of full-time employees.
- (d) Part-time employees receive Agreement conditions and payments on a pro-rata basis for annual leave, personal/carers leave, long service leave and other authorised leave in the

proportion that their hours of work bear to those of full-time employees, where pro-rating is relevant.

- (e) Leave accrues for part-time employees in proportion to the number of hours actually worked, up to a maximum equivalent to full-time employee's ordinary hours of work each week.

3.4 Types of employment – casual employment

- (a) Casual employees are those employees who are engaged intermittently in work of an irregular, occasional or unexpected nature and who could not properly be classified as a permanent full-time or part-time employee.
- (b) Rates of pay and overtime.
 - (i) Casual employees are engaged and paid by the hour. The hourly rate is calculated by dividing the appropriate weekly ordinary rate by the number of full-time ordinary hours worked by an employee in the same classification, plus:
 - (A) **25%** to compensate for the disadvantages of casual work and in place of all paid and unpaid leave entitlements, except long service leave;
 - (B) casual employees are paid for at least 4 hours for each engagement, except for casual cleaners who may be engaged for less than 4 hours for each engagement; and
 - (C) casual employees receive overtime rates under this Agreement for any time worked outside the ordinary hours of work for a full-time employee.
 - (ii) Overtime payments for casual employees are calculated on the casual employee's rate, that is the hourly ordinary rate of pay plus the **25%** loading referred to above.
- (c) Leave
 - (i) Casual employees are entitled to long service leave under the provisions of this Agreement.
 - (ii) Casual employees may take unpaid leave of up to 2 days per occasion or other period as agreed with WaterNSW for personal/carers leave to care for a family member who is ill or injured and requires care and support, or who requires care due to an unexpected emergency or the birth of a child. In this case:
 - (A) the casual employee must provide satisfactory evidence of the illness of the family member as defined in WaterNSW policy;
 - (B) in normal circumstances, the casual employee must not take carers leave where someone else or an institution is providing care for the same person; and
 - (C) where possible, and within an hour of the usual starting time, the casual employee must notify the employee's supervisor or manager of the need to care for an ill family member and how long the employee expects to be off work.
 - (iii) Casual employees may take unpaid leave of up to 2 days per occasion or other period as agreed with WaterNSW on compassionate grounds such as the death or illness of a close member of the family or a member of an employee's household.

- (iv) Casual employees are entitled to unpaid parental leave in accordance with the Fair Work Act.
- (v) WaterNSW will not fail to re-engage a casual employee because the employee:
 - (A) accessed the entitlements of unpaid personal/carers leave; or
 - (B) the employee or the employee's spouse is pregnant; or
 - (C) the employee is or has been immediately absent on parental leave.
- (d) Secure employment
 - (i) Where a casual employee is engaged on a regular and systematic basis for a calendar period of 6 months, WaterNSW will, within 4 weeks of the employee having worked for 6 months, write to the employee giving them the option to convert their contract of employment to permanent full-time or part-time employment if the employment is to continue beyond the 6 month period.
 - (ii) Any casual employee who has a right to elect to convert to permanent employment can write to WaterNSW on receiving the notice from WaterNSW or after 4 weeks of becoming eligible to convert to permanent employment if WaterNSW has not yet written to the employee, giving 4 weeks' notice in writing to WaterNSW that they seek to convert to permanent full-time or part-time employment.
 - (iii) Within 4 weeks of receiving such a notice from the employee, WaterNSW will advise the employee if they agree to or refuse the conversion to permanent employment. WaterNSW will not unreasonably refuse the conversion. Where WaterNSW does refuse an election to convert, the reasons for doing so will be fully stated and discussed with the employee concerned, and a genuine attempt made to reach agreement.
 - (iv) Any casual employee who does not, within 4 weeks of receiving written notice from WaterNSW, elect to convert their contract of employment to full-time employment or part-time employment will be deemed to have decided to remain a casual employee.
 - (v) Once a casual employee has elected to become and been converted to a permanent full-time or part-time employee, the employee may only revert to casual employment by written agreement with WaterNSW.
 - (vi) If a casual employee has elected to have their contract of employment converted to permanent full-time or part-time employment, WaterNSW and the employee will discuss and agree on:
 - (A) whether the employee will convert to full-time or part-time employment. Where an employee has worked on a full-time basis throughout the period of casual employment, the employee has the right to elect to convert their contract of employment to full-time employment. An employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert their contract of employment to part-time employment based on the same number of hours and times of work as previously worked, unless other arrangements are agreed between WaterNSW and the employee; and
 - (B) if it is agreed that the employee will become a part-time employee, WaterNSW and the employee must agree the number of hours and the pattern of hours that will be worked. The terms of the part-time employment will be consistent with the conditions of part-time work in this Agreement.

- (vii) Following an agreement being reached, the employee will convert to full-time or part-time employment.
- (viii) An employee will not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.
- (ix) If there is a dispute about WaterNSW refusal of an election to convert an ongoing casual contract of employment to permanent employment or the arrangements to apply to an employee converting from casual employment to permanent employment, it will be dealt with as far as practicable through the dispute resolution process.

3.5 Types of employment – temporary employment, labour hire and agency workers

- (a) The engagement of temporary employees, labour hire and agency workers shall not:
 - (i) be used as an alternative to permanent positions or employment; or
 - (ii) deprive permanent employees of opportunities to temporarily undertake alternative or higher-level positions for career enrichment or development.
- (b) A temporary employee, labour hire or agency worker may only be engaged where there will be no ongoing need for either the person or the position.
- (c) WaterNSW will provide a regular briefing on types of employment to the Peak Consultative Group in accordance with the Peak Consultative Group Terms of Reference.
- (d) A temporary employee is an employee:
 - (i) engaged in a specified position, for a limited and specified amount of time (a term) to work for a defined period of up to 24 months or longer (up to 36 months) only if there is a demonstrable business requirement. All temporary engagements beyond 24 months will be reported to the Peak Consultative Group quarterly which will monitor compliance with demonstrable business requirements;
 - (ii) engaged as either a full-time or part-time employee but not as a casual employee;
 - (iii) entitled to the provisions contained in this Agreement that may be on a pro-rata basis for part of a year; and
 - (iv) entitled to notice of termination or pay in lieu of notice in accordance with clause 3.9(a) of this Agreement.
- (e) Labour hire and agency workers
 - (i) A labour hire or agency worker is a person who is not employed by WaterNSW but who performs work for WaterNSW pursuant to a contract between WaterNSW and another organisation.
 - (ii) A labour hire or agency worker may only perform work for WaterNSW for a period of up to 12 months.
 - (iii) WaterNSW will require that a labour hire or agency worker is paid no less than the amount provided in this Agreement to be paid to a WaterNSW employee performing similar work.

3.6 Flexibility

- (a) WaterNSW 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:
 - (i) the arrangement deals with one or more of the following matters:
 - (A) arrangements about when work is performed;
 - (B) overtime rates;
 - (C) penalty rates;
 - (D) allowances; and
 - (E) leave loading.
 - (ii) the arrangement meets the genuine needs of WaterNSW and the employee in relation to one or more of the matters mentioned in subclause 3.6(a) (i); and
 - (iii) the arrangement is genuinely agreed to by WaterNSW and the employee.
- (b) WaterNSW must ensure that the terms of the individual flexibility arrangement:
 - (i) are about permitted matters under section 172 of the Fair Work Act; and
 - (ii) are not unlawful terms under section 194 of the Fair Work Act; and
 - (iii) result in the employee being better off overall than the employee would be if no arrangement was made.
- (c) WaterNSW must ensure that the individual flexibility arrangement:
 - (i) is in writing; and
 - (ii) includes the name of WaterNSW and the employee; and
 - (iii) is signed by WaterNSW and the employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (iv) includes details of:
 - (A) the terms of the Agreement that will be varied by the arrangement; and
 - (B) how the arrangement will vary the effect of the terms; and
 - (C) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (D) states the day on which the arrangement commences.
- (d) WaterNSW must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (e) WaterNSW or the employee may terminate the individual flexibility arrangement:

- (i) by giving no less than 28 days written notice to the other party to the arrangement; or
- (ii) if the employer and employee agree in writing at any time.

3.7 Remote working

- (a) WaterNSW aims to support employees by enabling remote working where it is appropriate for the role, individual and organisation. The parties agree remote working provides opportunities for flexibility and efficiency around where, how and when work is conducted.
- (b) All employees who work remotely need to be flexible around attending important events in person. Leaders will endeavour to provide as much notice as possible where events are scheduled in advance and in person attendance is required. Examples of scenarios when in person attendance is required include:
 - (i) important team meetings (e.g. annual strategy meetings and planning sessions);
 - (ii) stakeholder engagement where face-to-face interaction provides better outcomes; and
 - (iii) attending training that is hands on or only conducted face-to-face.
- (c) There are different scenarios for remote working at WaterNSW, including roles that:
 - (i) require limited in-person attendance at an office or worksite. Such roles predominantly include desk-based or administrative duties;
 - (ii) may have a hybrid approach to remote working, that is, some time in an office or worksite and some time working remotely. Reasons to come into an office or worksite may include:
 - (A) to access better internet speed or to use equipment;
 - (B) to meet with others to connect and collaborate;
 - (C) build team relationships and interact as a team on site;
 - (D) where a WaterNSW workplace provides the employee with a safer location for work; or
 - (E) undertaking operational or field-based activities.
 - (iii) WaterNSW may require individuals to undertake work mainly from a WaterNSW site or office such as:
 - (A) undertaking operational or field-based activities;
 - (B) leadership roles that need to be located near their teams and assets in order to fulfill the requirements of their role in a timely manner; or
 - (C) conducting site and safety inspections.
- (d) Key principles to encourage the success of remote working arrangements include:
 - (i) WaterNSW values informing decisions around remote working;
 - (ii) safety is paramount around remote working – WaterNSW will provide appropriate support for employees to ensure they are physically and emotionally safe;

- (iii) clarity around expectations – employees and their leaders are encouraged to discuss the details of remote working and agree on arrangements and expectations at least once per year;
 - (iv) mutual flexibility is key – individuals may be required to attend in person for certain activities, important events and meetings and should be available to collaborate with others as required;
 - (v) communication and collaboration are important to maintain and enhance connectivity, engagement and productivity;
 - (vi) leaders have an obligation to role model expectations and create a positive and inclusive working environment that empowers and develops their team; and
 - (vii) ensuring data and information security and confidentiality requirements are met.
- (e) Leaders and employees will discuss and agree on remote working arrangements, where applicable, giving due consideration and clear expectations around the following:
- (i) what hours are going to be worked, start and finish times, and availability for collaboration. Refer also to clause 4.2 – Flexible working hours;
 - (ii) expectations of notification of any absences; and
 - (iii) leaders and teams discuss and agree on how they will come together to collaborate and engage.

