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NSW ABORIGINAL LAND COUNCIL STAFF AWARD 2006

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(No. IRC 1522 of 2006)

Before The Honourable Justice Schmidt

17 March 2006

AWARD

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PART A

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2. Title

This award shall be known as the NSW Aboriginal Land Council Staff Award 2006.

3. Definitions

"Act" means the NSW *Aboriginal Land Rights Amendment Act 2001*.

"Accumulation" means the accrual of leave or time. In respect of weekly study time "accumulation" means the aggregation of short periods of weekly study time which is granted for private study purposes.

"Agreement" means an agreement as defined in the *Industrial Relations Act 1996*.

"Approved Course" means a course relevant to the employment of the staff member in the New South Wales Aboriginal Land Council and approved by the Chief Executive Officer.

"Association" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

"At the convenience of" means the operational requirements permit the staff member's release from duty or that satisfactory arrangements are able to be made for the performance of the staff member's duties during the absence.

"Award" means an award as defined in the *Industrial Relations Act 1996*.

"Birth" means the birth of a child and includes stillbirth.

"Capital City rate" means the travelling allowance rate applicable within the Sydney Telephone District or within a corresponding area in the Capital City of another State or Territory.

"Casual Employee" means an employee engaged on a day to day basis or hour per hour.

"Casual rate" means the appropriate rate payable in respect of a motor vehicle maintained by the staff member for private purposes but which the staff member may elect to use with the approval of the Chief Executive Officer for occasional travel on official business, subject to the allowance paid for such travel not exceeding the cost of travel by public or other available transport.

"Chief Executive Officer" means the chief administrative officer of the NSW Aboriginal Land Council or a person authorised by the Chief Executive Officer.

"Contract hours for the day" for a full time staff member, means one fifth of the full time contract hours, as defined in this award. For a part time staff member, contract hours for the day means the hours usually worked on the day.

"Daily rate" or "Rate per day" means the rate payable for 24 hours, unless otherwise specified.

"Daily span of hours" means, for a staff member required to work standard hours, the full time standard hours defined in this award. For a staff member required to work flexible hours, the "daily span of hours" means the hours which normally fall within the bandwidth of the scheme applicable to the staff member and which do not attract payment for overtime, unless otherwise prescribed in this award.

"Day worker" means a staff member, who works the ordinary hours from Monday to Friday inclusive between the hours of 7.30 am. and 6.00 pm. or as negotiated under a local arrangement.

"Expected date of birth", in relation to a staff member who is pregnant, means a date specified by her medical practitioner to be the date on which the medical practitioner expects the staff member to give birth as a result of the pregnancy.

"Extended Leave" means extended (long service) leave to which a staff member is entitled under the provisions of Schedule 3 Section 55 of the *Public Sector Employment & Management Act 2002*, as amended from time to time.

"Flexible working hours credit" means the time exceeding the contract hours for a settlement period and includes any time carried over from a previous settlement period or periods.

"Flexible working hours debit" means the contract hours not worked by a staff member and not covered by approved leave during the settlement period, as well as any debit carried over from the previous settlement period or periods.

"Flexible working hours scheme" means the scheme outlined in the NSW Aboriginal Land Council Flexitime Working Hours Policy as it applies to professional and administrative staff.

"Flex leave" means a period of leave available to be taken by a staff member as specified in subclause (n) of clause 21 Flexible Working Hours of this award.

"Full day" means the standard full time contract hours for the day, i.e., seven or eight hours depending on the classification of the staff member.

"Full pay" or "half pay" means the staff member's ordinary rate of pay or half the ordinary rate of pay respectively.

"Full-time contract hours" means the standard weekly hours, i.e., 35 hours per week, depending on the classification, required to be worked as at the date of this award.

"Full-time position" means a position which is occupied, or if not for being vacant, would be occupied, by a full-time staff member.

"Full-time staff member" means a staff member whose ordinary hours of duty are specified in this award.

"Half day" means half the standard contract hours for the day.

"Headquarters" means the centre to which a staff member is attached or from which a staff member is required to operate on a long-term basis.

"Industrial action" means industrial action as defined in the *Industrial Relations Act 1996*.

"Local Arrangement" means an agreement reached at the organisational level between the Chief Executive Officer and the Public Service Association in terms of clause 11, Local Arrangements of this award.

"Long Service Leave" means long service leave to which a staff member is entitled under the provisions of the *Long Service Leave Act 1955*.

"Normal hours of duty" means:

for a staff member working standard hours - the fixed hours of duty, with an hour for lunch, worked in the absence of flexible working hours;

for a staff member working under a flexible working hours scheme or local arrangement negotiated under Clause 11 - Local Arrangements - the hours of duty the Chief Executive Officer requires a staff member to work within the bandwidth specified under the flexible working hours scheme or local arrangement.

"Normal work" means, for the purposes of subclause (ix) of clause 9, Grievance and Dispute Settling Procedures of this award, the work carried out in accordance with the staff member's position or job description at the location where the staff member was employed, at the time the grievance or dispute was notified by the

"Official business rate" means the appropriate rate of allowance payable for the use of a private motor vehicle where no other transport is available and such use is directed by the Chief Executive Officer and agreed to by the staff member or where the staff member is unable to use other transport due to a disability.

"Official overseas travel" means authorised travel out of Australia by a staff member where the staff member proceeds overseas on official business.

"On duty" means the time required to be worked for the NSW Aboriginal Land Council. For the purposes of Clause 41 - Trade Union Activities Regarded as on Duty of this award, "on duty" means the time off with pay given by the New South Wales Aboriginal Land Council to the accredited union delegate to enable the union delegate to carry out legitimate trade union activities during ordinary work hours without being required to lodge an application for leave.

"On loan" means an arrangement between the NSW Aboriginal Land Council and the Public Service Association where a staff member is given leave of absence from the workplace to take up employment with the staff member's trade union for a specified period of time during which the Public Service Association is required to reimburse the New South Wales Aboriginal Land Council for the staff member's salary and associated on-costs.

"On special leave" means the staff member is required to apply for special leave in order to engage in an activity which attracts the grant of special leave in the terms of this award.

"Overtime" means all time worked, whether before or after the ordinary daily hours of duty, at the direction of the Chief Executive Officer, which, due to its character or special circumstances, cannot be performed during the staff member's ordinary hours of duty. Where a flexible working hours scheme is in operation, overtime shall be deemed as the hours directed to be worked before or after bandwidth or before or after the time specified in a local arrangement made pursuant to the provisions of clause 11, Local Arrangements of this award provided that, on the day when overtime is required to be performed, the staff member shall not be required by the Chief Executive Officer to work more than 7 hours after finishing overtime or before commencing overtime.

"Partner" means a person living with the staff member as the partner of that staff member on a bona fide domestic situation.

"Part-time entitlement", unless specified otherwise in this award, means pro rata of the full-time entitlements calculated according to the number of hours a staff member works in a part-time position or under a part-time arrangement.

"Part-time hours" means the hours which are less than the hours which constitute full-time work under the relevant industrial instrument.

"Part-time position" means a designated part-time position and, unless otherwise specified, includes any position which is filled on a part-time basis.

"Part-time staff member" means a staff member whose ordinary hours of duty are specified as part-time in a formal industrial instrument or whose contract hours are less than the full-time hours.

"Prescribed ceasing time" means, for a staff member working standard hours, the conclusion of daily standard hours for that staff member. For a staff member working under a flexible working hours' scheme, "prescribed ceasing time" means the conclusion of bandwidth of the scheme applying to that staff member.

"Prescribed starting time" means, for a staff member not working under a flexible working hours scheme, the commencement of standard daily hours of that staff member. For a staff member working under a flexible working hours scheme, "prescribed starting time," means the commencement of bandwidth of the scheme applying to that staff member.

"Public holiday" means a day proclaimed as a public holiday. This definition does not include a Saturday which is such a holiday by virtue of section 15A of that Act, and 1 August or such other day that is a bank holiday instead of 1 August.

"Recall to duty" means those occasions when a staff member is directed to return to duty outside the staff member's ordinary hours or outside the bandwidth in the case of a staff member working under a flexible working hours scheme.

"Relief staff" means staff employed on a temporary basis to provide relief in a position until the return from authorised leave of the substantive occupant or in a vacant position until it is filled substantively.

"Residence", in relation to a staff member, means the ordinary and permanent place of abode of the staff member.

"Secondment" means an arrangement agreed to by the Chief Executive Officer, the staff member and another public service department, a public sector organisation or a private sector organisation which enables the staff member to work in such other organisation for an agreed period of time and under conditions agreed to prior to the commencement of the period of secondment.

"Staff Member" means a casual, temporary or permanent employee of the NSW Aboriginal Land Council and includes both full-time and part-time staff employed by the NSW Aboriginal Land Council other than the Chief Executive Officer and all Station and Farm Managers and all other employees within the scope of the Pastoral Employees (State) Award. For the purposes of Clause 62 Maternity Leave of this award, "staff member" means a female staff member.

"Short leave" means the leave which was available to be granted to staff in the case of pressing necessity and which was replaced by the family and community service leave from 20 September 1994.

"Standard hours" are set and regular hours of operation as determined by the Chief Executive Officer. Standard hours are generally the hours which were in operation prior to the introduction of flexible working hours or have been determined as standard hours for the NSW Aboriginal Land Council since the introduction of flexible working hours.

"Standby" means an instruction given by the Chief Executive Officer to a staff member to be available for immediate contact in case of an authorised call-out requiring the performance of duties.

"Study leave" means leave without pay granted for courses at any level or for study tours during which financial assistance may be approved by the Chief Executive Officer, if the activities to be undertaken are considered to be of relevance or value to the NSW Aboriginal Land Council.

"Study Time" means the time allowed off from normal duties on full pay to a staff member who is studying in a part-time course which is of relevance to the NSW Aboriginal Land Council.

"Supervisor" means the immediate supervisor or manager of the area in which a staff member is employed or any other staff member authorised by the Chief Executive Officer to fulfil the role of a supervisor or manager, other than a person employed as a consultant or contractor.

"Temporary employee" is an employee engaged for a specific task and/or period of time and shall be entitled to the same conditions as a permanent employee on a pro rata basis.

"Temporary work location" means the place at or from which a staff member temporarily performs official duty if required to work away from headquarters.

"Trade Union" or "Union" means a registered trade union, as defined in the *Industrial Relations Act 1996*.

"Trade Union Delegate" means an accredited union delegate responsible for his/her workplace; and/or a person who is elected by the trade union as its representative, an executive member or a member of the union's Council.

"Trade Union Official" means a person who is employed by the union to carry out duties of an official in a permanent or temporary capacity, including elected full-time officials and/or staff members placed on loan to the union for an agreed period of time.

"Workplace" means the NSW Aboriginal Land Council or, as the case may be, a branch or section of the organisation in which the staff member is employed.

"Workplace Management" means the Chief Executive Officer or any other person authorised by the Chief Executive Officer to assume responsibility for the conduct and effective, efficient and economical management of the functions and activities of the organisation or part of the organisation.

4. Application

The parties to this Award are the NSW Aboriginal Land Council and the Public Service Association and Professional Officers Association Amalgamated Union of New South Wales.

5. Award History

The first award was made following the passing and proclamation on 25 October 2002 of the *Aboriginal Land Rights Amendment Act 2001* (NSW). The Award was made as reflective of the current conditions of employment as agreed between the parties taking into account the transition from the public sector to the private sector. The Award also provided for the regulation of wages and salaries. The Award sought to preserve the position applying as at 25 October 2002 subject to specific leave reserved granted to the parties to pursue during the currency of the Award wage and salary adjustment and classification structuring conducive to the future needs of the NSW Aboriginal Land Council in accordance with the procedures so established in Clause 88 Leave Reserved.

6. Coverage

The provisions of this award shall apply to all employees of the NSW Aboriginal Land Council other than the Chief Executive Officer and all Station and Farm Managers and all other employees of the NSW Aboriginal Council within the scope of the Pastoral Employees (State) Award.

7. Statement of Intent

This award aims to consolidate, in the one document, all conditions of employment of staff employed by the NSW Aboriginal Land Council.

8. Work Environment

- (i) Occupational Health and Safety - The parties to this award are committed to achieving and maintaining accident-free and healthy workplaces in NSW Aboriginal Land Council by:
 - (a) the development of policies and guidelines for the NSW Aboriginal Land Council on Occupational Health, Safety and Rehabilitation;

- (b) consultative mechanisms and structures being established within the NSW Aboriginal Land Council to identify and introduce safe systems of work, safe work practices, working environments; to develop strategies to assist the rehabilitation of injured staff members; and to determine the level of responsibility to achieve these objectives. This will assist to achieve the objects of the *Occupational Health and Safety Act 2000* and the Regulations and Codes of Practice made under the Act;
 - (c) identifying training strategies for staff members, as appropriate, to assist in the recognition, elimination or control of workplace hazards and the prevention of work related injury and illness;
 - (d) directly involving the Chief Executive Officer in the provisions of paragraphs (a) to (c) inclusive of this subclause.
- (ii) Equality in employment - The NSW Aboriginal Land Council is committed to the achievement of equality in employment and the award has been drafted to reflect this commitment.
 - (iii) Harassment-free Workplace - Harassment on the grounds of sex, race, marital status, physical or mental disability, sexual preference, transgender, age or carer's responsibility is unlawful in terms of the *Anti-Discrimination Act 1977*. Management and staff of the NSW Aboriginal Land Council are required to refrain from, or being party to, any form of harassment in the workplace.

8. Grievance and Dispute Settling Procedures

- (i) All grievances and disputes relating to the provisions of this award shall initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the NSW Aboriginal Land Council, if required.
- (ii) A staff member is required to notify in writing their immediate manager, as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter, and if possible, state the remedy sought.
- (iii) The immediate manager shall convene a meeting in order to resolve the grievance, dispute or difficulty within two (2) working days, or as soon as practicable, of the matter being brought to attention.
- (iv) If the matter remains unresolved with the immediate manager, the staff member may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two (2) working days, or as soon as practicable. The staff member may pursue the sequence of reference to successive levels of management until the matter is referred to the Chief Executive Officer.
- (v) The Chief Executive Officer may refer the matter to an independent person for consideration.
- (vi) If the matter remains unresolved, the Chief Executive Officer shall provide a written response to the staff member and any other party involved in the grievance, dispute or difficulty, concerning action to be taken, or the reason for not taking action, in relation to the matter.
- (vii) A staff member, at any stage, may request to be represented by the Association.
- (viii) The Association or the Chief Executive Officer may refer the matter to the New South Wales Industrial Relations Commission if the matter is unresolved following the use of these procedures.
- (ix) Whilst the procedures outlined in subclauses (i) to (viii) of this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving occupational health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any staff member or member of the public.