3.8 Counselling and discipline

- (a) Counselling and discipline are used under WaterNSW policy to manage unsatisfactory performance. It aims to bring the employee back to acceptable performance by adopting a cooperative problem-solving approach.
- (b) Disciplinary action is used under WaterNSW policy to address misconduct. It aims to return employee conduct to acceptable standards through warnings. It may result in termination of employment.
- (c) Allegations of misconduct and/or unsatisfactory performance will be dealt with in accordance with the principles of procedural fairness and the relevant WaterNSW policy.

3.9 Employment – ending employment

- (a) Where WaterNSW ends an employee’s employment for any reason other than serious misconduct it will give written notice according to the table below:

Employee’s period of continuous service with WaterNSW	Period of notice
Not more than one year	At least one week
More than one year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

For employees who are more than 45 years of age and have completed at least 2 years continuous service with WaterNSW, the period of notice in the table is increased by one week.

- (b) WaterNSW may elect to pay the employee in place of notice.
- (c) An employee may end their employment by giving WaterNSW at least 4 weeks written notice, or an agreed shorter period of written notice.
- (d) If the employee fails to give the required written notice, WaterNSW may deduct from the employee's final termination wages an amount equivalent to the wages that would have been earned by the employee in the notice period less any wages earned in the actual period of written notice, if any.
- (e) Notice is not required for ending the employment of casual employees, at the conclusion of a temporary employment contract period or where an employee's employment is ended due to conduct justifying summary dismissal.

3.10 Employment – redundancy

- (a) Where an employee's position is made redundant through workplace change, WaterNSW will:
 - (i) explore, where appropriate, alternative employment options in consultation with the employee; or
 - (ii) re-deploy the employee to a suitable alternative role at grade; or
 - (iii) offer a voluntary redundancy.
- (b) The provisions of the NSW Government's Managing Excess Employees Policy 2011 (as amended from time to time) will apply specifically for:
 - (i) voluntary redundancy payments where a voluntary redundancy offer is accepted by the employee; or
 - (ii) the retention period and exit or forced redundancy payments where a voluntary redundancy offer is declined or not accepted.

4. Part D – Hours of work

4.1 Ordinary hours of work

- (a) Ordinary hours of work, other than for shift workers, are arranged in the following manner:
 - (i) ordinary hours of work for all employees covered by this Agreement, other than casual employees, are 36 hours a week;
 - (ii) the span of hours for a normal working day is from 6 am to 7 pm Monday to Friday; except for shift workers where ordinary hours may span from 6 am to 7 pm each day as per shift rosters clause in this Agreement; and
 - (iii) ordinary hours of work may extend up to 10 hours on any one day, excluding travel time, subject to clause 4.8 – Fatigue management.
- (b) Ordinary hours of work for part-time employees covered by this Agreement are provided in clause 3.3 Types of Employment – part-time employment.
- (c) Subject to subclauses 4.1(a) and (b), the times when ordinary hours are worked are at the discretion of the employer and may include a:

- (i) Ten day fortnight at 7.2 hours per day; or
- (ii) Nine day fortnight at 8 hours per day with an accrued day off.

4.2 Flexible working hours arrangement

- (a) Full-time and part-time employees, regardless of current working hours arrangement, as outlined in subclause 4.1(c), may participate in the flexible working hours arrangement subject to the provisions of this clause 4.2 – Flexible working hours arrangement.
- (b) The flexible working hours arrangement is an agreement where the hours of work including start and finish times, the day on which work is undertaken or the duration of the working day of an employee vary and is subject to the provisions of this clause 4.2 – Flexible working hours arrangement.
- (c) Employees may make a request to change their working hours arrangement.
- (d) For the purpose of this clause 4.2 – Flexible working hours arrangement, the decision maker refers to the person to whom the employee directly reports, which is referred to in this clause as the employee's direct leader. The direct leader may consult with a more senior leader where the circumstance is complex.
- (e) When an employee makes a request to participate in the flexible working hours arrangement, the direct leader will accept the request unless they consider that the operational needs of the business would be unreasonably compromised by accepting the request. In such case, the direct leader will provide a detailed explanation of the reason, for the refusal of the request, in writing to the employee as soon as possible, and no more than 21 days. An employee's request will not be unreasonably withheld.
- (f) The operation of the flexible working hours arrangement will be as follows:
 - (i) Ordinary hours
 - (A) Eligible employees will work their ordinary hours across a 4 week settlement period.
 - (B) Employees participating in the flexible working hours arrangement must work at least 144 hours during the settlement period. This includes any leave the employee may have taken during the period and use of accrued flexible hours.
 - (C) Flexible time worked in excess of the ordinary hours per period, and not otherwise claimed for payment as overtime, may be accrued for up to 32 hours. Time worked must be in response to a genuine service, contribution or output need that would be met by the additional time being worked.
 - (D) Where an employee does not work 144 hours in a settlement period, the shortfall must be debited against the employee's annual leave, long service leave, or debited as leave without pay if accrued leave is not available.
 - (ii) Accrued flexible hours
 - (A) Accrued flexible hours may be taken as leave with the prior approval of WaterNSW.
 - (B) Accrued flexible hours will be paid at the ordinary rate of pay on termination.
 - (C) An employee with an accrued annual leave balance of more than 40 days may not take accrued flexible hours until that annual leave balance is reduced to 40 days or less, unless an approved annual leave plan is in place.

- (g) The parties acknowledge that the purpose of the flexible working hours arrangement is to provide employees with the opportunity of meeting their family and personal needs. The parties accept that the flexible working hours arrangement is not intended to unreasonably compromise the business and operational needs of the business. The parties agree that the following principles are fundamental to the success of the flexible working hours arrangement:
- (i) there is mutual accountability for individual and team safety, service levels and contribution;
 - (ii) there is proactive communication between the individual, team and leader; and
 - (iii) the arrangements strike a balance between flexibility to meet the employee's professional and personal needs and employee availability to meet service, workload and collaboration needs of the business.
- (h) Review and disputes
- (i) A regular review of the flexible working hours arrangement will be undertaken by the Peak Consultative Group, specifically those requests that are declined. The Peak Consultative Group will also review particular issues that arise.
 - (ii) Employees and managers are encouraged to meet and discuss flexible working hours on a regular basis to ensure the reasonable needs of the employees and WaterNSW are being met.
 - (iii) Relevant WaterNSW policy may be varied through consultation where a need arises.
 - (iv) Clause 2.4 - Dispute resolution of this Agreement, may be used to resolve disputes arising under this clause.

4.3 Meal breaks

- (a) Employees are required to take a meal break of at least 30 minutes every 5 hours.
- (b) Employees are entitled to a paid 30 minute meal break only when working overtime and the work will continue beyond the meal break and after:
 - (i) working every 4 hours of overtime without a meal break; or
 - (ii) working 2 hours overtime on top of ordinary hours in a single day.
- (c) WaterNSW and the employee may agree to vary the timing and duration of meal breaks.

4.4 Shift work

- (a) In this clause, a shift worker is defined as an employee who works a shift roster Monday to Sunday on an ongoing basis. This definition is for the purposes of the National Employment Standards and in accordance with s.87(1) (b) of the Fair Work Act.
- (b) The working arrangements for shift rosters are as follows:
 - (i) the ordinary working hours for an employee working on a roster will be 72 hours each fortnight (based on an average of 36 ordinary hours a week);
 - (ii) WaterNSW may set start and finish times at each work location between the hours of 6 am and 7 pm to meet its operational needs; and

- (iii) where practicable, WaterNSW will give at least 48 hours' notice when requiring an employee to change from one shift to another.
- (c) If, to meet business needs, WaterNSW needs to change shift arrangements, it will:
 - (i) initiate the consultation process in this Agreement;
 - (ii) give employees at least 2 weeks' notice before making the change, shift changes may be implemented earlier by agreement;
 - (iii) give employees additional lead time where practicable, before making the change where the employee has carer responsibilities that may impact on their ability to change shift patterns;
 - (iv) two weeks' notice to employees will only be waived in an emergency such as a flood, where a short-term change or move to shift arrangements may be required without notice to employees to meet business needs; and
 - (v) shift changes may include such changes as:
 - (A) changing start and finish times;
 - (B) changing shift roster systems;
 - (C) changing the number of employees required to work the shift rosters;
 - (D) moving employees to a roster or from a roster; and
 - (E) moving employees between different types of roster or work arrangements or other such change.
- (d) WaterNSW may require some employees to work on a regular roster that includes shifts scheduled outside normal business hours of operation to meet its operational needs.
- (e) Shift roster types and arrangements may be added, changed or deleted to meet business needs as they arise.
- (f) For the purpose of calculating day shift penalties the following rates are used:
 - (i) all rostered time worked on a Saturday is paid at time and a half;
 - (ii) all rostered time worked on a Sunday is paid at time and three quarters; and
 - (iii) all rostered time worked on public holidays is paid at double time and a half.
- (g) Employees will also receive, in addition to the shift penalties included in this clause, the on-call allowance if they are working as part of the call out roster as per the on-call arrangements in this Agreement.
- (h) Shift penalties will be treated as part of base salary for superannuation purposes.
- (i) A public holiday falling within the rostered-on period is treated as a normal working day.
- (j) Each day of paid leave taken is to be regarded as a day worked for accrual purposes.
- (k) Employees who are required to work rosters under this Agreement are entitled to extra annual leave as per the annual leave clause in this Agreement.

- (l) Employees who work directed overtime on a Saturday, Sunday, or public holiday for periods in addition to those compensated by the shift penalties, will be paid as per the overtime clause in this Agreement.

4.5 Recall to work

- (a) An employee (whether on-call or not) may be recalled to work. An employee who is recalled to work between 2 periods of ordinary hours will be paid from the time the employee receives notification of the recall (includes all travel time), at overtime rates (in accordance with clause 4.6 - Overtime), for a period of:
 - (i) one hour for the first and subsequent recalls, where there is no overlap between each recall period, and an employee can resolve a work problem without travelling to the place of work; or
 - (ii) three hours for the first recall where an employee travels to a worksite to resolve a work problem; or
 - (iii) thereafter, time worked to the nearest 15 minutes.
- (b) This clause does not apply where the employee is already at work.
- (c) An employee who is not on-call may refuse an unreasonable recall to work. What is reasonable or unreasonable is decided by a proper consideration of:
 - (i) any risk to the employee's health and safety;
 - (ii) the family and/or carer responsibilities of the employee;
 - (iii) any other personal circumstance(s) of the employee;
 - (iv) the needs of WaterNSW;
 - (v) the amount of overtime, including weekend work done; and
 - (vi) any other relevant matter.

4.6 Overtime

- (a) With prior approval of WaterNSW, employees may be required to work reasonable overtime to meet the needs of WaterNSW. Employees are not required to work unreasonable hours. An employee may refuse to work overtime where to do so would amount to working unreasonable hours. What is reasonable or unreasonable is decided by a proper consideration of:
 - (i) any risk to employee health and safety;
 - (ii) the family and/or carer responsibilities of the employee;
 - (iii) any other personal circumstance(s) of the employee;
 - (iv) the needs of WaterNSW;
 - (v) the amount of overtime, including weekend work done;
 - (vi) the period of notice (if any) WaterNSW gives of the overtime requirement and the employee gives of an intention to refuse it; and

- (vii) any other relevant matter.
- (b) Overtime is the time an employee is reasonably required and authorised to work in excess of the ordinary hours:
 - (i) for the current day, pay fortnight and settlement period taking into consideration hours already worked and planned to be worked; or
 - (ii) of 10 continuous hours in a day; or
 - (iii) of 144 ordinary hours over a settlement period.
- (c) Employees will be paid overtime at overtime rates, except where excluded by the terms of this Agreement.
- (d) The following overtime rates apply:
 - (i) overtime worked Monday to Friday is paid at time and a half;
 - (ii) overtime worked on a Saturday is paid at time and half for the first 2 hours and then double time after that;
 - (iii) overtime worked on a Sunday is paid at double time;
 - (iv) overtime worked on a public holiday will be paid at double time and a half; and
 - (v) subject to clause 4.5 – Recall to work, employees will be paid for no less than 3 hours work at the appropriate rate where they work overtime on Saturday, Sunday or a public holiday.

4.7 Incident roster arrangements

- (a) This clause will only apply to an incident as defined in this clause.
- (b) For the purpose of this clause:
 - (i) an incident means an event which requires WaterNSW to engage employees outside the ordinary hours of work on a temporary basis for 7 days per week and/or 24 hours per day;
 - (ii) events giving rise to an incident may include floods, bushfires or issues negatively affecting water supply or quality;
 - (iii) a roster is an arrangement of start times, finish times, working hours and days required to respond to an incident;
 - (iv) WaterNSW will notify affected employees of the dates for starting and ending an incident as defined in this clause;
 - (v) WaterNSW will give employees a minimum of 24 hours' notice to end an incident roster, otherwise, the shift penalties that would have been paid will be paid in lieu; and
 - (vi) WaterNSW means the Level 3 leader responsible for team/s engaged in an incident.
- (c) A day shift is a shift starting between 6.00 am and 9.00 am on any day.
 - (i) The following penalty rates apply to day shift:

- (A) Monday to Friday **130%** for all hours worked;
 - (B) Saturday and Sunday **200%** for all hours worked; and
 - (C) Public holiday **250%** for all hours worked.
- (d) A night shift is a shift starting between 6.00 pm and 9.00 pm on any day.
- (i) The following penalty rates apply to night shift for the entire shift:
 - (A) Monday to Friday **200%** for all hours worked;
 - (B) Saturday and Sunday **225%** for all hours worked; and
 - (C) Public holiday **275%** for all hours worked.
- (e) Incident rosters will include adequate rest breaks in accordance with the following:
- (i) after each 5 consecutive shifts worked on a 12 hour shift, employees must have 2 unpaid rest days;
 - (ii) incident rosters will include 2 unpaid rest days between the last on duty shift and the return to ordinary hours of work;
 - (iii) a 3-1-3 incident roster will include a paid 8 hour rest day after each 3 shifts worked;
 - (iv) employees must have a 10 hour rest break between shifts or before returning to normal hours without loss of pay if the break falls on a weekday that is not a day off. Ten hours excludes overtime continuous with a shift and all time spent on any travel between the site and home or the accommodation provided by WaterNSW;
 - (v) where an employee is required to return to duty without having the rest breaks described in this clause, they will be paid a **50%** loading on top of the ordinary time or shift rate until the rest break is given;
 - (vi) additional paid 8 hour rest days may be provided where required to manage fatigue;
 - (vii) paid rest days included in a shift roster will not count towards time worked for ordinary hours or overtime; and
 - (viii) an employee cannot:
 - (A) be rostered on night shift on any day when normal hours have been worked on the day when the night shift commences; and
 - (B) return to normal hours on the same day on which a night shift finishes.
- (f) An employee engaged on an incident roster required by WaterNSW to work overtime in addition to a shift will be paid an additional **50%** loading on top of the shift loading.
- (g) WaterNSW may, subject to clause 2.1 - Consultation about workplace change, add, change or delete incident rosters to meet incident requirements. Three types of incident rosters are described in Schedule 5.

4.8 Fatigue management

- (a) Employee fatigue will be managed in accordance with WaterNSW policy and the following.

- (b) An employee:
 - (i) will be released from work for 10 consecutive hours after 14 hours of work, including meal breaks, work-related travel and worker's commute, in a 24 hour period;
 - (ii) will be paid at the ordinary rate for any period of the 10 hour break that overlaps with their usual starting time; or
 - (iii) if required to return to ordinary duty without having the 10 hour break, will be paid at double time until that break is given.

5. Part E – Leave

5.1 Annual leave

- (a) Annual leave entitlement:
 - (i) employees accrue annual leave at the rate of 4 weeks per year of service.
- (b) Annual leave accrues from day-to-day.
- (c) Additional annual leave entitlements are as follows:
 - (i) employees whose usual work location is west of the Western and Central Division of the State described as such in the Second Schedule to the *Crown Lands Consolidation Act 1913 (NSW)* before its repeal and as per the map included at Schedule 4 of this Agreement accrue additional annual leave of 5 working days a year:
 - (A) that must be used by 30 June of the financial year in which it is accrued, or it may be paid out to the employee by 30 September in the subsequent financial year; and
 - (B) for which payment excludes leave loading and shift penalties.
 - (ii) shift workers who work a shift roster Monday to Sunday accrue additional paid annual leave of 5 days per year:
 - (A) for which payment includes **17.5%** leave loading comprising shift allowance, penalties paid during leave and the balance of annual leave loading paid in accordance with clause 5.2 – Annual leave loading.
 - (iii) employees entitled to additional annual leave can elect at any time to cash out this additional annual leave;
 - (iv) an employee who has worked in accordance with subclauses 5.1(c), (i) or (ii) for a portion of the year will receive the additional leave on a proportionate basis; and
 - (v) part-time employees accrue additional annual leave on a pro-rata basis determined on the average weekly hours worked per leave year.
- (d) Purchased annual leave
 - (i) Employees with less than 4 weeks accrued annual leave may elect to purchase up to an additional 4 weeks annual leave by reducing their salary by an equivalent amount in accordance with WaterNSW policy. The additional purchased annual leave must be used by 30 June of the financial year in which it is purchased, or it may be paid out to the employee by 30 September in the subsequent financial year.

- (ii) The total of accrued annual leave and purchased annual leave will not exceed 8 weeks per year.
 - (iii) Payment for this additional purchased annual leave excludes leave loading and shift penalties.
 - (iv) An employee who has purchased additional annual leave can elect at any time to cash out such leave.
- (e) Cashing out of annual leave
- (i) In exceptional circumstances, WaterNSW and an employee may agree to cash out annual leave in accordance with WaterNSW policy and the below subclauses:
 - (A) each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 5.1(e);
 - (B) the employee's remaining accrued entitlement to paid annual leave must not be less than 4 weeks; and
 - (C) a maximum amount of accrued paid annual leave that may be cashed out in a period of 12 months is 2 weeks.
- (f) Taking annual leave
- (i) Employees must take at least 2 weeks annual leave every 12 months.
 - (ii) An employee will ensure they complete and submit a proposed leave plan for the next 12 months to the manager where requested by WaterNSW.
 - (iii) Where an employee elects to take 4 weeks annual leave, the employee must apply for annual leave at least a month in advance of the date from which they propose to commence the requested leave period.
- (g) Payment for annual leave is at the ordinary rate of pay applying at the time of the employee taking leave. Employees may apply for annual leave at:
- (i) full pay; or
 - (ii) half the period of entitlement on double pay where the accrued leave balance following the payment remains at or above 4 weeks.
- (h) Reduction of excess annual leave
- (i) Where an employee has accrued more than 6 weeks annual leave, the employee will prepare and submit to WaterNSW a leave reduction plan and associated requests/applications that reduce their leave accrual below 4 weeks. The plan will include one or more of the following:
 - (A) amount of leave to be paid to the employee, ensuring the remaining leave accrual prior to the taking of any leave is at least 4 weeks; and
 - (B) dates for taking leave.
 - (ii) If an employee does not submit a leave reduction plan and associated requests/applications and has accrued 7 weeks leave they may, with 4 weeks' notice, be directed to take 2 weeks leave.