10. Employment Termination Procedures

- (i) Cessation of Employment - In order to cease employment, the employer or the employee shall give one (1) weeks notice or forfeiture of one (1) week's pay as the case may be.
- (ii) Abandonment of Employment - an employee who is absent from duty without authorisation for a period exceeding three (3) continuous days is to be mailed or couriered a certified letter to their last known address requesting the reason for the absence; directing the employee to resume duty within a specified time, and advising of the prospect of termination if the direction is not followed.
- (iii) If the employee does not resume duty within the specified period or fails to provide a satisfactory reason for their unauthorised absence the Chief Executive Officer may terminate the person's employment.
- (iv) Summary Dismissal - the NSW Aboriginal Land Council shall have the right to dismiss an employee without notice for conduct that justifies instant dismissal.

11. Local Arrangements

- (i) Local arrangements, as specified in this award, may be negotiated between the Chief Executive Officer and the Public Service Association in respect of the NSW Aboriginal Land Council.
- (ii) All local arrangements negotiated between the NSW Aboriginal Land Council and Public Service Association must be contained in a formal document, such as a co-lateral agreement, a memorandum of understanding, an award, an enterprise agreement or other industrial instrument.

12. Working Hours

- (a) The working hours of staff and the manner of their recording, shall be as determined from time to time by the Chief Executive Officer. Such direction will include the definition of full time contract hours as contained in clause 3, Definitions of this award.
- (b) The staff member in charge of an unit or branch will be responsible to the Chief Executive Officer for the proper observance of hours of work and for the proper recording of such attendance.
- (c) The Chief Executive Officer may require a staff member to perform duty beyond the hours determined under subclause (a) of this clause but only if it is reasonable for the staff member to be required to do so. In determining what is reasonable, the staff member's prior commitments outside the workplace, particularly the staff member's family responsibilities, community obligations or study arrangements shall be taken into account. Consideration shall be given also to the urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services.
- (d) The application of hours of work is subject to the provisions of this clause.
- (e) The ordinary hours may be standard or flexible and may be worked on a full time or part-time basis.
- (f) The Chief Executive Officer shall ensure that all staff members employed in the NSW Aboriginal Land Council are informed of the hours of duty required to be worked and of their rights and responsibilities in respect of such hours of duty.

13. Morning and Afternoon Breaks

Staff members may take a 10 minute morning break, provided that the discharge of the NSW Aboriginal Land Council business is not affected and, where practicable, they do so out of the view of the public contact areas. Staff members, may also take a 10 minute afternoon break, subject to the same conditions as apply to the morning break.

14. Meal Breaks

Meal breaks must be given to and taken by staff members. No staff member shall be required to work continuously for more than 5 hours without a meal break, provided that:

- (1) where the prescribed break is more than 30 minutes, the break may be reduced to not less than 30 minutes if the staff member agrees. If the staff member requests to reduce the break to not less than 30 minutes, the reduction must be operationally convenient; and
- (2) where the nature of the work of a staff member or a group of staff members is such that it is not possible for a meal break to be taken after not more than 5 hours, local arrangements may be negotiated between the Chief Executive Officer and the Public Service Association to provide for payment of a penalty.

15. Variation of Hours

If the Chief Executive Officer is satisfied that a staff member is unable to comply with the general hours operating in the NSW Aboriginal Land Council because of limited transport facilities, urgent personal reasons, community or family reasons, the Chief Executive Officer may vary the staff member's hours of attendance on a one off, short or long-term basis, subject to the following:

- (1) the variation does not adversely affect the operational requirements;
- (2) there is no reduction in the total number of daily hours to be worked;
- (3) the variation is not more than an hour from the commencement or finish of the span of usual commencing and finishing time;
- (4) a lunch break of one hour is available to the staff member, unless the staff member elects to reduce the break to not less than 30 minutes;
- (5) no overtime or meal allowance payments are made to the staff member, as a result of an agreement to vary the hours;
- (6) ongoing arrangements are documented; and
- (7) the Public Service Association is consulted, as appropriate, on any implications of the proposed variation of hours for the work area.

16. Natural Emergencies and Major Transport Disruptions

- (a) A staff member prevented from attending work at a normal work location by a natural emergency or by a major transport disruption may:
 - (1) apply to vary the working hours as provided in Clause 15 - Variation of Hours of this award; and/or
 - (2) negotiate an alternative working location with the NSW Aboriginal Land Council; and/or
 - (3) take available family and community service leave and/or flex leave, recreation or extended leave or leave without pay to cover the period concerned.

17. Assistance With Transport

The extent of any assistance by the NSW Aboriginal Land Council with transport of a staff member between the workplace and residence or part of the distance involved, shall be determined by the Chief Executive Officer according to the provisions contained in Clause 83 - Provision of Transport in Conjunction with Working of Overtime of this award.

18. Notification of Absence from Duty

- (a) If a staff member is to be absent from duty, other than on authorised leave, the staff member must notify the supervisor, or must arrange for the supervisor to be notified, as soon as possible, of the reason for the absence.
- (b) If a staff member is absent from duty without authorised leave and does not provide an explanation of the absence to the satisfaction of the Chief Executive Officer, the amount representing the period of absence shall be deducted from the staff member's pay.
- (c) The Supervisor must notify the Human Resources Unit within 24 hours for the purposes of clause 18(b) of this award.

19. Public Holidays

- (a) Unless directed to attend for duty by the Chief Executive Officer, a staff member is entitled to be absent from duty on any day which is:
 - (1) a public holiday throughout the State; or
 - (2) National Aboriginal & Islanders day of Commemoration (NAIDOC); or
 - (3) such days as deemed by the Chief Executive Officer to be days of national Aboriginal significance.

20. Standard Working Hours

- (a) Standard hours are set and regular with an hour for lunch and, if worked by the staff member under a flexible working hours scheme, would equal the contract hours required to be worked under the scheme. Standard hours could be full time or part-time.
- (b) Urgent Personal Business - Where a staff member requires to undertake urgent personal business, appropriate leave or time off may be granted by the Chief Executive Officer. Where time off has been granted, such time shall be made up as set out in subclause (d) of this clause.
- (c) Late Attendance - If a staff member is late for work, such staff member must either take appropriate leave or, if the Chief Executive Officer approves, make the time up in accordance with subclause (d) of this clause.
- (d) Making up of Time - The time off taken in circumstances outlined in subclauses (b) and (c) of this clause must be made up at the earliest opportunity. The time may be made up on the same day or on a day or days agreed to between the staff member and the Chief Executive Officer.

21. Flexible Working Hours

- (a) Unless a local arrangement has been negotiated as provided in Clause 11 - Local Arrangements of this award, a flexible working hours scheme in terms of this subclause may operate in the NSW Aboriginal Land Council or a unit/branch of the organisation, in accordance with the NSW Aboriginal Land Council Flexible Working Hours Policy and, subject to operational requirements, as determined by the Chief Executive Officer.
- (b) Where the operational requirements allow, the working of flexible hours under a flexible working hours scheme operating in the NSW Aboriginal Land Council, shall be extended to a staff member working under a part-time work arrangement. Except for provisions contained in subclauses (j) and (l) of this clause, all other provisions under this subclause shall be applied pro rata to a staff member working under a part-time work arrangement.

- (c) Exclusions - Flexible working hours shall not apply to staff members who work as a:
casual employee or
under permanent standard hours; or
trainee; or
staff members engaged on Rural Properties.
- (d) Attendance - A staff member's attendance outside the hours of a standard day but within the bandwidth shall be subject to the availability of work.
- (e) Bandwidth - The bandwidth shall be between the hours of 7.30a.m. and 6.00p.m., unless a different time span has been negotiated under a local arrangement in terms of clause 11, Local Arrangements of this award.
- (f) Coretime - The coretime shall be between the hours of 9.30a.m. and 3.30p.m, excluding the lunch break, unless other arrangements have been negotiated under a local arrangement in terms of clause 11, Local Arrangements of this award.
- (g) Lunch break - The standard lunch period shall be 1 hour. With the approval of the supervisor, the lunch period may be extended by the staff member up to 2 hours or reduced to not less than 30 minutes within the span of hours determined by the Chief Executive Officer. Where a local arrangement has been negotiated in terms of clause 11, Local Arrangements of this award, the lunch break shall be taken in accordance with such local arrangement.
- (h) Settlement period - Unless a local arrangement has been negotiated in terms of clause 11, Local Arrangements of this award, the settlement period shall be four weeks.
 - (1) For time recording purposes the settlement period and flex leave must coincide.
 - (2) Where exceptional circumstances apply, eg prolonged transport strikes, adverse weather conditions and the like, the Chief Executive Officer may extend the affected settlement period by a further 4 weeks.
- (i) Contract hours - The contract hours for a settlement period shall be calculated by multiplying the staff member's weekly contract hours by the number of weeks in a settlement period.
- (j) Flexible working hours credit - A staff member may carry a maximum of 10 hours credit into the next period. Time accumulated in excess of 10 hours at the end of a settlement period shall be forfeited. Local arrangements in terms of clause 11, Local Arrangements of this award may be negotiated in respect of the carry over of the maximum flexible hours credit and the banking of any accumulated time.
- (k) The NSW Aboriginal Land Council shall ensure that a staff member does not forfeit excess credit hours at the conclusion of settlement periods as a result of reasonable requests for flex leave being refused or the staff member being directed by the supervisor to work long hours within the bandwidth. Hours worked are to be monitored by the staff member and supervisor to ensure that, as a far as possible, excess credit and debit hours are avoided.
- (l) Flexible Working Hours Debit - The following provisions shall apply to the carry over of flexible working hours debits, unless a local arrangement has been negotiated in terms of clause 11, Local Arrangements of this award:
 - (1) A debit of up to 10 hours at the end of a settlement period may be carried over into the next period.
 - (2) Where the debit exceeds 10 hours, the excess will be debited as leave without pay, unless the staff member elects to be granted available recreation or extended leave to offset the excess.

- (3) Any debit of hours outstanding on a staff member's last day of duty is to be deducted from any unpaid salary or the monetary value of accrued recreation/extended leave.
- (m) Cessation of duty - A staff member may receive payment for a flex day accrued and remaining untaken or not forfeited on the last day of service:
 - (1) where the staff member's services terminate without a period of notice for reasons other than misconduct; or
 - (2) where an application for flex leave which would have eliminated the accumulated day or days was made during the period of notice of retirement or resignation and was refused; or
 - (3) in such other circumstances as have been negotiated between the Chief Executive Officer and the Public Service Association under a local arrangement in terms of clause 11, Local Arrangements of this award.
- (n) Flex leave - Subject to operational requirements, a staff member may take off one full day or two half days in a settlement period of 4 weeks. Flex leave may be taken on consecutive working days. Half-day absences may be combined with other periods of authorised leave. Local arrangements in respect of the taking of flex leave may be negotiated in terms of clause 11, Local Arrangements of this award.
- (o) Absence during coretime - Where a staff member needs to take a short period of authorised leave within coretime, other than flex leave, the quantum of leave to be granted shall be determined according to the provisions contained in Clause 56 - Absence from Work of this award.
- (p) Standard hours - Notwithstanding the provisions of this clause, the Chief Executive Officer may direct the staff member to work standard hours and not flexible hours:
 - (1) where the Chief Executive Officer decides that the working of flexible hours by a staff member or members does not suit the operational requirements of the NSW Aboriginal Land Council or a unit/branch of the organisation, the Public Service Association shall be consulted, where appropriate; or
 - (2) as remedial action in respect of a staff member who has been found to have deliberately and persistently breached the flexible working hours scheme.
- (q) Easter concession - Staff members who work under a flexible working hours scheme may be granted, subject to the convenience of the NSW Aboriginal Land Council, an additional half day's flex leave on the Thursday preceding the Good Friday public holiday.

22. Non-Compliance

In the event of any persistent failure by a staff member to comply with the hours of duty required to be worked, the Chief Executive Officer, shall investigate such non compliance as soon as it comes to notice and shall take appropriate remedial action according to the Management of Unsatisfactory Performance Guidelines.

23. Excess Travelling Time

- (a) Excess Travelling Time - A staff member directed by the Chief Executive Officer to travel on official business outside the usual hours of duty is entitled to apply and to be compensated for such time either by:
 - (1) payment calculated in accordance with the provisions contained in this clause; or
 - (2) if it is operationally convenient, by taking equivalent time off in lieu to be granted for excess time spent in travelling on official business.

- (b) Compensation under paragraphs (1) or (2) of this subclause, shall be subject to the following conditions:
- (1) on a non-working day - all time spent travelling on official business;
 - (2) on a working day - subject to the provisions of subclause (e) of this clause, all additional time spent travelling before or after the staff member's normal hours of duty;
- provided the period for which compensation is being sought is more than a half an hour on any one day.
- (c) No compensation for travelling time shall be given in respect of travel between 11.00p.m. on any one day and 7.30a.m. on the following day where the staff member has travelled overnight and sleeping facilities have been provided for the staff member.
- (d) Compensation for travelling time shall be granted only in respect of the time that might reasonably have been taken by the use of the most practical and economic means of transport.
- (e) Compensation for excess travelling time shall exclude the following:
- (1) time normally taken for the periodic journey from home to headquarters and return;
 - (2) any periods of excess travel of less than 30 minutes on any one day;
 - (3) travel to new headquarters on permanent transfer, if special leave has been granted for the day or days on which travel is to undertaken;
 - (4) time from 11.00pm. on one day to 7.30am. on the following day if sleeping facilities have been provided;
 - (5) travel not undertaken by the most practical available route;
 - (6) travel overseas.
- (f) Payment - Payment for travelling time calculated in terms of this clause shall be at the staff member's ordinary rate of pay on an hourly basis calculated as follows:
- $$\frac{\text{Annual salary}}{1} \times \frac{5}{260.89} \times \frac{1}{\text{Normal hours of work}}$$
- (g) The rate of payment for travel or waiting time on a non-working day shall be the same as that applying to a working day.
- (h) Time off in lieu or payment for excess travelling time or waiting time will not granted or made for more than eight hours in any period of 24 consecutive hours.

24. Waiting Time

When a staff member travelling on official business is required to wait for transport in order to commence a journey to another location or to return home or headquarters and such time is outside the normal hours of duty, the waiting time shall be treated and compensated for in the same manner as excess travelling time pursuant to Clause 23 - Excess Travelling Time.

25. Travelling Allowances - General

- (a) Any authorised official travel and associated expenses, properly and reasonably incurred by a staff member required to perform duty at a location other than their normal headquarters shall be met by the NSW Aboriginal Land Council.
- (b) The Chief Executive Officer shall require staff members to obtain an authorisation for all official travel prior to incurring any travel expense.

- (c) Where available at a particular centre or location, the overnight accommodation to be occupied by staff members who travel on official business shall be the middle of the range standard, referred to generally as three star or three diamond standard of accommodation.
- (d) Where payment of a proportionate amount of an allowance applies in terms of this clause, the amount payable shall be the appropriate proportion of the daily rate. Any fraction of an hour shall be rounded off to the nearest half-hour.

26. Meal Expenses on One-Day Journeys

A staff member who is authorised by the Chief Executive Officer to undertake a one-day journey on official business which does not require the staff member to obtain overnight accommodation, shall be paid the appropriate rate of allowance set out in Item 1 of Table 1 of Part B Monetary Rates for:

- (1) breakfast when required to commence travel at or before 6.00 a.m. and at least 1 hour before the prescribed starting time;
- (2) an evening meal when required to travel until or beyond 6.30 p.m.; and
- (3) lunch when required to travel a total distance on the day of at least 100 kilometres and, as a result, is located at a distance of at least 50 kilometres from the staff member's normal headquarters at the time of taking the normal lunch break.

27. Travelling Allowances When Staying in Non NSWALC Provided Accommodation

- (1) A staff member who is required by the Chief Executive Officer to work from a temporary work location shall be compensated for accommodation, meal and incidental expenses properly and reasonably incurred during the time actually spent away from the staff member's residence in order to perform the work.
- (2) For the First 35 Days, the Payment Shall be Either:
 - (A) the appropriate rate of allowance specified in Item 2 of Table 1 Allowances of Part B Monetary Rates for every period of 24 hours absence by the staff member' from their residence; and actual meal expenses properly and reasonably incurred (excluding morning and afternoon teas) for any residual part day travel; or
 - (B) if the staff member elects, actual expenses, properly and reasonably incurred for the whole trip on official business (excluding morning and afternoon teas) together with an incidental expenses allowance set out in Item 2 of Table 1 of Part B Monetary Rates.
- (3) Payment of the appropriate allowance for an absence of less than 24 hours may be made only where the staff member satisfies the Chief Executive Officer that, despite the period of absence being of less than 24 hours' duration, expenditure for accommodation and three meals has been incurred.
- (4) Where a staff member is unable to so satisfy the Chief Executive Officer, the allowance payable for part days of travel shall be limited to the actual expenses incurred during such part day travel.
- (5) After the first 35 days - If a staff member is required by the Chief Executive Officer to work in the same temporary work location for more than 35 days, such staff member shall be paid the appropriate rate of allowance as specified in Item 2 of Table 1 of Part B Monetary Rates.
- (6) Long term arrangements - As an alternative to the provisions set out in subclauses (2) & (5) above, NSW Aboriginal Land Council could make alternative arrangements for meeting the additional living expenses, properly and reasonably incurred by a staff member working from a temporary work location.
- (7) The return of a staff member to their home at weekends, on rostered days off or during short periods of leave while working from a temporary work location shall not constitute a break in the temporary work arrangement.

28. Travelling Allowances When Staying in NSWALC Provided Accommodation

When a staff member working from a temporary work location is provided with accommodation by the NSWALC, the staff member shall be entitled to claim the incidental expenses allowance set out in Item 3 of Table - 1 Allowances of Part B Monetary Rates for the same period. If meals are not provided by the NSWALC at the temporary work location, the staff member shall be entitled to claim also the reimbursement of any meal expenses properly and reasonably incurred during the time spent at the temporary work location.

29. Restrictions on Payment of Travelling Allowances

An allowance under Clause 27 - Travelling Allowance when staying in Non NSWALC Provided Accommodation is not payable in respect of:

- (1) any period during which the staff member returns to their residence at weekends or public holidays, commencing with the time of arrival at that residence and ending at the time of departure from the residence;
- (2) any period of leave, except with the approval of the Chief Executive Officer or as otherwise provided by this subclause; or
- (3) any other period during which the staff member is absent from the staff member's temporary work location otherwise than on official duty.
- (4) Notwithstanding subclauses (1), (2) or (3) of this clause, a staff member in receipt of an allowance under clause 27 - Travelling Allowance when staying in Non NSWALC Provided Accommodation of this award who is granted special leave to return to their residence at a weekend, shall be entitled to an allowance under clause 27 - Travelling Allowance when staying in Non NSWALC Provided Accommodation in respect of the necessary period of travel for the journey from the temporary work location to the staff member's residence; and for the return journey from the staff member's residence to the temporary work location, but is not entitled to any allowance under this subclause, or any other allowance, in respect of the same period.
- (5) Notwithstanding subclauses (1), (2) or (3) of this clause, a staff member in receipt of an allowance under this subclause who, on ceasing to perform duty at or from a temporary work location, leaves that location shall be entitled to an allowance in accordance with Clause 27 -Travelling Allowance when staying in Non NSWALC Provided Accommodation of this award in respect of the necessary period of travel to return to the staff member's residence or to take up duty at another temporary work location, but is not entitled to any other allowance in respect of the same period.

30. Increase Or Reduction in Payment of Travelling Allowances

Where the Chief Executive Officer is satisfied that a travelling allowance is:

- (1) insufficient to adequately reimburse the staff member for expenses properly and reasonably incurred, a further amount may be paid to reimburse the staff member for the additional expenses incurred; or
- (2) in excess of the amount which would adequately reimburse the staff member for expenses properly and reasonably incurred, the Chief Executive Officer may reduce the allowance to an amount which would reimburse the staff member for expenses incurred properly and reasonably.

31. Production of Receipts

Payment of any actual expenses shall be subject to the production of receipts, unless the Chief Executive Officer is prepared to accept other evidence from the staff member.

32. Travelling Distance

The need to obtain overnight accommodation shall be determined by the Chief Executive Officer having regard to the safety of the staff member or members travelling on official business and local conditions applicable in

the area. Where staff members are required to attend conferences or seminars which involve evening sessions or staff members are required to make an early start at work in a location away from their normal workplace, overnight accommodation shall be appropriately granted by the Chief Executive Officer.

33. Allowance Payable for Use of Private Motor Vehicle

- (a) The Chief Executive Officer may authorise a staff member to use a private motor vehicle for work where:
 - (1) such use will result in greater efficiency or involve the NSW Aboriginal Land Council in less expense than if travel were undertaken by other means; or
 - (2) where the staff member is unable to use other means of transport due to a disability.
- (b) There shall be different classes of allowance payable for the use of a private motor vehicle for work. The appropriate rate of the "casual rate" of allowance or the "official business rate" of allowance, as defined in clause 3, Definitions of this award, shall be paid depending on the circumstances and the purpose for which the vehicle is used.
- (c) The staff member must have in force in respect of a motor vehicle used for work, in addition to any policy required to be effected or maintained under the *Motor Vehicles (Third Party Insurance) Act, 1942*, a comprehensive motor vehicle insurance policy to an amount and in a form approved by the Chief Executive Officer.
- (d) A staff member who, with the approval of the Chief Executive Officer, uses a private motor vehicle for work shall be paid an appropriate rate of allowance specified in Item 4 of Table 1 of Part B Monetary Rates for the use of such private motor vehicle.
- (e) Expenses such as tolls etc. shall be refunded to staff members where the charge was incurred during approved work related travel.
- (f) Except as otherwise specified in this award, a staff member shall bear the cost of ordinary daily travel by private motor vehicle between the staff member's residence and headquarters.

34. Damage to Private Motor Vehicle Used for Work

- (a) Where a private vehicle is damaged while being used for work, any normal excess insurance charges prescribed by the insurer shall be reimbursed by the NSW Aboriginal Land Council, provided:
 - (1) the damage is not due to gross negligence by the staff member; and
 - (2) the charges claimed by the staff member are not the charges prescribed by the insurer as punitive excess charges.
- (b) Provided the damage is not the fault of the staff member, the NSW Aboriginal Land Council shall reimburse to a staff member the costs of repairs to a broken windscreen, if the staff member can demonstrate that:
 - (1) the damage was sustained on approved work activities; and
 - (2) the costs cannot be met under the insurance policy due to excess clauses.

35. Overseas Travel

Unless the Chief Executive Officer determines that a staff member shall be paid travelling rates especially determined for the occasion, a staff member required by the NSW Aboriginal Land Council to travel overseas on official business, shall be paid the appropriate overseas travelling allowance rates as specified in Premier's Department Circular No. 2000-25 until such time as the circular is withdrawn or replaced.

36. Exchanges

- (a) The Chief Executive Officer may arrange two way or one way exchanges with other organisations both public and private, if the NSW Aboriginal Land Council or the staff member will benefit from additional training and development which is intended to be used in the carrying out of the NSW Aboriginal Land Council business.
- (b) The conditions applicable to those staff members who participate in exchanges will be determined by the Chief Executive Officer according to the individual circumstances in each case.
- (c) The provisions of this subclause do not apply to the loan of services of staff members to trade unions. The provisions of Clause 44 Conditions Applying to On Loan Arrangements of this award apply to staff members who are loaned to their trade union.

37. Compensation for Damage to Or Loss of Staff Member's Private Property

- (a) Where damage to or loss of the staff member's private property occurs in the course of employment, a claim may be lodged under the Workers Compensation Act and/or under any insurance policy of the NSW Aboriginal Land Council covering the damage to or loss of the personal property of the staff member.
- (b) If a claim under subclause (a) of this clause is rejected by the insurer, the Chief Executive Officer may compensate a staff member for the damage to or loss of private property, if such damage or loss:
 - (1) is due to the negligence of the NSW Aboriginal Land Council, another staff member, or both, in the performance of their duties; or
 - (2) is caused by a defect in a staff member's material or equipment; or
 - (3) results from a staff member's protection of or attempt to protect NSW Aboriginal Land Council property from loss or damage.
- (c) Compensation in terms of subclause (b) of this clause shall be limited to the amount necessary to repair the damaged item. Where the item cannot be repaired or is lost, the Chief Executive Officer may pay the cost of a replacement item, provided the item is identical to or only marginally different from the damaged or lost item and the claim is supported by satisfactory evidence as to the price of the replacement item.
- (d) For the purpose of this subclause, personal property means a staff member's clothes, spectacles, hearing-aid, tools of trade or similar items which are ordinarily required for the performance of the staff member's duties.
- (e) Compensation for the damage sustained shall be made by the NSW Aboriginal Land Council where, in the course of work, clothing or items such as spectacles, hearing aids, etc, are damaged or destroyed by natural disasters or by theft or vandalism.

38. Garage and Carport Allowance

- (a) Where a staff member garages a NSW Aboriginal Land Council vehicle in their own garage or carport and the use of the garage or carport is considered essential by the Chief Executive Officer, such staff member shall be paid an appropriate rate of allowance as specified in Item 7 of Table 1 of Part B Monetary Rates.
- (b) Payment of the garage or carport allowance shall continue during periods when the staff member is absent from headquarters.

39. First Aid Allowance

- (a) A staff member appointed as a First Aid Officer shall be paid a first aid allowance at the rate appropriate to the qualifications held by such staff member as specified in Item 8 of Table 1 of Part B Monetary Rates.
- (b) The First Aid Allowance shall not be paid during extended leave or any other continuous period of leave which exceeds four weeks.
- (c) When the First Aid Officer is absent on leave for one week or more and another qualified staff member is selected to relieve in the First Aid Officer's position, such staff member shall be paid a pro rata first aid allowance for assuming the duties of a First Aid Officer.

40. Review of Allowances Payable in Terms of This Award

Adjustment of Allowances - Allowances contained in this award shall be reviewed as follows:

- (a) Allowances payable in terms of clauses listed in this paragraph shall be reviewed as soon as the Australian Taxation Office issues its Ruling on "Reasonable Amounts" for the 2006/2007 and subsequent income years.
 - (1) Clause 26 - Meal Expenses on One Day Journeys.
 - (2) Clause 27 - Travelling Allowances when staying in Non NSWALC Provided Accommodation.
 - (3) Clause 28 - Travelling Allowance when staying in NSWALC Provided Accommodation.
 - (4) Clause 79 - Overtime Meal Allowances for breakfast, lunch and dinner.
- (b) Allowances payable in terms of clauses listed in this paragraph shall be adjusted on 1 July each year in line with the increases in the Consumer Price Index for Sydney during the preceding financial year:
 - (1) Clause 33 - Allowances Payable for use of Private Motor Vehicle;
 - (2) Clause 38 - Garage and Carport Allowance; and
- (c) Allowances payable in terms of clauses listed in this paragraph shall continue to be subject to a percentage increase under this Award, and shall be adjusted on and from the date or pay period the percentage increase takes effect:
 - (1) Clause 39 - First Aid Allowance.

41. Trade Union Activities Regarded as on Duty

A Public Service Association delegate will be released from the performance of normal NSW Aboriginal Land Council duty when required to undertake any of the activities specified below. While undertaking such activities the trade union delegate will be regarded as being on duty and will not be required to apply for leave:

- (a) Attendance at meetings of the workplace's Occupational Health and Safety Committee and participation in all official activities relating to the functions and responsibilities of elected Occupational Health and Safety Committee members at a place of work as provided for in the *Occupational Health and Safety Act 2000* and the Regulations.
- (b) Attendance at meetings with workplace management or workplace management representatives.
- (c) A reasonable period of preparation time, before:
 - (1) meetings with management;

(2) disciplinary or grievance meetings when a Public Service Association member requires the presence of the Public Service Association; and

(3) any other meeting with management,

by agreement with management, where operational requirements allow the taking of such time;

(d) Giving evidence in a court or tribunal in relation to an industrial matter.

(e) Presenting information on the trade union and trade union activities at induction sessions for new staff of the NSW Aboriginal Land Council; and

(f) Distributing official trade union publications or other authorised material at the workplace, provided that a minimum of 24 hours notice is given to workplace management, unless otherwise agreed between the parties. Distribution time is to be kept to a minimum and is to be undertaken at a time convenient to the workplace.