- (i) Shutdown
 - (i) WaterNSW may require employees to take at least one week of annual leave between 1 November and 28 February in any year of this agreement as part of a shutdown.
 - (ii) WaterNSW will consult with the Peak Consultative Group around any proposed shutdown.
 - (iii) Reasons that a shutdown may be considered include:
 - (A) excess annual leave balances across the business;
 - (B) ensuring all employees have an adequate break each year; and
 - (C) where offices are closed and services are limited. In this instance, WaterNSW may consider requiring all employees from that office to take leave.
 - (iv) If WaterNSW decides to have a shutdown, it will notify employees no later than 1 October of that year and following consultation.
 - (v) Where employees do not have sufficient annual leave accrued to take one week at this time, or their annual leave balance is insufficient as a result of future leave already approved or required for family responsibilities, the employee will be:
 - (A) prioritised to continue working if essential work is available and they wish to work; or
 - (B) able to take other leave; or
 - (C) approved to take one week of annual leave in advance; or
 - (D) able to take leave without pay.

5.2 Annual leave loading

- (a) An annual leave loading of **17.5%** calculated on the annual leave entitlement will be paid to employees each year as follows:
 - (i) leave loading will be paid in the first pay period in December; and
 - (ii) proportionate leave loading will be paid when an employee leaves employment for any reason.

5.3 Public holidays

- (a) Employees will be given any day declared as a NSW state-wide public holiday under the *New South Wales Public Holidays Act (NSW) 2010* as an Agreement holiday with ordinary pay. The following are public holidays:
 - (i) New Year's Day;
 - (ii) Australia Day;
 - (iii) Good Friday;
 - (iv) Easter Saturday;
 - (v) Easter Sunday;

- (vi) Easter Monday;
 - (vii) Anzac Day;
 - (viii) Queen's Birthday;
 - (ix) Labour Day;
 - (x) Christmas Day; and
 - (xi) Boxing Day.
- (b) Employees will also be entitled to one additional day per annum to be taken on the first working day after Boxing Day each year.
- (i) the extra Agreement holiday replaces:
 - (A) Union Picnic Day;
 - (B) August Bank Holiday;
 - (C) Public Service Holiday; and
 - (D) any other local holiday.
- (c) An employee who is required to work on the first working day after Boxing Day may take this extra day's leave on another agreed day before the end of February of the following year.

5.4 Compassionate leave

- (a) An employee is entitled to 2 days of compassionate leave for each occasion to spend time with a member of their family or household who has sustained a life-threatening illness or injury. Compassionate leave may also be taken after the death of a member of the employee's family or household.
- (b) An employee may take compassionate leave for each occasion.
- (c) Compassionate leave is paid leave, other than for casual employees.

Notice and evidence requirements of WaterNSW policy apply in line with the National Employment Standards.

5.5 Jury service leave

- (a) An employee required to attend court for jury service when they are otherwise scheduled to attend work will be granted:
 - (i) paid leave where they:
 - (A) accept payment of jury fees, travelling and out of pocket expenses for which an equivalent amount will be deducted from the employee's pay; and
 - (B) submit a timely application for leave accompanied by the sheriff's or registrar's certificate of payment of fees.
 - (ii) unpaid leave.

5.6 Leave without pay

- (a) WaterNSW may grant leave without pay at its discretion to an employee.
- (b) Where an employee is granted leave without pay for a period of up to 10 consecutive working days, the employee will be paid for any public holidays falling within that period.
- (c) Where an employee is granted leave without pay amounting in total to no more than 5 working days in a 12 month period, that leave will count as service for accrual of annual leave.
- (d) An employee, who has been granted leave without pay, must not engage in employment of any kind during the period of leave without pay, without first obtaining WaterNSW's approval.
- (e) An employee must take accrued annual leave before seeking leave without pay in accordance with clause 5.6 – Leave without pay. However, WaterNSW may make other arrangements with an employee at its discretion.

5.7 Long service leave

- (a) Employees accrue long service leave as per the rate in the below table:

Period of continuous service	Rate of long service leave accrual
10 years continuous service	8.8 weeks
After 10 plus years continuous service	2.2 weeks per annum

- (b) When employment ends, an employee is eligible for pro-rata payment of long service leave:
 - (i) after completing at least 7 years' service where employment ends for any reason; or
 - (ii) employees who have completed at least 5 years continuous service and whose employment is terminated:
 - (A) by the employer for any reason other than wilful misconduct; or
 - (B) by the employee due to illness, incapacity, domestic or other pressing necessity; or
 - (C) due to the death of the employee; or
 - (D) due to genuine redundancy.
- (c) Payment for long service leave is at the ordinary rate of pay applying at the time of the employee taking leave. Employees may apply for long service leave after 7 years continuous service at:
 - (i) full pay;
 - (ii) double the period of entitlement on half pay;
 - (iii) half the period of entitlement on double pay; or
 - (iv) a combination of the above.
- (d) Long service leave is exclusive of public holidays. Public holidays during long service leave are paid as public holidays and not deducted from the long service leave balance.

5.8 Military leave

- (a) WaterNSW will grant military leave on full pay to an employee who is a volunteer part-time member of the Australian Defence Force for the purposes of undertaking compulsory annual training and to attend schools, classes, instruction courses or compulsory parades conducted by the employee's unit.
- (b) WaterNSW will grant military leave on full pay for up to:
 - (i) A period of twenty-four working days each financial year to members of the Naval and Army Reserves;
 - (ii) A period of twenty-eight working days each financial year to members of the Air Force Reserve.
- (c) WaterNSW will grant an employee up to one day special leave each year to attend medical examinations and tests required for acceptance as volunteer part-time members of the Australian Defence Force.
- (d) Where the Australian Defence Force asks an employee to perform extra military service requiring more leave than the entitlement above, WaterNSW may grant the employee additional leave through military leave top-up pay, provided that the total military leave taken does not exceed 36 days in any financial year.
- (e) Military leave top-up pay is the amount by which an employee's ordinary rate of pay, assuming the employee had been at work, exceeds the pay the employee receives as a reservist.
- (f) While military leave top-up pay is being paid:
 - (i) the employee continues to accrue personal/carers leave, annual leave and long service leave; and
 - (ii) WaterNSW continues making superannuation contributions based on the employee receiving their ordinary rate of pay.
- (g) On ceasing a period of military leave, the employee will supply WaterNSW with a certificate of attendance and the employee's reservist pay details signed by the commanding officer or other responsible officer. The employee may also be required to provide WaterNSW with evidence of military service prior to commencing the period of military leave.
- (h) Where the Australian Defence Force ask an employee to perform additional military services requiring even more leave than the entitlements in subclauses 5.8(b) to (f), WaterNSW may grant further paid leave. The rate of paid leave will be at the rate of the Employer Support Payment Scheme provided by the Commonwealth Department of Defence as adjusted from time to time. This equates to the average weekly full-time adult ordinary earnings which for 2022-2023 is **\$1,748.400** per week.

5.9 National Aboriginal and Torres Strait Islander Day

- (a) Employees who identify themselves as Aboriginal and Torres Strait Islander employees are eligible to one day of special leave per annum to participate in National Aboriginal and Torres Strait Islander Day celebrations. An employee who qualifies for this leave may negotiate with their supervisor exactly when the leave will be taken. It may be taken at any time leading up to, during, or immediately after NAIDOC week.

5.10 Parental leave

- (a) In this clause, the definition of 'spouse' includes a de facto spouse, former spouse, or former de facto spouse. The employee's de facto spouse means a person who is the employee's husband, wife or same sex partner on a bona fide domestic basis, whether or not legally married to the employee.
- (b) In this clause, the definition of 'primary responsibility' means the person who meets the child's physical needs more than anyone else, including feeding, dressing, bathing and otherwise supervising the child.
- (c) In this clause, any entitlement to payment related to parental leave may be taken at either full pay or half pay.
- (d) Paid and unpaid parental leave for the 'parent with primary responsibility' for care of a child at the time of birth, adoption or surrogacy will be provided as follows:
 - (i) After 40 weeks continuous service with WaterNSW, employees will have access to up to 52 weeks unpaid parental leave and be entitled to up to 14 weeks paid parental leave as part of this leave period, if the leave is associated with:
 - (A) the birth of a child (or children from a multiple birth) of the employee, the employee's spouse or the employee's legal surrogate, or the adoption of a child (or children) by the employee or the employee's spouse; and
 - (B) the employee has or will have primary responsibility for the care of the child at the time of the birth, adoption or surrogacy.
 - (ii) Paid parental leave must be taken within the first 12 months from the date of birth, adoption or surrogacy. For birth related leave, paid parental leave may commence prior to the time of the birth.
- (e) Paid parental leave for the 'other parent' will be provided as follows:
 - (i) An employee who has, or will have, completed not less than 40 weeks continuous service (at the time of birth, adoption or surrogacy) and who will not have primary responsibility for the care of their child at the time of birth, adoption or surrogacy is entitled to, within the first 12 months from the date of birth, adoption or surrogacy:
 - (A) up to 2 weeks paid parental leave at the time of the birth, adoption or surrogacy; and
 - (B) up to 12 additional weeks paid parental leave, subject to the conditions in subclause 5.10(f).
- (f) Additional paid parental leave for the 'other parent' will be provided as follows:
 - (i) An employee who will not have primary responsibility for their child at the time of birth, adoption or surrogacy is entitled to up to an additional 12 weeks paid leave within the first 12 months from the date of birth, adoption or surrogacy as long as:
 - (A) the employee assumes primary responsibility for the care of the child during the 12 week period; and
 - (B) the employee's spouse is not concurrently (apart from the leave that is available to be taken under subclause 5.10(j)) taking primary responsibility for the care of the child, including receiving paid parental leave or a similar entitlement from their employer.

- (ii) To access additional paid parental leave, the employee must have been eligible for the leave at the time of birth, adoption or surrogacy, irrespective of when the employee elects to take the paid leave under this clause.
 - (iii) Additional paid parental leave will commence on the date the employee takes primary responsibility for the care of the child.
- (g) Notice requirements
- (i) To access paid parental leave, the employee must provide notice stating:
 - (A) the period of leave being sought, including anticipated date of return to duty; and
 - (B) that the employee will have primary responsibility for the care of the child for the period during which they are seeking the paid parental leave.
 - (ii) To access the paid parental leave under subclause 5.10(e) additional paid parental leave for the 'other parent', the employee may be required to provide a statutory declaration or other notification stating:
 - (A) whether the employee's spouse is employed (and if so, their employment status throughout the period of leave e.g. full-time, part-time or other and the entity to which they are employed), or studying (e.g. full-time or part-time basis); and
 - (B) the details of all types of leave (paid or unpaid) to be taken or proposed to be taken or applied for by the employee's spouse.
 - (iii) Employees must notify WaterNSW as soon as possible of any changes to their circumstances that will or is likely to affect their eligibility for paid parental leave prior, or throughout the payment period.
- (h) To access paid parental leave, the employee must provide evidence of the birth, adoption or surrogacy:
- (i) for birth-related leave, a medical certificate or birth certificate showing the expected or birth date of the child;
 - (ii) for adoption-related leave, an integrated birth certificate, or certificate of adoption; or
 - (iii) for surrogacy-related leave, evidence as provided in *Determination 2018-01 Leave for Employees engaged in Altruistic Surrogacy and Permanent Out of home Care Arrangements*.
- (i) To access paid parental leave under subclause 5.10(f), additional paid parental leave for the 'other parent', the employee may be required to provide evidence that would satisfy WaterNSW:
- (i) of the employment or education status of the employee's spouse and the length of parental leave taken or proposed to be taken by them; and
 - (ii) of the employee's spousal status (including a marriage certificate or statutory declaration).
- (j) With the exception of 2 weeks paid 'other parent' leave that employees may take concurrently with each other, paid parental leave is only available to the employee who has primary responsibility for the child during the period of leave sought. Concurrent leave must be taken in one block and must commence at the time of the birth, adoption or surrogacy.
- (k) While an employee's eligibility for paid parental leave is determined at the time of birth, adoption or surrogacy, the employee and WaterNSW may agree to permit the employee to use the paid parental

leave entitlements in a flexible manner, at any time during the first 12 months from the date of birth, adoption or surrogacy.

- (l) An employee may request to use their paid parental leave entitlement in a manner other than a single continuous period. WaterNSW will consider operational requirements and the employee's personal and family circumstances in considering requests for paid parental leave in more than one continuous period and may refuse the request only on reasonable business grounds, including cost and impact on service delivery. A response to this request will be provided within 21 days.
- (m) Where WaterNSW agrees to paid parental leave in a manner other than a single continuous period, the period of leave must not exceed beyond the first 12 months from the date of birth, adoption or surrogacy and will not be extended by any periods of public holidays that fall within the paid parental leave period.
- (n) An employee may use all or part of any annual leave or long service leave as long as the total period of leave does not exceed 52 weeks.
- (o) To assist the employee in reconciling work and parental responsibilities, an employee entitled to parental leave may make a request (in writing):
 - (i) for an extension of the period of simultaneous unpaid parental leave up to a maximum available parental leave period;
 - (ii) for an extension of the period of unpaid parental leave for a further continuous period of leave not exceeding 52 weeks; or
 - (iii) to return to work from a period of parental leave on a part-time basis. Such a request will be made as soon as possible but no less than 7 weeks prior to the date the employee is due to return to work from parental leave.
- (p) WaterNSW will consider the request having regard to the employee's circumstances and provided the request is genuinely based on the employee's parental responsibilities. WaterNSW may only refuse the request on reasonable business grounds related to the effect on the workplace or the business including such grounds as cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service. WaterNSW's response to the employee will be made in writing.
- (q) Paid leave granted under this clause is counted as service for the purposes of this Agreement.
- (r) WaterNSW acknowledges that parental leave entitlements are currently under review in the public service. Any changes to parental leave entitlements provided to public service employees will also apply to WaterNSW employees.

5.11 Communication during parental leave

- (a) Communication during parental and primary carers leave:
 - (i) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, WaterNSW will take reasonable steps to make information available to the employee and provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
 - (ii) The employee will take reasonable steps to inform WaterNSW about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

- (iii) The employee will also notify WaterNSW of any changes of address or other contact details that may affect WaterNSW's ability to communicate with the employee while on parental leave.

5.12 Paid leave in the event of a miscarriage or preterm birth

- (a) For the purpose of this clause, eligible employees are those who have or would have, if not for the preterm birth, completed 40 weeks continuous service at the expected due date.
- (b) Where an employee or the spouse of an employee miscarries up to 20 weeks gestation, the employee is entitled to one week paid special miscarriage leave on each occasion. Such leave will commence from the date the miscarriage occurs and is to be taken in one continuous block.
- (c) Where an employee or the spouse of an employee miscarries after 20 weeks gestation, paid leave commencing from the date of the miscarriage is available and is to be taken in one continuous block:
 - (i) of up to 14 weeks paid special miscarriage leave for the parent who would have had primary responsibility; or
 - (ii) of up to 2 weeks paid special miscarriage leave for the employee who would have been the 'other parent'.
- (d) Where an employee or the spouse of an employee gives birth to a pre-term child (prior to 37 weeks), the parent with the primary caring responsibility is entitled to paid special pre-term parental leave from the date of birth of the child (or children from a multiple birth) up to the end of 36 weeks, and then:
 - (i) the parent with primary responsibility, immediately following the period of paid special pre-term parental leave and at the commencement of 37 weeks, paid parental leave of up to 14 weeks in accordance with 5.10 – Parental leave will apply;
 - (ii) the parent who will not have primary responsibility for their child at the time of birth ('other parent') is entitled as outlined in 5.10 – Parental leave:
 - (A) up to 2 weeks paid parental leave to be taken at the time of the birth of the child; and
 - (B) up to 12 weeks additional paid parental leave within the first 12 months from the date of birth provided that the employee assumes primary responsibility for the care of the child during the 12 week period.
- (e) Leave as defined above will commence from the date the pre-term birth occurs and must be taken in one continuous block of leave at full pay up to the end of 36 weeks.
- (f) In the event of a death of a pre-term child (or children) during a period of paid special pre-term parental leave, the remaining portion of that leave ceases and paid parental leave of up to 14 weeks will commence.
- (g) When accessing paid special miscarriage leave, the employee must provide notice as soon as reasonably practicable stating:
 - (i) the period of leave being sought; and
 - (ii) the anticipated date of return to duty.
- (h) When accessing paid special pre-term parental leave in the event of a pre-term birth, the employee must provide notice as soon as reasonably practicable stating:

- (i) the period of paid special pre-term parental leave being sought up to the end of 36 weeks; and
 - (ii) the details of all other types of leave (paid or unpaid) to be taken or proposed to be taken or applied for by the employee following the period of paid special pre-term parental leave including parental leave.
- (i) To access paid special miscarriage leave, WaterNSW may require evidence such as:
- (i) a medical certificate; or
 - (ii) early loss certificate issued by NSW Registry of Births, Deaths & Marriages.
- (j) To access paid special pre-term parental leave in the event of a pre-term birth, the employee may be required to provide evidence such as:
- (i) a medical certificate showing the expected due date;
 - (ii) a statutory declaration or medical certificate confirming primary caring responsibility;
 - (iii) a medical certificate showing the actual date of birth of the child; or
 - (iv) a birth certificate showing the date of birth of the child.
- (k) Where an employee has been pregnant and the pregnancy ends due to their child being stillborn or if their child dies after birth, the employee can elect to reduce or cancel their period of unpaid parental leave by giving written notice to WaterNSW.

5.13 Personal/Carers leave

- (a) Taking of personal/carers leave
- (i) An employee is entitled to access their accrued personal/carers leave in the following instances:
 - (A) if they are unfit for work because of their own personal illness or injury; or
 - (B) to provide care or support to a member of their family or household, because of a personal illness, injury or unexpected emergency affecting the member.

(b) Notice of illness

The employee must satisfy the employee's supervisor or manager that an absence is due to personal illness, injury or carer's responsibilities. WaterNSW may request satisfactory evidence that would substantiate the reason for leave as detailed in WaterNSW policy. The employee may not be entitled to the leave if the employee fails to provide:

- (i) notice (as soon as practicable) and where possible within an hour of the usual starting time. The employee must notify the employee's supervisor or manager of the illness or injury and how long the employee expects to be off work; and
- (ii) satisfactory evidence (where required and if previously requested prior to or at the time of notification) in the following instances:
 - (A) for all absences of 3 consecutive working days or more;
 - (B) for all absences where 5 uncertified days personal/carers leave has been taken for the year; or

(C) if an employee is to undergo personal/carers leave case management.

- (c) An employee who has been absent on a long period of personal leave may be required to participate in a Work Health Plan as part of their transition back to work.
- (d) If the employee has taken approved personal leave and receives compensation under any Act or law for that period of leave, the employee must reimburse WaterNSW any amounts paid as personal leave.
- (e) On commencement, an employee will be credited with 2 weeks personal/carers leave.
- (f) Personal/carers leave accrues progressively at the rate of 4 weeks per year of service. Part-time employees are entitled to combined personal/carers leave on a pro-rata basis calculated on the number of hours worked in relation to full-time hours.
- (g) Any unused accrued personal/carers leave accumulates each year.

5.14 Illness during annual or long service leave

- (a) WaterNSW will re-credit annual leave or long service leave to an employee who is ill or injured whilst on annual or long service leave where the employee:
 - (i) for the re-credit of annual leave, produces satisfactory medical evidence outlining the period of illness or injury;
 - (ii) for the re-credit of long service leave, produces satisfactory medical evidence outlining the period of illness or injury and the period stated in the medical evidence is 5 working days or more; and
 - (iii) has a sufficient personal leave balance from which to debit the period of illness or injury.
- (b) Paid personal/carers leave will not be granted during a period of unpaid leave.