42. Trade Union Activities Regarded as Special Leave

The granting of special leave with pay will apply to the following activities undertaken by a trade union delegate, as specified below:

(a) annual or biennial conferences of the delegate's union;

(b) meetings of the union's Executive, Committee of Management or Councils;

(c) annual conference of the Unions NSW and the biennial Congress of the Australian Council of Trade Unions;

(d) attendance at meetings called by the Unions NSW involving the Public Service Association requires attendance of a delegate;

(e) giving evidence before an Industrial Tribunal as a witness for the trade union;

(f) reasonable travelling time to and from conferences or meetings to which the provisions of Clauses 47, 48 & 49 of this award apply.

43. Trade Union Training Courses

The following training courses will attract the grant of special leave as specified below:

(a) Accredited Occupational Health and Safety (OH&S) courses and any other accredited OH&S training for OH&S Committee members. The provider(s) of accredited OH&S training courses and the conditions on which special leave for such courses will be granted, shall be negotiated between the Chief Executive Officer and the relevant trade union under a local arrangement pursuant to clause 11, Local Arrangements of this award.

(b) Courses organised and conducted by the Trade Union Education Foundation or by the Association or a training provider nominated by the member's trade union. A maximum of 12 working days in any period of 2 years applies to this training and is subject to:

(1) the operating requirements of the workplace permitting the grant of leave and the absence not requiring employment of relief staff;

(2) payment being at the base rate, i.e. excluding extraneous payments such as shift allowances/penalty rates, overtime, etc;

(3) all travelling and associated expenses being met by the staff member or the Association;

- (4) attendance being confirmed in writing by the member's trade union or a nominated training provider.

44. Conditions Applying to on Loan Arrangements

Subject to the operational requirements of the workplace, on loan arrangements will apply to the following activities:

- (a) meetings interstate or in NSW of a Federal nature to which a representative or member has been nominated or elected by the Association:
 - (1) as an Executive Member; or
 - (2) a member of a Federal Council; or
 - (3) vocational or industry committee.
- (b) briefing counsel on behalf of the Association;
- (c) assisting Association officials with preparation of cases or any other activity outside their normal workplace at which the delegate is required to represent the interests of the Association;
- (d) country tours undertaken by a member of the executive or Council of the Association;
- (e) taking up of full-time duties with the trade union if elected to the office of President, General Secretary or to another full-time position with the Association;
- (f) Financial Arrangements - The following financial arrangements apply to the occasions when a staff member is placed "on loan" to the Association:
 - (1) the NSW Aboriginal Land Council will continue to pay the delegate or an authorised union representative whose services are on loan to the Association;
 - (2) the NSW Aboriginal Land Council will seek reimbursement from the Association at regular intervals of all salary and associated on costs, including superannuation, as specified by the NSWALC from time to time.
 - (3) Agreement with the Association on the financial arrangements must be reached before the on loan arrangement commences and must be documented in a manner negotiated between the Chief Executive Officer and Association;
- (g) Recognition of "on loan" arrangement as service - On loan arrangements negotiated in terms of this clause are to be regarded as service for the accrual of all leave and for incremental progression.
- (h) Limitation - On loan arrangements may apply to full-time or part-time staff and are to be kept to the minimum time required. Where the Association needs to extend an on loan arrangement, the Association shall approach the Chief Executive Officer in writing for an extension of time well in advance of the expiration of the current period of on loan arrangement.

45. Period of Notice for Trade Union Activities

The Chief Executive Officer must be notified in writing by the Association or, where appropriate, by the accredited delegate as soon as the date and/or time of the meeting, conference or other accredited activity is known.

46. Access to Facilities By Trade Union Delegates

The workplace shall provide accredited delegates with reasonable access to the following facilities for authorised union activities:

- (a) telephone, facsimile and, where available, email facilities;
- (b) a notice board for material authorised by the Association or access to staff notice boards for material authorised by the Association;
- (c) workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the Association.

47. Responsibilities of the Trade Union Delegate

Responsibilities of the Association delegate are to:

- (a) establish accreditation as a delegate with the Association and provide proof of accreditation to the workplace;
- (b) participate in the workplace consultative processes, as appropriate;
- (c) follow the dispute settling procedure applicable in the workplace;
- (d) provide sufficient notice to the immediate supervisor of any proposed absence on authorised union business;
- (e) account for all time spent on authorised union business;
- (f) when special leave is required, to apply for special leave in advance;
- (g) distribute Public Service Association literature/membership forms, under local arrangements negotiated between the Chief Executive Officer and the Association; and
- (h) use any facilities provided by the workplace properly and reasonably as negotiated at organisational level.

48. Responsibilities of the Trade Union

Responsibilities of the Public Service Association are to:

- (a) provide written advice to the Chief Executive Officer about an Association activity to be undertaken by an accredited delegate and, if requested, to provide written confirmation to the workplace management of the delegate's attendance/participation in the activity;
- (b) meet all travelling, accommodation and any other costs incurred by the accredited delegate, except as provided in subclause (c) of clause 51.
- (c) pay promptly any monies owing to the workplace under a negotiated on loan arrangement;
- (d) provide proof of identity when visiting a workplace in an official capacity, if requested to do so by management;
- (e) apply to the Chief Executive Officer well in advance of any proposed extension to the "on loan" arrangement;
- (f) assist the workplace management in ensuring that time taken by the Association delegate is accounted for and any facilities provided by the employer are used reasonably and properly; and
- (g) advise employer of any leave taken by the Association delegate during the on loan arrangement.

49. Responsibilities of Workplace Management

Where time is required for union activities in accordance with this clause the responsibilities of the workplace management are to:

- (a) release the accredited delegate from duty for the duration of the union activity, as appropriate, and, where necessary, to allow for sufficient travelling time during the ordinary working hours;
- (b) advise the workplace delegate of the date of the next induction session for new staff members in sufficient time to enable the trade union to arrange representation at the session;
- (c) meet the travel and/or accommodation costs properly and reasonably incurred in respect of meetings called by the workplace management;
- (d) where possible, to provide relief in the position occupied by the delegate in the workplace, while the delegate is undertaking union responsibilities to assist with the business of workplace management;
- (e) recredit any other leave applied for on the day to which special leave or release from duty subsequently applies;
- (f) where a union activity provided under this clause needs to be undertaken on the trade union delegate's rostered day off or during an approved period of flex leave, to apply the provisions of subclause (e) of this clause.
- (g) to continue to pay salary during an "on loan" arrangement negotiated with the relevant union and to obtain reimbursement of salary and on-costs from the union at regular intervals, or as otherwise agreed between the parties if long term arrangements apply;
- (h) to verify with the union the time spent by a union delegate or delegates on union business, if required; and
- (i) if the time and/or the facilities allowed for union activities are thought to be used unreasonably and/or improperly, to consult with the trade union before taking any remedial action.

50. Right of Entry Provisions

The right of entry provisions shall be as prescribed under the *Occupational Health and Safety Act 2000* and the *Industrial Relations Act 1996*.

51. Travelling and Other Costs of Trade Union Delegates

- (a) Except as specified in subclause (c) of Clause 49 - Responsibilities of Workplace Management of this award, all travel and other costs incurred by accredited union delegates in the course of trade union activities will be paid by the Association.
- (b) In respect of meetings called by the workplace management in terms of subclause (c) of Clause 49 - Responsibilities of Workplace Management of this award, the payment of travel and/or accommodation costs, properly and reasonably incurred, is to be made, as appropriate, on the same conditions as apply under clauses 25, 26, 27 or 28 of this award.
- (c) No overtime, leave in lieu, shift penalties or any other additional costs will be claimable by a staff member from the NSW Aboriginal Land Council, in respect of union activities covered by special leave or on duty activities provided for in this clause.
- (d) The on loan arrangements shall apply strictly as negotiated and no extra claims in respect of the period of on loan shall be made on the NSW Aboriginal Land Council by the Public Service Association or the staff member.

52. Industrial Action

- (a) Provisions of the *Industrial Relations Act* 1996 shall apply to the right of union members to take lawful industrial action.
- (b) There will be no victimisation of staff members prior to, during or following such industrial action.

53. Consultation and Technological Change

- (a) The NSW Aboriginal Land Council management shall consult with the Association prior to the introduction of any technological change or other change which may have a significant impact upon an employee or a number of employees.

54. Deduction of Trade Union Membership Fees

- (a) At the staff member's election and with the concurrence of the Chief Executive Officer, the staff members union membership fees may be deducted with written authority from the staff member's pay. Such fees are to be transmitted to the Public Service Association at regular intervals. Alternative arrangements for the deduction of union membership fees may be negotiated between the Chief Executive Officer and the Public Service Association in accordance with clause 11 - Local Arrangements of this award.

55. Leave - General Provisions

- (a) The provisions contained in this clause apply to all staff members other than those to whom arrangements apply negotiated between the Chief Executive Officer and the Public Service Association in terms of clause 11 - Local Arrangements of this award.
- (b) Unless otherwise specified, part-time staff members will receive the conditions of this clause on a pro rata basis, calculated according to the number of hours worked per week.
- (c) Where paid and unpaid leave available to be granted in terms of this award, paid leave shall be taken before unpaid leave.

56. Absence from Work

- (a) A staff member must not be absent from work unless reasonable cause is shown.
- (b) If a staff member is to be absent from work because of illness or other emergency, the staff member shall notify or arrange for another person to notify the supervisor as soon as possible of the staff member's absence and the reason for the absence.
- (c) If a satisfactory explanation for the absence, is not provided, the staff member will be regarded as absent from work without authorised leave and the Chief Executive Officer shall deduct from the pay of the staff member the amount equivalent to the period of the absence.
- (d) The minimum period of leave available to be granted shall be a quarter day, unless local arrangements negotiated in the workplace allow for a lesser period to be taken.
- (e) Nothing in this clause affects any proceedings for a breach of discipline against a staff member who is absent from work without authorised leave.

57. Applying for Leave

- (a) An application by a staff member for leave under this clause shall be made to and dealt with by the Chief Executive Officer.

- (b) The Chief Executive Officer shall deal with the application for leave according to the wishes of the staff member, on condition that the operational requirements of the NSW Aboriginal Land Council permit this to be done.

58. Adoption Leave

- (a) A staff member adopting a child and who will be the primary care giver shall be entitled to be granted adoption leave:
 - (1) for a period of up to 12 months if the child has not commenced school at the date of the taking of custody; or
 - (2) for such period, not exceeding 12 months on a full-time basis, as the Chief Executive Officer may determine, if the child has commenced school at the date of the taking of custody.
- (b) A staff member who has been granted adoption leave may, with the permission of the Chief Executive Officer, take leave:
 - (1) full-time for a period not exceeding 12 months; or
 - (2) part-time over a period not exceeding 2 years; or
 - (3) partly full-time and partly part-time over a proportionate period of up to 2 years.
- (c) Adoption leave shall commence on the date that the staff member takes custody of the child concerned, whether that date is before or after the date on which a court makes an order for the adoption of the child by the staff member.
- (d) A staff member who resumes duty immediately on the expiration of adoption leave shall:
 - (1) if the position occupied by the staff member immediately before the commencement of that leave still exists - be entitled to be placed in that position; or
 - (2) if the position so occupied by the staff member has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed, to a position of the same grade and classification as the staff member's former position.
- (e) A staff member who will be the primary care giver from the date of taking custody of the adopted child shall be entitled to payment at the ordinary rate of pay for a period of 9 weeks or the period of adoption leave taken, whichever is the lesser period if the staff member:
 - (1) applied for adoption leave within the time and in the manner determined by the Chief Executive Officer; and
 - (2) prior to the commencement of adoption leave, completed not less than 40 weeks' continuous service.
- (f) Except as provided in subclause (e) of this clause, adoption leave shall be granted without pay.
- (g) Special Adoption Leave - A staff member shall be entitled to special adoption leave without pay for up to 2 days to attend interviews or examinations for the purposes of adoption. Special adoption leave may be taken as a charge against recreation leave, extended leave, flex time or family and community service.
- (h) The NSW Aboriginal Land Council must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (1) the employee or employee's spouse is pregnant; or

- (2) the employee is or has been immediately absent on adoption leave.

The rights of the NSW Aboriginal Land Council in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

(i) Right to request

- (1) An employee entitled to adoption leave may request the NSW Aboriginal Land Council to allow the employee:

- (i) to extend the period of unpaid adoption leave for a further continuous period of leave not exceeding 12 months;
- (ii) to return from a period of adoption leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

- (2) The NSW Aboriginal Land Council shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the NSW Aboriginal Land Council's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

- (3) Employee's request and the NSW Aboriginal Land Council decision is to be in writing. The employee's request and the NSW Aboriginal Land Council decision made under (i) (1)(i) and (i) (1) (ii) must be recorded in writing.

- (4) Request to return to work part-time

Where an employee wishes to make a request under (i) (1) (ii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from adoption leave.

(j) Communication during adoption leave

- (1) Where an employee is on adoption leave and a definite decision has been made to introduce significant change at the workplace, the NSW Aboriginal Land Council shall take reasonable steps to:

- (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing adoption leave; and
- (ii) 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 adoption leave.

- (2) The employee shall take reasonable steps to inform the NSW Aboriginal Land Council about any significant matter that will affect the employee's decision regarding the duration of adoption 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.

- (3) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (1).

59. Long Service Leave

- (1) In substitution for the provisions of the *Long Service Leave Act 1955* (NSW) employees who were employees of the NSW Aboriginal Land Council prior to 17 February 2003 shall accrue and become entitled to long service leave upon the same basis as extended leave was granted to employees of the NSW Aboriginal Land Council as at 24 October 2002.

(Notation: As at 24 October 2002 the NSW Aboriginal Land Council applied Schedule 3, Clause 1 subclauses (1) and (4); Clause 2 subclause (1); Clause 3 and Clause 4 subclause (1); section 55 of the *Public Sector Employment & Management Act 2002* (NSW) and shall continue to apply those Clauses and subclauses of the schedule as at that date to all relevant employees. Provision is also made for staff to take half their entitled extended leave on double pay. Allowance is also made for public holidays that fall during a period of extended leave to be excluded from being debited from leave entitlements.)

- (2) The provisions of the *Long Service Leave Act 1955* (NSW) shall apply to all employees who commence employment with the NSW Aboriginal Land Council on or after 17 February 2003.

60. Family and Community Service Leave

This clause is to be read in conjunction with Clause 60A Bereavement Leave.

- (a) The Chief Executive Officer shall, in the case of emergencies or in personal or domestic circumstances, grant to a staff member some or all of the available family and community service leave on full pay.
- (b) Such cases may include but not be limited to the following:
 - (1) compassionate grounds - such as the death or illness of a close member of the family or a member of the staff member's household;
 - (2) accommodation matters up to one day - such as attendance at court as defendant in an eviction action, arranging accommodation, or when required to remove furniture and effects;
 - (3) emergency or weather conditions - such as when flood, fire or snow etc. threaten property and/or prevent a staff member from reporting for duty; and
 - (4) other personal circumstances - such as citizenship ceremonies, parent/teacher interviews or attending child's school for other reasons.
- (c) Attendance at court by a staff member to answer a charge for a criminal offence, if the Chief Executive Officer considers the granting of family and community service leave to be appropriate in a particular case.
- (d) Staff members who are selected to represent Australia or the State as competitors in major amateur sport (other than Olympic or Commonwealth Games).
- (e) Staff who hold office in Local Government other than as a Mayor of a Municipal Council, President of a Shire Council or Chairperson of a County Council, to attend meetings, conferences or other duties associated with that office where those duties necessitate absence during normal working hours.
- (f) The maximum amount of family and community service leave on full pay which may, subject to this award, be granted to a staff member shall be the greater of the leave provided in paragraph (1) or (2) of this subclause.
 - (1) 2½ of the staff member's working days in the first year of service and, on completion of the first year's service, 5 of the staff member's working days in any period of 2 years; or
 - (2) After the completion of 2 years' continuous service, the available family and community service leave is determined by allowing 1 day's leave for each completed year of service less the total

amount of short leave or family and community service leave previously granted to the staff member.

- (g) If available family and community service leave is exhausted as a result of natural disasters, the Chief Executive Officer shall consider applications for additional family and community service leave, if some other emergency arises. On the death of a person defined in subclause (c) of Clause 69 - Sick Leave to Care for a Family Member, additional paid family and community service leave of up to 2 days may be granted on a discrete, per occasion basis to a staff member.
- (h) In cases of illness of a family member for whose care and support the staff member is responsible, paid sick leave in accordance with subclause (c) of Clause 69 - Sick Leave to Care for a Family Member shall be granted when paid family and community service leave has been exhausted.
- (i) Personal Carers Entitlement for casual employees
 - (1) Subject to the evidentiary and notice requirements set out in (4) below casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in subclause (c)(2) of Clause 69 who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (2) The NSW Aboriginal Land Council and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (3) The NSW Aboriginal Land Council must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the NSW Aboriginal Land Council to engage or not to engage a casual employee are otherwise not affected.
 - (4) The casual employee shall, if required:
 - (i) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (ii) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee

In normal circumstances, a casual employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

60A. Bereavement Leave

- (a) An employee other than a casual employee shall be entitled to up to two days bereavement leave without deduction of pay on each occasion of the death of a person prescribed in subclause (iii) below.
- (b) The employee must notify the employer as soon as practicable of the intention to take bereavement leave and will, if required by the employer, provide to the satisfaction of the employer proof of death.
- (c) Bereavement leave shall be available to the employee in respect to the death of a person prescribed for the purposes of Personal/Carer's Leave in Clause 69, provided that for the purpose of bereavement leave, the employee need not have been responsible for the care of the person concerned.
- (d) An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.

- (e) Bereavement leave may be taken in conjunction with other leave available under subclauses 1, 2, 3, 4, 5 and 6 in the said clause 69. In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.
- (f) Bereavement entitlements for casual employees
 - (1) Subject to the evidentiary and notice requirements set out in (4) below casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in subclause c) (2) of Clause 69.
 - (2) The NSW Aboriginal Land Council and the employee shall agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance
 - (3) The NSW Aboriginal Land Council must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of the NSW Aboriginal Lands Council to engage or not engage a casual employee are otherwise not affected.
 - (4) The casual employee shall, if required:
 - (i) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person, or
 - (ii) establish by production of documentation acceptable to the employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, a casual employee must not take carer's leave under this subclause where another person had taken leave to care for the same person.

61. Leave Without Pay

- (a) The Chief Executive Officer may grant leave without pay to a staff member if good and sufficient reason is shown.
- (b) Leave without pay may be granted on a full-time or a part-time basis.
- (c) Where a staff member is granted leave without pay for a period not exceeding 10 consecutive working days, the staff member shall be paid for any proclaimed public holidays falling during such leave without pay.
- (d) Where a staff member is granted leave without pay which, when aggregated, does not exceed 5 working days in a period of twelve (12) months, such leave shall count as service for incremental progression and accrual of recreation leave.
- (e) A staff member who has been granted leave without pay, shall not engage in private employment of any kind during the period of leave without pay, unless prior approval has been obtained from the Chief Executive Officer.
- (f) A staff member shall normally be required to exhaust any accrued paid leave prior to proceeding on leave without pay unless authorised by the Chief Executive Officer.
- (g) No paid leave shall be granted during a period of leave without pay.

62. Maternity Leave

- (a) A staff member who is pregnant shall, subject to this clause, be entitled to be granted maternity leave as follows:
 - (1) for a period up to 9 weeks prior to the expected date of birth; and
 - (2) for a further period of up to 12 months after the actual date of birth.
- (b) A staff member who has been granted maternity leave may, with the permission of the Chief Executive Officer, take leave after the actual date of birth:
 - (1) full-time for a period of up to 12 months; or
 - (2) part-time for a period of up to 2 years; or
 - (3) as a combination of full-time and part-time over a proportionate period of up to 2 years.
- (c) A staff member who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- (d) A staff member who resumes duty before her child's first birthday or on the expiration of 12 months from the date of birth of her child shall be entitled to resume duty in the position occupied by her immediately before the commencement of maternity leave, if the position still exists.
- (e) If the position occupied by the staff member immediately prior to the taking of maternity leave has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed to a position of the same grade and classification as the staff member's former position.
- (f) A staff member who:
 - (1) applied for maternity leave within the time and in the manner determined by the Chief Executive Officer; and
 - (2) prior to the expected date of birth, completed not less than 40 weeks' continuous services;shall be paid at her ordinary rate of pay for a period not exceeding 14 weeks or the period of maternity leave taken, whichever is the lesser period.
- (g) Except as provided in subclause (f) of this clause, maternity leave shall be granted without pay.
- (h) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (1) the employee or employee's spouse is pregnant; or
 - (2) the employee is or has been immediately absent on maternity leave.

The rights of the NSW Aboriginal Land Council in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

- (i) Right to request
 - (1) An employee entitled to maternity leave may request the NSW Aboriginal Land Council to allow the employee:
 - (i) to extend the period of unpaid maternity leave for a further continuous period of leave not exceeding 12 months;

- (ii) to return from a period of maternity leave on a part-time basis until the child reaches school age; to assist the employee in reconciling work and parental responsibilities.
- (2) The NSW Aboriginal Land Council shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (3) Employee's request and the employer's decision to be in writing

The employee's request and the NSW Aboriginal Land Council decision made under (i) (1) (i) and (i) (1)(ii) must be recorded in writing.

- (4) Request to return to work part-time

Where an employee wishes to make a request under (i)(1)(ii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from maternity leave.

- (j) Communication during maternity leave

- (1) Where an employee is on maternity leave and a definite decision has been made to introduce significant change at the workplace, the NSW Aboriginal Land Council shall take reasonable steps to:
 - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing maternity leave; and
 - (ii) 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 maternity leave.
- (2) The employee shall take reasonable steps to inform the NSW Aboriginal Land Council about any significant matter that will affect the employee's decision regarding the duration of maternity 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.
- (3) The employee shall also notify the employer of changes of address or other contact details which might affect the NSW Aboriginal Land Council's capacity to comply with paragraph (1).

63. Observance of Essential Religious Or Cultural Obligations

- (a) A staff member of:
 - (1) any religious faith who seeks leave for the purpose of observing essential religious obligations of that faith; or
 - (2) any ethnic or cultural background who seeks leave for the purpose of observing any essential cultural obligations;

may be granted recreation/extended leave to credit, flexleave or leave without pay to do so.

- (b) Provided adequate notice as to the need for leave is given by the staff member to the NSW Aboriginal Land Council and it is operationally convenient to release the staff member from duty, the Chief Executive Officer must grant the leave applied for by the staff member in terms of this subclause.

- (c) A staff member of any religious faith who seek time off during daily working hours to attend to essential religious obligations of that faith, shall be granted such time off by the Chief Executive Officer, subject to:
 - (1) adequate notice being given by the staff member;
 - (2) prior approval being obtained by the staff member; and
 - (3) the time off being made up in the manner approved by the Chief Executive Officer.
- (d) Notwithstanding the provisions of subclauses (a), (b) and (c) of this clause, arrangements may be negotiated between the NSW Aboriginal Land Council and the relevant trade union(s) in terms of Clause 11, Local Arrangements of this award to provide greater flexibility for staff members for the observance of essential religious or cultural obligations.

64. Parental Leave

Parental leave is available to a staff member who applies for leave to look after their child or children.

- (a) Parental leave applies as follows:
 - (1) short parental leave - an unbroken period of up to three weeks at the time of the birth of the child or other termination of the spouse's or partner's pregnancy or, in the case of adoption, from the date of taking custody of the child or children;
 - (2) extended parental leave - for a period not exceeding 12 months, less any short parental leave already taken by the staff member as provided for in paragraph (1) of this subclause.
- (b) Extended parental leave may commence at any time up to 2 years from the date of birth of the child or the taking of custody of the child.
- (c) A staff member who has been granted parental leave may, with the permission of the Chief Executive Officer, take such leave:
 - (1) full-time for a period not exceeding 12 months; or
 - (2) part-time over a period not exceeding 2 years; or
 - (3) partly full-time and partly part-time over a proportionate period of up to 2 years.
- (d) A staff member who resumes duty immediately on the expiration of parental leave shall:
 - (1) if the position occupied by the staff member immediately before the commencement of that leave still exists - be entitled to be placed in that position; or
 - (2) if the position occupied by the staff member has ceased to exist, but there are other positions available that the staff member is qualified for and is capable of performing, the staff member shall be appointed, to a position of the same grade and classification as the staff member's former position.
- (e) Parental leave shall be granted with pay for 1 week, but otherwise without pay, unless the staff member elects to take accrued recreation or extended leave in respect of some or all of the period of parental leave.
- (f) An employer must not fail to re-engage a regular casual employee (see section 53(2) of the Act) because:
 - (1) the employee or employee's spouse is pregnant; or

- (2) the employee is or has been immediately absent on parental leave.

The rights of the NSW Aboriginal Land Council in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

(g) Right to request

- (1) An employee entitled to parental leave may request the NSW Aboriginal Land Council to allow the employee:
 - (i) to extend the period of simultaneous unpaid parental leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (iii) to return from a period of parental leave on a part-time basis until the child reaches school age;

to assist the employee in reconciling work and parental responsibilities.

- (2) The NSW Aboriginal Land Council shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (3) Employee's request and the employer's decision to be in writing The employee's request and the NSW Aboriginal land Council decision made under (g) (1) (ii) and (g) (1)(iii) must be recorded in writing.
- (4) Request to return to work part-time

Where an employee wishes to make a request under (g) (1)(iii), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(h) Communication during parental leave

- (1) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the NSW Aboriginal Land Council shall take reasonable steps to:
 - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
 - (ii) 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.
- (2) The employee shall take reasonable steps to inform the NSW Aboriginal Land Council 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.
- (3) The employee shall also notify the employer of changes of address or other contact details which might affect the NSW Aboriginal Land Council's capacity to comply with paragraph (1).

65. Recreation Leave

(a) Accrual

- (1) Except where stated otherwise in this award, paid recreation leave for full time staff members and recreation leave for staff members working part-time, accrues at the rate of 20 working days per year. Staff members working part-time shall accrue paid recreation leave on a pro rata basis, which will be determined on the average weekly hours worked per leave year;
- (2) Recreation leave accrues from day to day.

(b) Limits on Accumulation and Direction to Take leave

- (1) At least two (2) consecutive weeks of recreation leave shall be taken by a staff member every 12 months, except by agreement with the Chief Executive Officer in special circumstances.
- (2) Where the operational requirements permit, the application for leave shall be dealt with by the Chief Executive Officer according to the wishes of the staff member.
- (3) The Chief Executive Officer shall notify the staff member in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct a staff member to take at least 2 weeks recreation leave within 3 months of the notification at a time convenient to the NSWALC.
- (4) The Chief Executive Officer shall notify the staff member in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and direct the staff member to take at least 2 weeks recreation leave within 6 weeks of the notification. Such leave is to be taken at a time convenient to the NSW Aboriginal Land Council.

(c) Conservation of Leave - If the Chief Executive Officer is satisfied that a staff member is prevented by operational or personal reasons from taking sufficient recreation leave to reduce the accrued leave below an acceptable level of between 4 and 6 weeks or its hourly equivalent, the Chief Executive Officer shall:

- (1) specify in writing the period of time during which the excess shall be conserved; and
- (2) on the expiration of the period during which conservation of leave applies, grant sufficient leave to the staff member at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 weeks' limit.
- (3) A Chief Executive Officer will inform a staff member in writing on a regular basis of the staff member's recreation leave accrual.

(d) Miscellaneous

- (1) Unless a local arrangement has been negotiated between the Chief Executive Officer and the relevant trade union, recreation leave is not to be granted for a period less than a quarter-day or in other than multiples of a quarter day.
- (2) Recreation leave for which a staff member is eligible on cessation of employment is to be calculated to a quarter day (fractions less than a quarter being rounded up).
- (3) Recreation leave does not accrue to a staff member in respect of any period of absence from duty without leave or without pay, except as specified in paragraph (4) of this subclause.
- (4) Recreation leave accrues during any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the *Workers' Compensation Act 1987*; or any period of sick leave without pay or any other approved leave without pay, not exceeding 5 full time working days, or their part time equivalent, in any period of 12 months.