5.15 Special leave – emergency services

- (a) Employees who are volunteer members of a recognised emergency service group may be granted special leave for the purpose of attending training or emergency incidents occurring locally to the employee's normal place of work or home in their capacity as a volunteer in any of these organisations. A maximum of 8 days may be taken in any calendar year for this purpose.
- (b) Declared emergencies:
 - (i) if a situation arises requiring a major operational response, or an emergency is declared under section 44 of the *Rural Fires Act 1997 (NSW)*, under other relevant legislation or by the Premier, employees who volunteer to assist are granted special leave with no upper limit;
 - (ii) emergency services leave granted for declared emergencies does not count towards the 8 day upper limit specified above in this clause;
 - (iii) WaterNSW emergencies will take precedence over any other emergencies.
 - (iv) rest periods for declared emergencies will be as follows:

- (A) if a volunteer employee remains on emergency duty for several days, the employee will be granted special leave to allow reasonable time for recovery before returning to work. If a volunteer employee assists in an emergency at a time where it would be unreasonable to expect the employee to report for work at the normal time, the employee will be granted up to one day special leave for rest; and
 - (B) rest periods are in addition to the maximum 8 days emergency services volunteers leave provided for in this clause.
- (v) A notice to WaterNSW is required. Prior to attending training or an emergency that would require the employee to be absent from work, the employee or their nominee, will notify WaterNSW as follows:
- (A) prior to leaving the workplace if the employee is on duty when called to attend the emergency;
 - (B) ordinarily within one hour of the employee's usual starting time or as soon as reasonably practicable, of the employee's intention to attend an emergency and the estimated duration of the absence if and/or when known; and
 - (C) at least 48 hours prior to the commencement of the employee's usual working time or sooner where practicable, if required to attend an emergency services training course.
- (vi) Approval and payment for leave will be subject to:
- (A) notice being given to WaterNSW as per this clause;
 - (B) written confirmation of attendance from the relevant emergency service group; and
 - (C) WaterNSW's operational requirements.

5.16 Special leave – relocation and living away from home

- (a) WaterNSW will grant special leave to an employee to visit dependants when, due to work requirements, the employee is temporarily living away from home or has moved to a new location ahead of dependants.
- (b) The period of leave must be sufficient to enable the employee to return home once a month for 2 days and 2 nights to be with family. It must be taken before or after a weekend or a long weekend or, for a shift worker, before or after rostered days off.
- (c) If the employee wishes to return home more often, the employee may use annual leave, long service leave, accrued flexible hours or leave without pay (as per this Agreement), if WaterNSW's operational requirements permit.

5.17 Special leave and support – domestic and family violence

- (a) WaterNSW recognises that an employee may experience situations of domestic or family violence or abuse in their personal life that may affect their attendance or performance at work and will grant up to 10 days per year special leave to an employee experiencing domestic violence.
- (b) Additional special leave may be granted at WaterNSW's discretion to an employee experiencing domestic violence.

- (c) In addition, an employee may take up to 5 days paid leave if the employee needs to deal with the impact of family and domestic violence on a family or household member. This includes making arrangements for their safety (including relocation), attending urgent court hearings, or accessing police services where this is impractical for the employee to do outside their ordinary hours of work.
- (d) This paid leave is available at the start of each year of service and does not accrue from year to year. Notice should be given to WaterNSW as soon as practicable and include the period or expected period of leave.
- (e) All personal information concerning the matter will be kept strictly confidential.
- (f) WaterNSW, where appropriate, may facilitate flexible working arrangements subject to operational requirements and in accordance with the NES. This includes changes to leave requirements, working times and changes to an employee's work location, telephone number and email address. Ensuring safety and wellbeing in accordance with Part G – Health and wellbeing.
- (g) WaterNSW will support employees with access to specialised counselling where appropriate. Further information is contained in the *WaterNSW Domestic & Family Violence Support Guidelines*.

5.18 Special leave – other

- (a) WaterNSW may grant an employee special leave on full pay for other purposes set out in this Agreement or that may arise, including but not limited to:
 - (i) emergency or weather conditions such as when flood, fire, snow or disruption to utility services etc., threatens an employee's property and/or prevents an employee from attending work;
 - (ii) attendance at court by an employee who is required as a witness when summonsed by a court but only if WaterNSW considers the granting of special leave to be appropriate in a particular case;
 - (iii) where an employee has exhausted their personal/carers leave and has a long-term illness or injury and they cannot work;
 - (iv) where an employee is experiencing personal hardship; and
 - (v) any other reason approved by WaterNSW.

5.19 Union leave

- (a) WaterNSW will grant special leave with pay to:
 - (i) employees for undertaking accredited work health and safety (WHS) courses or training for WHS Committee members;
 - (ii) union delegates for undertaking the following activities:
 - (A) annual or biennial conferences of the delegate's union;
 - (B) meetings of the union executive, committee of management or councils;
 - (C) annual conference of Unions New South Wales and the biennial Congress of the Australian Council of Trade Unions;
 - (D) attending meetings called by Unions New South Wales involving the delegate's union and requiring attendance of a delegate; and

- (E) giving evidence before an industrial tribunal as a witness for the delegate's union.
- (iii) union members up to 12 days in any 2 year period for undertaking courses organised and conducted for or by the employee's union or a training provider nominated by the employee's union.
- (b) This leave is granted subject to:
 - (i) WaterNSW operational requirements;
 - (ii) the employee's absence being able to be covered by existing employees;
 - (iii) pay being paid at the ordinary hours rate, that is the base rate of pay excluding extraneous payments such as shift allowances, penalty rates, overtime, overtime in lieu, or other costs;
 - (iv) all travel and associated expenses being met by the employee or the employee's union;
 - (v) the employee's union or a nominated training provider confirming the employee's attendance in writing; and
 - (vi) the union advising WaterNSW in writing, in advance and as soon as the date, time and expected duration of meetings, trainings or activities are known.
- (c) WaterNSW will allow the employee reasonable travel time to and from such meetings, conferences and training where special leave applies.
- (d) WaterNSW will re-credit any accrued flexible hours or other leave applied for on the day to which special leave applies.

6. Part F – Remuneration and other payments

6.1 Pay – increases

- (a) A pay increase of **2.53%** is payable from the first full pay period on or after 1 July 2022 in accordance with Schedule 1.

6.2 Pay – performance and eligibility for Progress Pay and Performance Pay

- (a) Employee performance will be managed in accordance with WaterNSW policy to:
 - (i) create an environment for continuous improvement in employee performance;
 - (ii) determine the level of employee performance;
 - (iii) recognise and reward performance improvement; and
 - (iv) enable underperformance to be addressed.
- (b) Eligible employees who are recognised as meeting or exceeding performance expectations will (in addition to general pay increases 6.1(a)) receive:
 - (i) Progress Pay increases determined in accordance with the Pay Matrices in Schedule 2 effective 1 July in each year; and
 - (ii) Performance Pay in accordance with clause 6.3 – Performance Pay.

- (c) Progress Pay for Grades 1 to 7 will be **2%** each year, except where the final Progress Pay increase may be less than **2%** to reach to the maximum pay for the Grade.
- (d) Progress Pay for Grades 8 to 10 will be:
 - (i) **2%** each year until the employee's pay is more than the pay rate halfway between the minimum and maximum for the Grade; then
 - (ii) **1%** each year except where the final Progress Pay increase may be less than **1%** to reach the maximum pay for the Grade.
- (e) Employees will be ineligible for a Progress Pay increase or Performance Pay in accordance with WaterNSW policy and the following:
 - (i) the employee has been determined as underperforming during the financial year; and
 - (ii) a Performance Improvement Plan has been put in place to support performance improvement; and
 - (iii) performance has been determined by the relevant manager as not improving by:
 - (A) 30 June in relation to a Progress Pay increase; or
 - (B) 31 August in relation to a Performance Pay payment.
- (f) Any disagreement about a Performance Improvement Plan in relation to clause 6.2 - performance and eligibility for Progress Pay and Performance Pay, will be resolved using the consultation process, including employee representation where requested, and if necessary, the dispute resolution process outlined in this Agreement.
- (g) An employee must still be employed with WaterNSW on the 1 October of the relevant year to be eligible to receive the payment.
- (h) An employee must have completed their probation period by:
 - (i) 1 July of the relevant year to be eligible to receive the Progress Pay increase; or
 - (ii) 1 October of the relevant year performance to be eligible to receive a Performance Pay payment pro-rated to the portion of the year completed.
- (i) An ineligible employee's performance will be excluded from the calculation of their team's team performance where possible.

6.3 Performance Pay

- (a) A Performance Pay scheme has been established to incentivise all employees covered by this Agreement to contribute to the achievement of the measures and targets in each financial year and is detailed in Schedule 2.
- (b) At the start of each performance year:
 - (i) WaterNSW will develop the business-wide Performance Pay performance measures and targets to be applied to all employees covered by this agreement to ensure they are consistent and meaningful in relation to achievability and business performance improvement. WaterNSW will provide these measures and targets to the Peak Consultative Group for discussion;

- (ii) leaders, in consultation with their teams, will develop team and/or individual performance measures and targets to ensure they are consistent and meaningful in relation to achievability and team performance improvement;
 - (iii) team performance targets will be developed for Grades 1 to 7; and
 - (iv) individual or team targets will be developed for Grades 8 to 10.
- (c) Leaders and employees will work collaboratively to incorporate performance measures targets into WaterNSW performance planning and review system to plan, monitor, review and reward performance.
 - (d) WaterNSW will review the achievement of the Performance Pay measures and targets between July and September each year for the previous performance year to:
 - (i) ensure extenuating and/or unexpected circumstances arising are taken into account;
 - (ii) determine the level of performance achieved; and
 - (iii) ensure the Performance Pay remains meaningful for employees and the business.
 - (e) Any Performance Pay payment arising from the assessment will be paid in the first full pay period after 1 October in that year.

6.4 Pay – how remuneration is paid

- (a) Ordinary pay and claimed overtime and allowances are paid for the current fortnight in arrears. Adjustments for overtime, penalties and allowances are paid in the fortnight claimed in arrears.
- (b) The Performance Pay pay outcome will be paid as a lump sum in the first full pay period in October of each year.
- (c) All payments are made by electronic funds transfer into a bank or other account.
- (d) WaterNSW may make deductions from an employee's ordinary pay at the written request of that employee where the deduction is principally for the benefit of the employee or where required by law.
- (e) WaterNSW will issue a pay advice for each employee under section 536 of the Fair Work Act.
- (f) When an employee's employment ends, WaterNSW will pay all amounts due to the employee on or before the employee's next normal pay day.

6.5 Remuneration packaging

- (a) With an employee's agreement, WaterNSW may introduce total remuneration or salary packaging for that employee according to WaterNSW policy. This will include the option for salary sacrifice into a superannuation fund.
- (b) Total remuneration packaging allows an employee to seek a combination of cash salary and benefits within their ordinary pay to suit the employee's individual needs. It also creates an opportunity to increase disposable income.

6.6 Salary sacrificing

- (a) Salary sacrifice is available to permanent employees only.