- (5) The proportionate deduction to be made in respect of the accrual of recreation leave on account of any period of absence referred to in paragraph (4) of this subclause shall be calculated to an exact quarter-day (fractions less than a quarter being rounded down).
 - (6) Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay.
 - (7) On cessation of employment, a staff member is entitled to be paid, the money value of accrued recreation leave which remains untaken.
 - (8) A staff member to whom paragraph (8) of this subclause applies may elect to take all or part of accrued recreation leave which remains untaken at cessation of active duty as leave or as a lump sum payment; or as a combination of leave and lump sum payment.
- (e) Death - Where a staff member dies, the monetary value of recreation leave accrued and remaining untaken or unforfeited as at the date of death, shall be paid to the staff member's nominated beneficiary.
- (f) Where no beneficiary has been nominated, the monetary value of recreation leave is to be paid as follows:
- (1) to the partner of the staff member; or
 - (2) if there is no partner, to the children of the staff member or, if there is a guardian of any children entitled under this subclause, to that guardian for the children's maintenance, education and advancement; or
 - (3) if there is no partner or children, to the person who, in the opinion of the Chief Executive Officer was, at the time of the staff member's death, a dependent relative of the staff member; or
 - (4) if there is no person entitled under paragraph (1), (2) or (3) of this subclause to receive the money value of any leave not taken or not completed by a staff member or which would have accrued to the staff member, the payment shall be made to the personal representative of the staff member.

66. Annual Leave Loading

- (a) General - Unless more favourable conditions apply to a staff member under another industrial instrument, a staff member, other than a trainee who is paid by allowance, is entitled to be paid an annual leave loading as set out in this subclause. Subject to the provisions set out in subclauses (b) to (f) of this clause, the annual leave loading shall be 17½% on the monetary value of up to 4 weeks' recreation leave accrued in a leave year.
- (b) Leave year - For the calculation of the annual leave loading, the leave year shall commence on 1 October each year and shall end on 30 September of the following year.
- (c) Payment of annual leave loading - Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:
 - (1) Annual leave loading shall be paid on the first occasion in a leave year, other than the first leave year of employment, when a staff member takes at least two (2) consecutive weeks recreation leave. Where a staff member does not have at least 2 weeks recreation leave available, the staff member may use a combination of recreation leave and any of the following: public holidays, flex leave, extended leave, leave without pay, time off in lieu, rostered day off. The staff member shall be paid the annual leave loading for such period, provided the absence is at least 2 weeks.
 - (2) If at least two weeks' leave, as set out in paragraph (1) of this subclause, is not taken in a leave year, then the payment of the annual leave loading entitlement for the previous leave year shall be made to the staff member as at 30 September of the current year.

- (3) While annual leave loading shall not be paid in the first leave year of employment, it shall be paid on the first occasion in the second leave year of employment when at least two weeks leave, as specified in paragraph (1) of this subclause, is taken.
- (4) A staff member who has not been paid the annual leave loading for the previous leave year, shall be paid such annual leave loading on resignation, retirement or termination by the employer for any reason other than the staff member's serious and intentional misconduct.
- (5) Except in cases of redundancy, proportionate leave loading is not payable on cessation of employment.

67. Sick Leave

- (a) If the Chief Executive Officer is satisfied that a staff member is unable to perform duty because of the staff member's illness or the illness of his/her family member, the Chief Executive Officer:
 - (1) shall grant to the staff member sick leave on full pay; and
 - (2) may grant to the staff member, sick leave without pay if the absence of the staff member exceeds the entitlement of the staff member under this Award to sick leave on full pay.
- (b) Entitlements
 - (1) Sick leave on full pay accrues to a staff member at the rate of 15 days each calendar year. Any leave accrued and not utilised accumulates.
 - (2) Sick leave on full pay accrues at the beginning of the calendar year. If a staff member is appointed after 1 January, sick leave on full pay accrues on a proportionate basis for the year in which employment commences.
 - (3) Sick leave without pay shall count as service for the accrual of recreation leave and paid sick leave. In all other respects sick leave without pay shall be treated in the same manner as leave without pay.
 - (4) When determining the amount of sick leave accrued, sick leave granted on less than full pay, shall be converted to its full pay equivalent.
 - (5) Paid sick leave shall not be granted during a period of unpaid leave.
- (c) Payment during the initial 3 months of service - Paid sick leave which may be granted to a staff member, other than a seasonal or relief staff member, in the first 3 months of service shall be limited to 5 days' paid sick leave, unless the Chief Executive Officer approves otherwise. Paid sick leave in excess of 5 days granted in the first 3 months of service shall be supported by a satisfactory medical certificate.
- (d) Relief staff - No paid sick leave shall be granted to temporary employees who are employed as relief staff for a period of less than 3 months.

68. Sick Leave - Requirements for Medical Certificate

- (a) A staff member absent from duty for more than 3 consecutive working days because of illness must furnish a medical certificate to the Chief Executive Officer in respect of the absence.
- (b) A staff member shall be put on notice in advance if required by the Chief Executive Officer to furnish a medical certificate in respect of an absence from duty for 3 consecutive working days or less because of illness.

- (c) If there is any concern about the reason shown on the medical certificate, the Chief Executive Officer, after discussion with the staff member, may refer the medical certificate and the staff member's application for leave to the independent Medical Officer for advice.
- (d) The nature of the leave to be granted to a staff member shall be determined by the Chief Executive Officer on the advice of the independent Medical Officer.
- (e) If sick leave applied for is not granted, the Chief Executive Officer must, as far as practicable, take into account the wishes of the staff member when determining the nature of the leave to be granted.
- (f) A staff member may elect to have an application for sick leave dealt with confidentially by the independent Medical Officer where such illness is of personal or private nature.
- (g) If a staff member who is absent on recreation leave or extended leave, furnishes to the Chief Executive Officer a satisfactory medical certificate in respect of an illness which occurred during the leave, the Chief Executive Officer may, subject to the provisions of this clause, grant sick leave to the staff member as follows:-
 - (1) in respect of recreation leave, the period set out in the medical certificate;
 - (2) in respect of extended leave, the period set out in the medical certificate if such period is 5 working days or more.
- (h) Subclause (g) above applies to all staff members other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.
- (i) The reference in subclause (g) of this clause to a medical certificate shall apply, as appropriate, to the certificates of up to one week provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Chief Executive Officer's discretion, another registered health services provider. Where the absence exceeds one week, and unless the health provider listed above is also a registered medical practitioner, applications for any further sick leave must be supported by a medical certificate from a registered medical practitioner.

69. Sick Leave to Care for a Family Member

- (1) Use of Sick Leave -

When family and community service leave provided for in Clause 60 is exhausted, a staff member with responsibilities in relation to a category of person set out in subclause (c) of this clause who needs the staff member's care and support, may elect to use available paid sick leave, subject to the conditions specified in this subclause, to provide such care and support when a family member is ill. Such leave may be taken for part of a single day.

- (a) The sick leave shall initially be taken from the current leave year's entitlement followed, if necessary, by the sick leave accumulated over the previous 3 years. In special circumstances, the Chief Executive Officer may grant additional sick leave from the sick leave accumulated during the staff member's eligible service.
- (b) If required by the Chief Executive Officer, the staff member must establish by production of a medical certificate or statutory declaration, the illness of the person concerned.
- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (1) the staff member being responsible for the care and support of the person concerned; and
 - (2) the person concerned being:
 - a spouse of the staff member; or

a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the staff member or of spouse or of de facto spouse of the staff member; or

a partner who lives with the staff member as the partner of that staff member on a bona fide domestic basis; or a relative of the staff member who is a member of the same household, where for the purposes of this definition:

"relative" means a person related by blood, marriage, affinity or Aboriginal kinship structures;

"affinity" means a relationship that one spouse or partner has to the relatives of the other; and

"household" means a family group living in the same domestic dwelling.

- (d) An employee shall, wherever practicable, give the employer notice, prior to the absence, of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

(2) Unpaid Leave for Family Purpose -

- (a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subparagraph (ii) of paragraph (c) of subclause (1) who is ill.

(3) Annual Leave -

- (a) An employee may elect, with the consent of the employer, subject to the *Annual Holidays Act 1944*, to take annual leave not exceeding five days in single-day periods or part thereof in any calendar year at a time or times agreed by the parties.
- (b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.
- (c) An employee and employer may agree to defer payment of the annual leave loading in respect of single-day absences until at least five consecutive annual leave days are taken.

(4) Time Off in Lieu of Payment for Overtime -

- (a) For the purpose only of providing care and support for a person in accordance with subclause (1) of this clause, and despite the provisions of Clause 80. Payment for Overtime or Leave in Lieu the following provisions shall apply:
- (b) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.
- (c) Overtime taken as time off during ordinary-time hours shall be taken at the ordinary-time rate, that is, an hour for each hour worked.
- (d) If, having elected to take time as leave in accordance with paragraph (b) of this subclause, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the 12-month period or on termination.
- (e) Where no election is made in accordance with the said paragraph (b), the employee shall be paid overtime rates in accordance with the award.

- (5) Make-up Time -
- (a) An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours and works those hours at a later time during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
 - (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time) at the shift work rate which would have been applicable to the hours taken off.
- (6) Rostered Days Off -
- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
 - (b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
 - (c) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
 - (d) This subclause is subject to the employer informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility and providing a reasonable opportunity for the union(s) to participate in negotiations.

70. Sick Leave - Workers Compensation

- (a) The Chief Executive Officer shall advise each staff member of the rights under the *Workers Compensation Act 1987*, as amended from time to time, and shall give such assistance and advice, as necessary, in the lodging of any claim.
- (b) A staff member who is or becomes unable to attend for duty or to continue on duty in circumstances which may give the staff member a right to claim compensation under the *Workers Compensation Act 1987*, shall be required to lodge a claim for any such compensation.
- (c) Where, due to the illness or injury, the staff member is unable to lodge such a claim in person, the Chief Executive Officer shall assist the staff member or the representative of the staff member, as required, to lodge a claim for any such compensation.
- (d) The Chief Executive Officer will ensure that, once received by the NSW Aboriginal Land Council, a staff member's worker's compensation claim is lodged by the Aboriginal Land Council with the workers' compensation insurer within the statutory period prescribed in the *Workers Compensation Act 1987*.
- (e) Pending the determination of that claim and on production of an acceptable medical certificate, the Chief Executive Officer shall grant sick leave on full pay for which the staff member is eligible followed, if necessary, by sick leave without pay or, at the staff member's election by accrued recreation leave or extended leave.
- (f) If liability for the workers compensation claim is accepted, then an equivalent period of any sick leave taken by the staff member pending acceptance of the claim shall be restored to the credit of the staff member.
- (g) A staff member who continues to receive compensation after the completion of the period of 26 weeks referred to in section 36 of the *Workers Compensation Act 1987* may use any accrued and untaken sick leave to make up the difference between the amount of compensation payable under that Act and the staff member's ordinary rate of pay. Sick leave utilised in this way shall be debited against the staff member.

- (h) If a staff member notifies the appropriate Chief Executive Officer that he or she does not intend to make a claim for any such compensation, the Chief Executive Officer shall consider the reasons for the staff member's decision and shall determine whether, in the circumstances, it is appropriate to grant sick leave in respect of any such absence.
- (i) A staff member may be required to submit to a medical examination under the *Workers Compensation Act 1987* in relation to a claim for compensation under that Act. If a staff member refuses to submit to a medical examination without an acceptable reason, the staff member shall not be granted available sick leave on full pay until the examination has occurred and a medical certificate is issued indicating that the staff member is not fit to resume employment.
- (j) If the Chief Executive Officer provides the staff member with employment which meets the terms and conditions specified in the medical certificate issued under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* and, without good reason, the staff member fails, to resume or perform such duties, the staff member shall be ineligible for all payments in accordance with this clause from the date of the refusal or failure.
- (k) No further sick leave shall be granted on full pay if there is a commutation of weekly payments of compensation by the payment of a lump sum pursuant to section 51 of the *Workers Compensation Act 1987*.
- (l) Nothing in this clause prevents a staff member from appealing a decision or taking action under other legislation made in respect of:
 - (1) the staff member's claim for workers' compensation;
 - (2) the conduct of a medical examination by a Medical Officer;
 - (3) a medical certificate issued by the examining Medical Officer; or
 - (4) action taken by the Chief Executive Officer either under the *Workers Compensation Act 1987* or any other relevant legislation in relation to a claim for workers' compensation, medical examination or medical certificate.

71. Sick Leave - Claims Other Than Workers Compensation

- (a) If the circumstances of any injury to or illness of a staff member give rise to a claim for damages or to compensation, other than compensation under the *Workers Compensation Act 1987*, sick leave on full pay may, subject to and in accordance with this clause, be granted to the staff member on completion of an acceptable undertaking that:
 - (1) any such claim, if made, will include a claim for the value of any period of paid sick leave granted by the NSWALC to the staff member; and
 - (2) in the event that the staff member receives or recovers damages or compensation pursuant to that claim for loss of salary or wages during any such period of sick leave, the staff member will repay to the NSW Aboriginal Land Council the monetary value of any such period of sick leave.
- (b) Sick leave on full pay shall not be granted to a staff member who refuses or fails to complete an undertaking, except in cases where the Chief Executive Officer is satisfied that the refusal or failure is unavoidable.
- (c) On repayment to the NSW Aboriginal Land Council of the monetary value of sick leave granted to the staff member, sick leave equivalent to that repayment and calculated at the staff member's ordinary rate of pay, shall be restored to the credit of the staff member.