- (b) An employee may choose from the benefits that they would like to salary sacrifice or from a range of benefits provided by the employer. The list of benefits may be varied from time to time, subject to legislative and policy requirements.
- (c) If a selected benefit attracts Fringe Benefit Tax, then the employee will be liable for the value of this tax and the employer may deduct it from the employee's remuneration.

6.7 Travel – payment for travelling time

- (a) When an employee travels on official business to a place that is not the employee's normal place of work, the employee will be paid for travelling time at the employee's ordinary rate of pay on an hourly basis.
- (b) Where operational requirements can be adequately met, WaterNSW may allow an employee time in lieu at a single time instead of paying travelling time. This time in lieu should be taken in accordance with WaterNSW policy to ensure the employee is adequately rested before starting work or within the current settlement period.
- (c) An employee is not entitled to paid travelling time for travel:
 - (i) from home to the normal place of work and return;
 - (ii) of less than 30 minutes on any one day;
 - (iii) to a new place of work on permanent transfer, if special leave has been granted for the day or days of travel;
 - (iv) between 11 pm on one day to 6 am on the next day, if a place to sleep has been provided;
 - (v) not undertaken by the most practical available route and by the most practical and economic means of transport; and
 - (vi) overseas.

6.8 Allowances

- (a) Allowances are set out in Schedule 3.

6.9 Travel – payments for travel-related expenses

- (a) In this clause, travel-related expenses are an employee's reasonable travel expenses for authorised official travel that the employee has incurred properly, according to WaterNSW policy and procedure.
- (b) When an employee is required to remain away from home overnight for any reason WaterNSW may elect, in accordance with its policy, to:
 - (i) pay accommodation, incidental and meal allowances equal to the Australian Tax Office approved travel allowances in accordance with Item 1 of Schedule 3 - Allowances; and/or
 - (ii) pay or reimburse actual accommodation and meal expenses.
- (c) When an employee is required to remain away from home as part of a travelling field-based work crew arrangement to perform their normal work, WaterNSW will pay the employee an

allowance equal to the Australian Tax Office approved travel allowances in accordance with Item 1 of Schedule 3 - Allowances:

- (i) for 3 nights or less in arrears; and
 - (ii) for more than 3 nights in advance.
- (d) Where an employee is, or is expected to be, away from home for more than 35 days, WaterNSW may make other arrangements for meeting extra travel-related expenses incurred due to longer absences from home.

6.10 Language allowance

- (a) An employee who has a basic level of competence in a community language and who works in locations where their community language is utilised at work to assist clients and such employees are not employed, will be paid an allowance as specified in Item 2 Schedule 3, subject to this clause. This includes:
- (i) as interpreters and translators; and
 - (ii) positions where particular language skills are an integral part of essential requirements of the position.
- (b) The base level of the Community Language Assistance Scheme (CLAS) is paid to staff members who:
- (i) are required to meet occasional demands for language assistance (there is no regular pattern of demand for their skill); and
 - (ii) have passed an examination administered by the Community Relations Commission, or who have a National Accreditation Authority for Translators and Interpreters (NAATI) language recognition award.
- (c) The higher level of CLAS is paid to employees who meet the requirements for the base level of payment and:
- (i) are regularly required to meet high levels of customer demand involving a regular pattern of usage of the staff member's language skills, as determined by WaterNSW; and
 - (ii) have achieved qualifications of NAATI interpreter level or above. This recognises that staff with higher levels of language skill will communicate with an enhanced degree of efficiency and effectiveness.

6.11 Higher duties allowance

- (a) To ensure WaterNSW maintains a skilled, innovative, flexible and committed workforce, employees may be required to perform alternative work, where competent to do so, without additional compensation in pay.
- (b) Where an employee is requested to perform work of a higher grade position for a period of:
- (i) less than 5 days, then the employee will not be paid any additional payments;
 - (ii) for a period of greater than 5 days, the employee will be paid an allowance in accordance with Item 3 Schedule 3 – Allowances.

6.12 Remote area allowances

- (a) Current employees who have historically been eligible and compensated for living in a remote area will retain this allowance at the current rate in accordance with Item 4 Schedule 3 - Allowances.
- (b) Current employees who have historically been eligible and compensated for travelling on annual leave from a remote area in which they are stationed, will retain this allowance at the current rate.
- (c) The allowances in clause 6.13(a) and (b) are not applicable to any other employee.

6.13 First aid and fire warden allowance

- (a) First aid training will be made available to all employees.
- (b) Employees who elect to undertake an advanced first aid course, possess a current first aid certificate and are nominated by the employer and agree to undertake first aid duties will be paid an allowance as per Item 4 Schedule 3 – Allowances.
- (c) An employee nominated to act in the capacity of a fire warden will be paid an allowance as per Item 5 Schedule 3 – Allowances.

6.14 Firefighting allowance

- (a) An employee engaged in on-ground firefighting, including on-ground hazard reduction burning, will be paid an allowance per hour, as outlined in Item 6 Schedule 3 – Allowances.

6.15 Extended working away from home allowance

- (a) Where an employee working on major capital works projects is in the course of their employment required to spend an extended period away from their normal place of residence, the employee will be paid the allowance in Item 7 of Schedule 3 – Allowances.
- (b) For purposes of this clause extended period means 3 months continuous time of ordinary hours.

6.16 On-call

- (a) Where an employee is reasonably required in accordance with subclause (d) by WaterNSW to be on-call for a possible recall to work, outside the employee's ordinary hours of work, will be paid the on-call allowance set out in item 8 Schedule 3 – Allowances for the time spent on-call.
- (b) An employee on-call must be able to be contacted and respond to a request to attend work.
- (c) Where practicable, an employee who is on-call will be provided with a WaterNSW vehicle to travel between the employee's residence and place of work when responding to a recall. The employee may use the vehicle for limited private use with the prior approval of their supervisor.
- (d) An employee may refuse to be on-call where to do so would be unreasonable. What is reasonable or unreasonable is decided by a proper consideration of:
 - (i) any risk to the employee's health and safety;
 - (ii) the family and/or carer responsibilities of the employee;
 - (iii) any other personal circumstance(s) of the employee;

- (iv) the needs of WaterNSW;
- (v) the amount of overtime, including weekend work done;
- (vi) the period of notice (if any) WaterNSW gives of the on-call requirement and the employee gives of an intention to refuse it; and
- (vii) any other relevant matter.

6.17 Overtime meal allowance

Employees who work overtime after being directed to do so with less than 24 hours' notice, will be paid an allowance for any meal break authorised under this Agreement at the meal allowance rates as per the Australian Taxation Office rates in accordance with Item 9 Schedule 3 – Allowances.

6.18 Private motor vehicle use allowance

An employee who uses a privately owned motor vehicle in their job, with prior WaterNSW approval, will be reimbursed for the kilometres travelled at the Australian Taxation Office rates in accordance with Item 10 Schedule 3 – Allowances.

6.19 Expense reimbursement

Where an employee incurs an out-of-pocket expense directly related to their employment, WaterNSW will reimburse the employee on production of relevant documentation. The expense must be approved by a manager as a necessary work-related expense.

7. Part G – Health and wellbeing

7.1 Commitment

WaterNSW is committed to continually improving its policies, strategies, and initiatives for enabling employee's physical, psychosocial, and mental safety and wellbeing while they are at work. This includes strategies and initiatives that promote the participation and contribution of all employee's improvement to safety and wellbeing, and the prevention and elimination of harmful practices related to inclusion, diversity, safety, discrimination, bullying and harassment, including sexual harassment. WaterNSW will enliven this commitment by:

- (a) meeting the objectives and requirements of relevant Acts, regulations and codes of practice, as a minimum standard;
- (b) consulting and collaborating with employees, unions and employee representatives in accordance with Part B – Consultation, workplace change and dispute resolution, and work health and safety (WHS) consultative practices such as committees, work groups, and health and safety representatives;
- (c) providing confidential and safe avenues for employees to report their concerns and needs, including trained and nominated reporting officers and external services, where appropriate;
- (d) dealing with matters sensitively, efficiently, fairly and confidentially;
- (e) developing a socially responsible, inclusive, collaborative and supportive leadership culture;
- (f) providing employee support including:

- (i) leave in accordance with clause 5.17 – Special leave and support – domestic and family violence and 5.18 – Special Leave – other, of this agreement;
 - (ii) personal support and counselling via WaterNSW Employee Assistance Program and other specialised counselling services, where appropriate; and
 - (iii) safe and healthy return to work of ill or injured employees.
- (g) promoting awareness, understanding and commitment to policies, strategies and initiatives that focus on prevention;
 - (h) systems for the identification, elimination or control of workplace hazards and the prevention of harm, injury or illness; and
 - (i) providing employees with relevant skills and knowledge through training, leadership practice and supervision.

8. Part H – Continuous development

8.1 Continuous development at WaterNSW

- (a) The parties agree that the contribution of all employees to the organisational capability of WaterNSW is facilitated by continuous development, registration (where available, such as in the case of professional engineers) and membership of professional and other occupational associations.
- (b) WaterNSW will support employees to obtain relevant professional registration and undertake continuous professional development education and training in accordance with the WaterNSW Professional Capability and Development Procedure. This support includes:
 - (i) reimbursement of professional registration fees;
 - (ii) provision of internal training and education to be undertaken in paid time;
 - (iii) payment or reimbursement of course and conference fees;
 - (iv) provision of paid leave to attend training and education courses, and conferences; and
 - (v) payment or reimbursement of membership for professional associations.
- (c) Requests made under the WaterNSW Professional Capability and Development Procedure will not be unreasonably refused.
- (d) During the life of this Agreement, WaterNSW and Professionals Australia will work together to enhance the Professional Capability and Development Procedure or develop new guidelines.

9. Part I – Classification

9.1 Classification of positions

- (a) The classification structure provides the minimum and maximum job evaluation points for positions covered by this Agreement.

- (b) WaterNSW will use the Mercer CED methodology to evaluate positions to determine a point valuation and corresponding grade within the classification structure set out in Schedule 1 of this Agreement.
- (c) Accredited WaterNSW and/or Mercer specialists will be engaged to evaluate positions.