72. Special Leave

- (a) Special Leave - Jury Service
 - (1) A staff member shall, as soon as possible, notify the Chief Executive Officer of the details of any jury summons served on the staff member.
 - (2) A staff member who, during any period when required to be on duty, attends a court in answer to a jury summons shall, upon return to duty after discharge from jury service, furnish to the Chief Executive Officer a certificate of attendance issued by the Sheriff or by the Registrar of the court giving particulars of attendances by the staff member during any such period and the details of any payment or payments made to the staff member under section 72 of the *Jury Act 1977* in respect of any such period.
 - (3) When a certificate of attendance on jury service is received in respect of any period during which a staff member was required to be on duty, the Chief Executive Officer shall grant, in respect of any such period for which the staff member has been paid out-of-pocket expenses only, special leave on full pay. In any other case, the Chief Executive Officer shall grant, at the sole election of the staff member, available recreation leave on full pay, flex leave or leave without pay.
- (b) Witness at Court - Official Capacity - When a staff member is subpoenaed or called as a witness in an official capacity, the staff member shall be regarded as being on duty.
 - (1) Salary and any expenses properly and reasonably incurred by the staff member in connection with the staff member's appearance at Court as a witness in an official capacity shall be paid by the NSW Aboriginal Land Council.
- (c) Witness at Court - Other than in Official Capacity - Crown Witness - A staff member who is subpoenaed or called as a witness by the Crown (whether in right of the Commonwealth or in right of any State or Territory of the Commonwealth) shall:
 - (1) be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and
 - (2) pay into the NSW Aboriginal Land Council all money paid to the staff member under or in respect of any such subpoena or call other than any such money so paid in respect of reimbursement of necessary expenses properly incurred in answer to that subpoena or call.
 - (3) Union Witness - a staff member called by the Association to give evidence before an Industrial Tribunal or in another jurisdiction, shall be granted special leave by the Aboriginal Land Council for the required period.
- (d) Called as a witness in a private capacity - A staff member who is subpoenaed or called as a witness in a private capacity shall, for the whole of the period necessary to attend as such a witness, be granted at the staff member's election, available recreation leave on full pay or leave without pay.
- (e) Special Leave - Examinations - Special leave on full pay up to a maximum of 5 days in any one year shall be granted to staff members for the purpose of attending at any examination approved by the Chief Executive Officer.
 - (1) Special leave granted to attend examinations shall include leave for any necessary travel to or from the place at which the examination is held.
- (f) Special Leave - Union Activities - Special leave on full pay may be granted to staff members who are accredited Public Service Association delegates to undertake trade union activities as provided for in Clause 42. Trade Union Activities Regarded as Special Leave of this award.
- (g) Return Home When Temporarily Living Away from Home - Sufficient special leave, as set out in this subclause, shall be granted to a staff member who is temporarily living away from home as a result of

work requirements. Such staff member shall be granted sufficient special leave once a month before or after a weekend or a long weekend or, in the case of a shift worker, before or after rostered days off, to return home to spend two days and two nights with the family. If the staff member wishes to return home more often, such staff member may be granted recreation leave, extended leave or flexleave to credit or leave without pay, if the operational requirements allow.

- (h) Return Home When Transferred to New Location - Special leave shall be granted to a staff member who has moved to the new location ahead of dependants, to visit such dependants.
- (i) All employees of the NSW Aboriginal Land Council will be granted up to one day's special leave per year to enable the staff member to participate in the National Aborigines and Islander Day of Commemoration Celebrations.
- (j) Special Leave - Other Purposes - Special leave on full pay may be granted to staff members by the Chief Executive Officer for such other purposes, as may be deemed appropriate.

73. Staff Development and Training Activities

- (a) For the purpose of this clause, the following shall be regarded as staff development and training activities:
 - (1) all staff development courses conducted by the NSW Aboriginal Land Council;
 - (2) short educational and training courses conducted by generally recognised public or private educational bodies; and
 - (3) conferences, conventions, seminars, or similar activities conducted by professional, learned or other generally recognised societies, including Federal or State Government bodies.
- (b) For the purposes of this clause, the following shall not be regarded as staff development and training activities:
 - (1) activities for which study assistance is appropriate;
 - (2) activities to which other provisions of this award apply (e.g. courses conducted by the Association); and
 - (3) activities which are of no specific relevance to the NSW Aboriginal Land Council.
- (c) Attendance of a staff member at activities considered by the Chief Executive Officer to be:
 - (1) essential for the efficient operation of the NSW Aboriginal Land Council; or
 - (2) developmental and of benefit to the NSW Aboriginal Land Council;shall be regarded as on duty for the purpose of payment of salary if a staff member attends such an activity during normal working hours.
- (d) The following provisions shall apply, as appropriate, to the activities considered to be essential for the efficient operation of the NSW Aboriginal Land Council:
 - (1) recognition that the staff members are performing normal duties during the course;
 - (2) adjustment for the hours so worked under flexible working hours;
 - (3) payment of course fees:

- (4) payment of all actual necessary expenses or payment of allowances in accordance with this award, provided that the expenses involved do not form part of the course and have not been included in the course fees; and
 - (5) payment of overtime where the activity could not be conducted during the staff member's normal hours and the Chief Executive Officer is satisfied that the approval to attend constitutes a direction to work overtime under Clause 75 - Overtime-General.
- (e) The following provisions shall apply, as appropriate, to the activities considered to be developmental and of benefit to the NSW Aboriginal Land Council:
- (1) recognition of the staff member as being on duty during normal working hours whilst attending the activity;
 - (2) payment of course fees;
 - (3) reimbursement of any actual necessary expenses incurred by the staff member for travel costs, meals and accommodation, provided that the expenses have not been paid as part of the course fee; and
 - (4) such other conditions as may be considered appropriate by the Chief Executive Officer given the circumstances of attending at the activity, such as compensatory leave for excess travel or payment of travelling expenses.
- (f) Where the training activities are considered to be principally of benefit to the staff member and of indirect benefit to the NSW Aboriginal Land Council, special leave of up to 10 days per year shall be granted to a staff member. If additional leave is required and the Chief Executive Officer is able to release the staff member, such leave shall be granted as a charge against available flexleave, recreation/extended leave or as leave without pay.
- (g) Higher Duties Allowance - Payment of a higher duties allowance is to continue where the staff member attends a training or developmental activity whilst on duty in accordance with this subclause.
- (h) Ceremonial Leave - Unpaid leave of up to 10 days each year will be granted to meet obligations under the Aboriginal custom or traditional law and to participate in ceremonial activities.

74. Study Assistance

- (a) The Chief Executive Officer shall have the power to grant or refuse study time.
- (b) Where the Chief Executive Officer approves the grant of study time, the grant shall be subject to:
 - (1) the course being a course relevant to the NSW Aboriginal Land Council;
 - (2) the time being taken at the convenience of the NSW Aboriginal Land Council; and
 - (3) paid study time not exceeding a maximum of 4 hours per week.
- (c) Study time may be granted to both full and part-time staff members. Part-time staff members however shall be entitled to a pro-rata allocation of study time to that of a full-time staff member.
- (d) Study time may be used for:
 - (1) attending compulsory lectures, tutorials, residential schools, field days etc., where these are held during working hours; and/or
 - (2) necessary travel during working hours to attend lectures, tutorials etc., held during or outside working hours; and/or private study; and/or accumulation, subject to the conditions specified in subclauses (f) to (j) of Clause 74 - Study Assistance of this award.

- (e) Staff members requiring study time must nominate the type(s) of study time preferred at the time of application and prior to the proposed commencement of the academic period. The types of study time are as follows:
- (1) Face-to-Face - Staff members may elect to take weekly and/or accrued study time, subject to the provisions for its grant.
 - (2) Correspondence - Staff members may elect to take weekly and/or accrued study time, or time off to attend compulsory residential schools.
 - (3) Accumulation - Staff members may choose to accumulate part or all of their study time as provided in subclauses (f) to (j) of clause 74 - Study Assistance of this award.
- (f) Accumulated study time may be taken in any manner or at any time, subject to operational requirements of the NSW Aboriginal Land Council.
- (g) Where at the commencement of an academic year/semester a staff member elects to accrue study time and that staff member has consequently foregone the opportunity of taking weekly study time, the accrued period of time off must be granted even if changed work circumstances mean absence from duty would be inconvenient.
- (h) Staff members attempting courses which provide for annual examinations, may vary the election as to accrual, made at the commencement of an academic year, effective from 1st July in that year.
- (i) Where a staff member is employed after the commencement of the academic year, weekly study time may be granted with the option of electing to accrue study time from 1st July in the year of entry on duty or from the next academic year, whichever is the sooner.
- (j) Staff members studying in semester based courses may vary their election as to accrual or otherwise from semester to semester.
- (k) Correspondence Courses - Study time for staff members studying by correspondence accrues on the basis of half an hour for each hour of lecture/tutorial attendance involved in the corresponding face-to-face course, up to a maximum grant of 4 hours per week. Where there is no corresponding face-to-face course, the training institution should be asked to indicate what the attendance requirements would be if such a course existed.
- (l) Correspondence students may elect to take weekly study time and/or may accrue study time and take such accrued time when required to attend compulsory residential schools.
- (m) Repeated subjects - Study time shall not be granted for repeated subjects.
- (n) Expendable grant - Study time if not taken at the nominated time shall be forfeited. If the inability to take study time occurs as a result of a genuine emergency at work, study time for that week may be granted on another day during the same week.
- (o) Examination Leave - Examination leave shall be granted as special leave for all courses of study approved in accordance with this clause.
- (p) The period granted as examination leave shall include:
- (1) time actually involved in the examination;
 - (2) necessary travelling time, in addition to examination leave;

but is limited to a maximum of 5 days in any one year. Examination leave is not available where an examination is conducted within the normal class timetable during the term/semester and study time has been granted to the staff member.

- (q) The examination leave shall be granted for deferred examinations and in respect of repeat studies.
- (r) Study Leave - Study leave for full-time study is granted to assist those staff members who win scholarships/fellowships/awards or who wish to undertake full-time study and/or study tours. Study leave may be granted for studies at any level, including undergraduate study.
- (s) All staff members are eligible to apply and no prior service requirements are necessary.
- (t) Study leave shall be granted without pay, except where the Chief Executive Officer approves financial assistance. The extent of financial assistance to be provided shall be determined by the Chief Executive Officer according to the relevance of the study to the workplace and may be granted up to the amount equal to full salary.
- (u) Where financial assistance is approved by the Chief Executive Officer for all or part of the study leave period, the period shall count as service for all purposes in the same proportion as the quantum of financial assistance bears to full salary of the staff member.
- (v) Scholarships for Part-Time Study - In addition to the study time/study leave provisions under this subclause, the NSW Aboriginal Land Council may choose to identify courses or educational programmes of particular relevance or value and establish a NSW Aboriginal Land Council scholarship to encourage participation in these courses or programmes. The conditions under which such scholarships are provided should be consistent with the provisions of this clause.

75. Overtime - General

- (a) A staff member may be directed by the Chief Executive Officer to work overtime, provided it is reasonable for the staff member to be required to do so. A staff member may refuse to work overtime in circumstances where the working of such overtime would result in the staff member working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:
 - (1) The staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements,
 - (2) Any risk to staff member health and safety,
 - (3) The urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services,
 - (4) The notice (if any) given by the Chief Executive Officer regarding the working of the overtime, and by the staff member of their intention to refuse overtime, or
 - (5) Any other relevant matter.
- (b) Payment for overtime shall be made only where the staff member works directed overtime.

76. Rate of Payment for Overtime

- (a) Rates - Overtime shall be paid at the following rates:
 - (1) Weekdays (Monday to Friday inclusive) - at the rate of time and one-half for the first two hours and at the rate of double time thereafter for all directed overtime worked outside the staff member's ordinary hours of duty, if working standard hours, or outside the bandwidth, if working under a flexible working hours scheme, unless local arrangements negotiated in terms of clause 11, Local Arrangements of this award apply.
 - (2) Saturday - All overtime worked on a Saturday at the rate of time and one-half for the first two hours and at the rate of double time thereafter.

- (3) Sundays - All overtime worked on a Sunday at the rate of double time.
- (4) Public Holidays - All overtime worked on a public holiday at the rate of double time and one half.
- (b) If a staff member is absent from duty on any working day during any week in which overtime has been worked the time so lost may be deducted from the total amount of overtime worked during the week unless the staff member has been granted leave of absence or the absence has been caused by circumstances beyond the staff member's control.
- (c) A staff member who works overtime on a Saturday, Sunday or public holiday, shall be paid a minimum payment as for three (3) hours work at the appropriate rate.
- (d) Rest Periods -
 - (1) A staff member who works overtime shall be entitled to be absent until eight (8) consecutive hours have elapsed.
 - (2) Where a staff member, at the direction of the supervisor, resumes or continues work without having had eight (8) consecutive hours off duty then such staff member shall be paid at the appropriate overtime rate until released from duty. The staff member shall then be entitled to eight (8) consecutive hours off duty and shall be paid for the ordinary working time occurring during the absence.

77. Recall to Duty

- (1) A staff member recalled to work overtime after leaving the NSW Aboriginal Land Council's premises shall be paid for a minimum of three (3) hours work at the appropriate overtime rates.
- (2) The staff member shall not be required to work the full three (3) hours if the job can be completed within a shorter period.
- (3) When a staff member returns to the place of work on a number of occasions in the same day and the first or subsequent minimum pay period overlap into the next call out period, payment shall be calculated from the commencement of the first recall until either the end of duty or three (3) hours from the commencement of the last recall, whichever is the greater. Such time shall be calculated as one continuous period.
- (4) When a staff member returns to the place of work on a second or subsequent occasion and a period of three (3) hours has elapsed since the staff member was last recalled, overtime shall only be paid for the actual time worked in the first and subsequent periods with the minimum payment provision only being applied to the last recall on the day.
- (5) A recall to duty commences when the staff member starts work and terminates when the work is completed. A recall to duty does not include time spent travelling to and from the place at which work is to be undertaken.
- (6) A staff member recalled to duty within three (3) hours of the commencement of usual hours of duty shall be paid at the appropriate overtime rate from the time of recall to the time of commencement of such normal work.
- (7) This subclause shall not apply in cases where it is customary for a staff member to return to the NSW Aboriginal Land Council's premises to perform a specific job outside the staff member's ordinary hours of duty, or where overtime is continuous with the completion or commencement of ordinary hours of duty. Overtime worked in these circumstances shall not attract the minimum payment of three (3) hours unless the actual time worked is three (3) or more hours.

78. Overtime Meal Breaks

- (a) Staff members not working flexible hours - A staff member required to work overtime on weekdays for an hour and a half or more after the staff member's ordinary hours of duty on weekdays, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.
- (b) Staff member working flexible hours - A staff member required to work overtime on weekdays beyond 6.00 p.m. and until or beyond eight and a half hours after commencing duty plus the time taken for lunch, shall be allowed 30 minutes for a meal and thereafter, 30 minutes for a meal after every five hours of overtime worked.
- (c) Staff Members Generally - A staff member required to work overtime on a Saturday, Sunday or Public Holiday, shall be allowed 30 minutes for a meal after every five hours of overtime worked. A staff member who is unable to take a meal break and who works for more than five hours shall be given a meal break at the earliest opportunity.

79. Overtime Meal Allowances

- (a) If an adequate meal is not provided by the NSW Aboriginal Land Council, a meal allowance shall be paid by the NSW Aboriginal Land Council at the appropriate rate specified in Item 9 of Table 1 Part B, Monetary Rates, provided the Chief Executive Officer is satisfied that:
 - (1) the time worked is directed overtime;
 - (2) the staff member properly and reasonably incurred expenditure in obtaining the meal in respect of which the allowance is sought;
 - (3) where the staff member was able to cease duty for at least 30 minutes before or during the working of overtime to take the meal, the staff member did so; and
 - (4) overtime is not being paid in respect of the time taken for a meal break.
- (b) Notwithstanding the above provisions, nothing in this clause shall prevent the Chief Executive Officer and the Public Service Association from negotiating different meal provisions under a local arrangement.