9.2 Classification review

- (a) Each occupied position may be reviewed when substantial change occurs to the role and the Position Description updated. Employees or managers may send a request to the People and Culture Team to review the Position Description. If the review of an occupied position discloses a substantial change in the role, the manager will arrange for a job evaluation to be completed.
- (b) If an employee reasonably believes that their role is incorrectly evaluated, they may request a re-evaluation.
- (c) The manager will advise the employee promptly of the outcome of the job evaluation process.
- (d) Any disagreement about a position's classification will be resolved using consultation, including employee representation where requested, and if necessary, the dispute resolution process outlined in this Agreement.
- (e) No incumbent will have their base salary reduced as a result of their position being re-evaluated.
- (f) Outcomes of position evaluations will be reported to the Peak Consultative Group on a quarterly basis to facilitate the sharing of information. The Peak Consultative Group may recommend particular position evaluation for review by WaterNSW.
- (g) Peak Consultative Group representatives will be trained in Mercer CED methodology.

9.3 Pay ranges

- (a) The pay rate ranges and any annual increases to pay rate ranges covered by this Agreement are set out in Schedule 1 and take effect and are payable from the dates set out in Schedule 1.

10. Part J – Schedules

(Schedules 1, 2, 3, 4 and 5 follow)

Schedule 1 - Base rates of pay for a 36 hour week

Grade	Mercer Points		FFPOA 1 July 2022
	Range	Pay Range	
1	80	Min	\$ 53,036
	96	Max	\$ 58,335
2	97	Min	\$ 57,946
	116	Max	\$ 63,736
3	117	Min	\$ 63,839
	140	Max	\$ 70,218
4	141	Min	\$ 70,203
	163	Max	\$ 77,225
5	164	Min	\$ 78,557
	194	Max	\$ 86,414
6	195	Min	\$ 88,539
	246	Max	\$ 97,395
7	247	Min	\$ 99,931
	297	Max	\$ 109,927
8	298	Min	\$ 107,733
		Mid	\$ 118,517
	358	Max	\$ 129,291
9	359	Min	\$ 121,904
		Mid	\$ 134,105
	430	Max	\$ 146,297
10	431	Min	\$ 138,990
		Mid	\$ 152,902
	520	Max	\$ 166,803

FFPPOA = First full pay period on or after

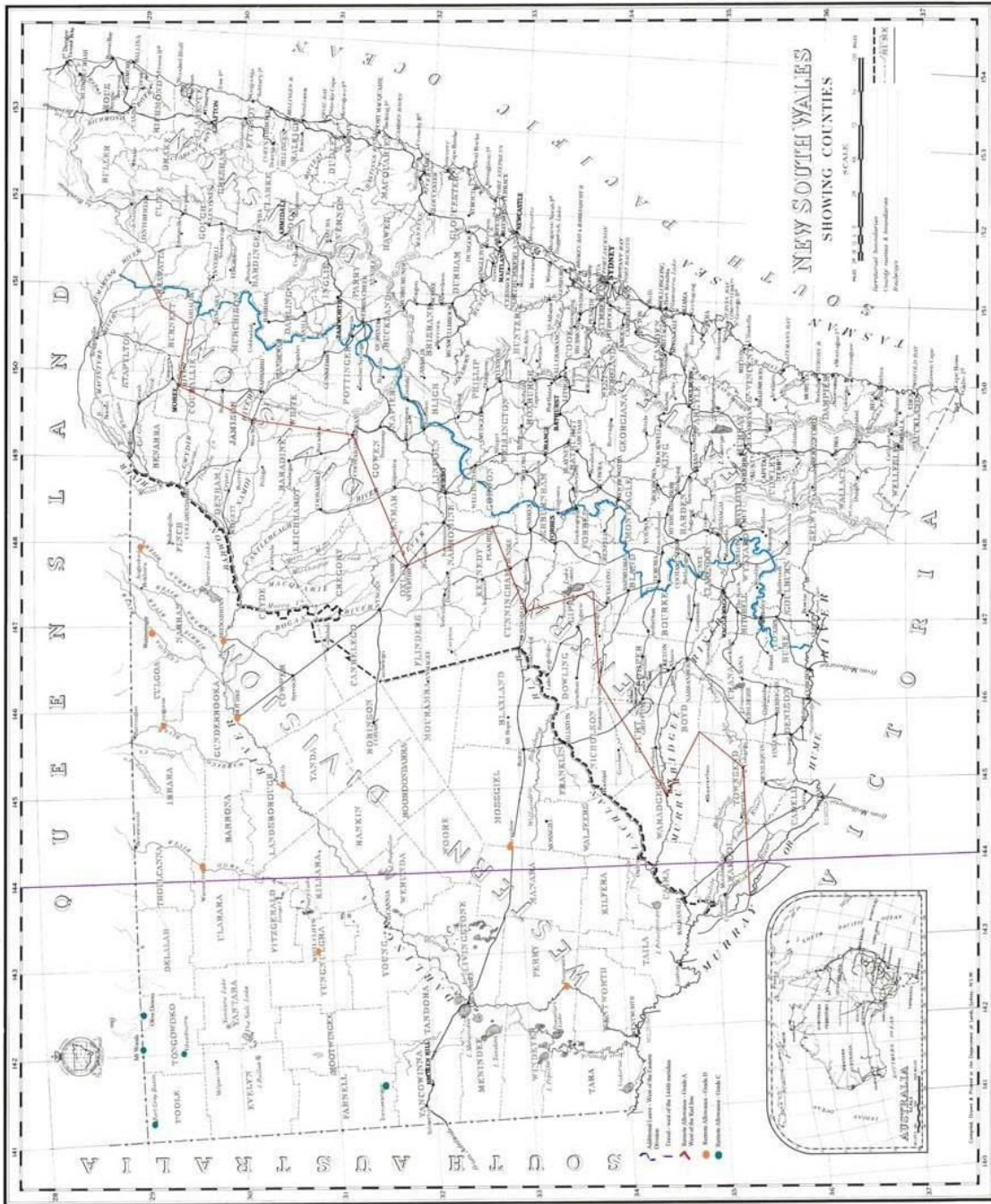
Schedule 2 – Performance Pay Matrices

Contribution measure	Bonus for “not met”	Bonus for “partially met”	Bonus for “on-target”	Max bonus for “out-performance”
OPEX (Business-wide metric determined each year in consultation with the PCG)	0%	0.6%	1.3%	1.6%
Team/Individual (Set by your leader in consultation with you or your team)	0%	0.5%	1.0%	1.3%
Compliance (Mandatory online training)	0%	N/A	0.5%	0.5%
TOTAL	0%	1.1%	2.8%	3.4%

Schedule 3– Allowances

Item number	Clause number	Description	From commencement of this Agreement
1	6.9	Travelling allowance	As per ATO rates
2	6.10	Language allowance: <ul style="list-style-type: none"> Basic level rate 	<ul style="list-style-type: none"> \$1489 per annum \$2239 per annum
3	6.11	Higher duties allowance: <ul style="list-style-type: none"> Greater than 5 days, the higher of Greater than 30 days 	<ul style="list-style-type: none"> 5% of the employee's ordinary rate of pay Minimum entry rate for the position being acted in <p>At the agreed rate not less than the rate for less than 30 Days</p>
4	6.12	Remote area: <ul style="list-style-type: none"> Allowance Annual leave allowance 	<ul style="list-style-type: none"> The rate current at the time of the making of this Agreement The rate current at the time of the making of this Agreement
5	6.13	First aid and fire warden allowance	\$20.92 per week
6	6.14	Firefighting allowance	\$2.02 per hour
7	6.15	Extended working away from home	\$78.49 per week
8	6.16	On-call/standby allowance: <ul style="list-style-type: none"> Monday to Friday Saturday, Sunday and public holiday 	<ul style="list-style-type: none"> \$20.92 per day \$104.63 per day
9	6.17	Overtime meal allowance	As per ATO rates
10	6.18	Private motor vehicle use allowance	As per ATO rates

Schedule 4 - Map of the Western and Central Division of NSW



Schedule 5 – Incident Rosters

Three-One-Three – 7-day incident roster

- (a) The 3-1-3 7-day incident roster will comprise:
 - (i) three consecutive shifts (maximum of 12 hours per shift);
 - (ii) one day (24 hours) paid rest day; the employee will be paid a normal days pay at single rates regardless of day of week on which the rest day falls;
 - (iii) three consecutive shifts (maximum of 12 hours per shift); and
 - (iv) two unpaid rest days.

Five-Two – 7-day incident roster

- (a) The 5-2 7-day incident roster will comprise:
 - (i) five consecutive shifts (maximum of 12 hours per shift); and
 - (ii) two unpaid rest days.

Four-Two – 7-day incident roster

- (a) The 4-2 7-day incident roster will comprise:
 - (i) four consecutive shifts (maximum of 12 hours per shift); and
 - (ii) two unpaid rest days.

11. Part K– Signatories

Signed on behalf of WaterNSW.

Name

Position

Signature

Date

Address

Witnessed By:

Name

Signature

Date

Address

Signed on behalf of the Employees Representative.

Name

Position

Signature

Date

Address

Witnessed By:

Name

Signature

Date

Address

Signed on behalf of the Employees Representative.

Name

Position

Signature

Date

Address

Witnessed By:

Name

Signature

Date

Address

Signed on behalf of the Association of Professional Engineers, Scientists and Managers Australia,
a bargaining representative for employees covered by this Agreement.

Name

Position

Signature

Date

Address

Witnessed By:

Name

Signature

Date

Address

Signed on behalf of the NSW Secretary of the Australian Services Union NSW, a bargaining representative for employees covered by this Agreement.

Name

Position

Signature

Date

Address

Witnessed By:

Name

Signature

Date

Address

Signed on behalf of the CEPU (NSW) Electrical Division, a bargaining representative for employees covered by this Agreement.

Name

Position

Signature

Date

Address

Witnessed By:

Name

Signature

Date

Address

Signed on behalf of The Australian Workers' Union, New South Wales Branch, a bargaining representative for employees covered by this Agreement.

Name

Position

Signature

Date

Address

Witnessed By:

Name

Signature

Date

Address

Signed on behalf of the Community and Public Sector Union NSW, a bargaining representative for employees covered by this Agreement.

Name

Position

Signature

Date

Address

Witnessed By:

Name

Signature

Date

Address