80. Payment for Overtime Or Leave in Lieu

- (a) The Chief Executive Officer shall grant compensation for directed overtime worked either by payment at the appropriate rate or, if the staff member so elects, by the grant of leave in lieu in accordance with subclause (b) of this clause.
- (b) The following provisions shall apply to the leave in lieu:
 - (1) the staff member shall advise the supervisor before the overtime is worked or as soon as practicable on completion of overtime, that the staff member intends to take leave in lieu of payment;
 - (2) the leave shall be calculated at the same rate as would have applied to the payment of overtime in terms of this clause;
 - (3) the leave must be taken at the convenience of the NSW Aboriginal Land Council except when leave in lieu is being taken to look after a sick family member. In such cases, the conditions set out in Clause 69 - Sick Leave to Care for a Family Member apply;
 - (4) the leave shall be taken in multiples of a quarter day, unless debiting of leave in hours or in fractions of an hour has been approved by NSW Aboriginal Land Council;

- (5) leave in lieu accrued in respect of overtime worked on days other than public holidays, shall be given by the NSW Aboriginal Land Council and taken by the staff member within three months of accrual unless alternate local arrangements have been negotiated between the Chief Executive Officer and the Public Service Association;
- (6) at the staff member's election, leave in lieu accrued in respect of overtime worked on a public holiday may be added to the staff member's annual leave credits and may be taken in conjunction with annual leave; and
- (7) a staff member shall be paid for the balance of any overtime entitlement not taken as leave in lieu.

81. Calculation of Overtime

- (a) Unless a minimum payment in terms of subclause (b) of paragraph (4) of this clause applies, overtime shall not be paid if the total period of overtime worked is less than a quarter of an hour.
- (b) The formula for the calculation of overtime at ordinary rates for staff members employed on a five (5) day basis shall be:

$$\frac{\text{Annual Salary}}{1} \times \frac{5}{260.89} \times \frac{1}{\text{No of ordinary hours of work per week}}$$

- (c) To determine time and one half, double time or double time and one half, the hourly rate at ordinary time shall be multiplied by 3/2, 2/1 or 5/2 respectively, calculated to the nearest cent.
- (d) Overtime is not payable for time spent travelling.

82. Review of Overtime Meal Allowances

- (a) The rates of overtime meal allowances shall be adjusted in accordance with the provisions contained in Clause 40 - Review of Allowances payable in terms of this award.
- (b) Where an allowance payable under Clause 79 - Overtime Meal Allowances of this award is insufficient to reimburse the staff member the cost of a meal, properly and reasonably incurred, the Chief Executive Officer may approve payment of actual expenses.
- (c) Where the meal was not purchased, payment of a meal allowance shall not be made.
- (d) Receipts shall be provided to the Chief Executive Officer or his/her delegate in support of any claims for additional expenses or when the staff member is required to substantiate the claim.

83. Provision of Transport in Conjunction With Working of Overtime

- (a) For the purpose of this subclause, departure or arrival after 8.00 p.m. will determine whether the provisions of this subclause apply.

Departure or arrival after 8.00 p.m. of a staff member on overtime or a regular or rotating shift roster, does not in itself warrant the provision of transport. It needs to be demonstrated that the normal means of transport, public or otherwise, is not reasonably available and/or that travel by such means of transport places the safety of the officer/employee at risk.

The responsibility of deciding whether the provision of assistance with transport is warranted in the circumstances set out above, rests with administrative units of the NSW Aboriginal Land Council where knowledge of each particular situation will enable appropriate judgements to be made.

(b) Arrangement of Overtime

Where overtime is required to be performed, it should be arranged, as far as is reasonably possible, so that the public servant can use public transport or other normal means of transport to and from work.

(c) Provision of Taxis

Where a staff member:

ceases overtime duty after 8.00 pm;

and public transport or other normal means of transport is not reasonably available, arrangements may be made for transport home or to be provided by way of taxi.

84. Salary Sacrifice

Salary Sacrifice to Superannuation -

- (a) Notwithstanding the salaries prescribed by this award, an employee may elect, subject to the agreement of the NSW Aboriginal Land Council, to sacrifice a portion of the salary payable under this clause 5, to additional employer superannuation contributions. Such election must be made prior to the commencement of the period of service to which the earnings relate. The amount sacrificed must not exceed 30 per cent of the salary payable under this said clause 5 or 30 per cent of the currently applicable superannuable salary, whichever is the lesser. In this clause "superannuable salary" means the employee's salary as notified from time to time to the New South Wales public sector superannuation trustee corporations.
- (b) Where the employee has elected to sacrifice a portion of that payable salary to additional employer superannuation contributions:
- (i) subject to Australian Taxation Law, the sacrificed portion of salary will reduce the salary subject to appropriate PAYE taxation deductions by the amount of that sacrificed portion; and
 - (ii) any allowance, penalty rate, overtime, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payment for leave taken in service, to which an employee is entitled under this award or any applicable award, Act or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary which would have applied to the employee under this clause in the absence of any salary sacrifice to superannuation made under this award.
- (c) The employee may elect to have the portion of payable salary which is sacrificed to additional employer superannuation contributions:
- (i) paid into the superannuation scheme established under the *First State Superannuation Act 1992*, an optional employer contributions; or
 - (ii) subject to the NSW Aboriginal Land Council's agreement paid into a private sector complying superannuation scheme as employer superannuation contributions.
- (d) Where an employee elects to salary sacrifice in terms of paragraph (c) of this sub clause the NSW Aboriginal Land Council will pay the sacrificed amount into the relevant superannuation fund.
- (e) Where the employee is a member of a superannuation scheme established under:
- (i) the *Police Regulation (Superannuation) Act 1906*;
 - (ii) the *Superannuation Act 1916*;
 - (iii) the *State Authorities Superannuation Act 1987*;

- (iv) the *State Authorities Non-contributory Superannuation Act 1987*; or
- (v) the *First State Superannuation Act 1992*,

the NSW Aboriginal Land Council must ensure that the amount of any additional employer superannuation contributions specified in paragraph (a) of this subclause is included in the employee's superannuable salary which is notified to the New South Wales public sector superannuation trustee corporations.

- (f) Where, prior to electing to sacrifice a portion of his/her salary to superannuation, an employee had entered into an agreement with the NSW Aboriginal Land Council to have superannuation contributions made to a superannuation fund other than a fund established under legislation listed in paragraph (e) of this subclause, the NSW Aboriginal Land Council will continue to base contributions to that fund on the salary payable under this clause to the same extent as applied before the employee sacrificed a portion of that salary to superannuation. This clause applies even though the superannuation contributions made by the employer may be in excess of the superannuation guarantee requirements after the salary sacrifice is implemented.

85. Anti-Discrimination

- (1) It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (2) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- (3) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (4) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti- discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (5) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES:

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

85A. Secure Employment

(a) Objective of this Clause

The objective of this clause is for the employer to take all reasonable steps to provide its employees with secure employment by maximising the number of permanent positions in the employer's workforce, in particular by ensuring that casual employees have an opportunity to elect to become full-time or part-time employees.

(b) Casual Conversion

- (i) A casual employee engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment under this Award during a calendar period of six months shall thereafter have the right to elect to have his or her ongoing contract of employment converted to permanent full-time employment or part-time employment if the employment is to continue beyond the conversion process prescribed by this subclause.
- (ii) Every employer of such a casual employee shall give the employee notice in writing of the provisions of this sub-clause within four weeks of the employee having attained such period of six months. However, the employee retains his or her right of election under this subclause if the employer fails to comply with this notice requirement.
- (iii) Any casual employee who has a right to elect under paragraph (b)(i), upon receiving notice under paragraph (b)(ii) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that he or she seeks to elect to convert his or her ongoing contract of employment to full-time or part-time employment, and within four weeks of receiving such notice from the employee, the employer shall consent to or refuse the election, but shall not unreasonably so refuse. Where an employer refuses an election to convert, the reasons for doing so shall be fully stated and discussed with the employee concerned, and a genuine attempt shall be made to reach agreement. Any dispute about a refusal of an election to convert an ongoing contract of employment shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.
- (iv) Any casual employee who does not, within four weeks of receiving written notice from the employer, elect to convert his or her ongoing contract of employment to full-time employment or part-time employment will be deemed to have elected against any such conversion.
- (v) Once a casual employee has elected to become and been converted to a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have his or her contract of employment converted to full-time or part-time employment in accordance with paragraph (b)(iii), the employer and employee shall, in accordance with this paragraph, and subject to paragraph (b)(iii), discuss and agree upon:
 - (1) whether the employee will convert to full-time or part-time employment; and
 - (2) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked either consistent with any other part-time employment provisions of this award pursuant to a part time work agreement made under Chapter 2, Part 5 of the *Industrial Relations Act 1996* (NSW);

Provided that an employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert his or her contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert his or her contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed between the employer and the employee.

(vii) Following an agreement being reached pursuant to paragraph (vi), the employee shall convert to full-time or part-time employment. If there is any dispute about the arrangements to apply to an employee converting from casual employment to full-time or part-time employment, it shall be dealt with as far as practicable and with expedition through the disputes settlement procedure.

(viii) An employee must not be engaged and re-engaged, dismissed or replaced in order to avoid any obligation under this subclause.

(c) Occupational Health and Safety

(i) For the purposes of this subclause, the following definitions shall apply:

(1) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to another employer for the purpose of such staff performing work or services for that other employer.

(2) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by another employer to provide a specified service or services or to produce a specific outcome or result for that other employer which might otherwise have been carried out by that other employer's own employees.

(ii) Any employer which engages a labour hire business and/or a contract business to perform work wholly or partially on the employer's premises shall do the following (either directly, or through the agency of the labour hire or contract business):

(1) consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;

(2) provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;

(3) provide employees of the labour hire business and/or contract business with appropriate personal protective equipment and/or clothing and all safe work method statements that they would otherwise supply to their own employees; and

(4) ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.

(iii) Nothing in this subclause (c) is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Occupational Health and Safety Act 2000* or the *Workplace Injury Management and Workers Compensation Act 1998*.

(d) Disputes Regarding the Application of this Clause

Where a dispute arises as to the application or implementation of this clause, the matter shall be dealt with pursuant to the disputes settlement procedure of this award.

(e) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

3. This order shall take effect from the 1st March 2006.

86. Salary and Wages

The salary ranges prescribed by this award are set out in Table 2, rates of pay; Part B - Monetary Rates.

All new employees shall be allocated on engagement to a Group as set out in Table 2 - Rates of Pay such Group to be advised by letter to the employee within 14 days of the commencement of employment with the NSW Aboriginal Land Council.

87. No Extra Claims

It is the intention of the parties that this Award shall not during its currency be subject to further claims save in respect of those matters accorded specific leave reserved under Clause 88, Leave Reserved.

The Union undertakes that it shall make no extra claim upon the NSW Aboriginal Land Council for variation of any provision of this Award or for any payment or condition over and above the Award.

88. Leave Reserved

Leave is expressly reserved to the parties to this Award to pursue during the currency of this Award an appropriate amendment to the wage structure to allow for additional groups to be added.

Leave is reserved to the parties to this award to develop a policy regarding salary packaging

89. Redundancy Provisions

An employee who accepts voluntary redundancy, or who is retrenched, will be covered by the provisions of the NSW Aboriginal Land Council's Managing Excess Employees policy, which exists at the date of this award.

In accordance with the Managing Excess Employees Policy an employee who accepts voluntary redundancy will receive the following redundancy entitlements:

Four (4) weeks notice or pay in lieu;

Plus

An additional one week's notice or pay in lieu for employees aged 45 years and over with 5 or more years of completed service

Plus

Severance pay at the rate of three (3) weeks per year of continuous service up to a maximum of thirty nine (39) weeks; with pro-rata payments for incomplete years of service to be on a quarterly basis;

Plus

Benefit allowable as a contributor to a superannuation or retirement fund;

Plus

Pro-rata annual leave loading in respect of leave accrued at the date of termination.

Those employees, who accept an offer of redundancy within two (2) weeks of the offer made and terminate employment within the time nominated by NSWALC, will be entitled to the following additional payments:

Less than 1 year's service	2 weeks pay
1 year and less than 2 year's service	4 weeks pay
2 year's service and less than 3 year's service	6 weeks pay
3 year's service and over	8 weeks pay

Note: Reference to service in calculating entitlement to voluntary redundancy is based on a continuous period of employment with the NSWALC only. As with standard leave provisions, periods of leave without pay, secondments or similar are not considered as service for these purposes, (nor are they considered a break in employment) and periods of part-time employment will enable pro-rata entitlement.

The provisions in this clause apply to permanent employees only.

90. Area, Incidence and Duration

This award rescinds and replaces NSW Aboriginal Land Council Staff Award 2002 published 27 June 2003 (340 I.G. 146) and shall apply to all employees of the NSW Aboriginal Land Council other than the Chief Executive Officer and all Station and Farm Managers and all other employees within the scope of the Pastoral Employees (State) Award published 26 October 2001 (328 I.G. 1188). This Award shall apply from 25 October 2005 to 26 October 2008.

PART B

MONETARY RATES

Table 1 - Allowances

Effective 1 July 2005

Item No	Clause No	Description	Amount	
1		Meal Expenses on One Day Journeys Capital cities and high cost country centres (see list in item 2)		
		26(1) Breakfast	\$18.90	
		26(2) Dinner	\$36.40	
		26(3) Lunch	\$21.15	
2	26(1) 26(2) 26(3)	Tier 2 and other country centres (see list in item 2)		
		Breakfast	\$16.85	
		Dinner	\$33.30	
	Lunch	\$19.30		
	27(2)(a)	27(2)(a)	Travelling Allowances When Staying in Non-Govt Accommodation Capital Cities	Per day
			Adelaide	\$222.00
			Brisbane	\$226.00
			Canberra	\$199.00
			Darwin	\$219.00
			Hobart	\$195.00
			Melbourne	\$241.00
			Perth	\$209.00
			Sydney	\$248.00
			High cost country centres	Per day
			Alice Springs	\$182.00
			Ballarat (Vic)	\$188.00
			Broome (WA)	\$220.00
			Burnie (Tas)	\$184.50
			Carnarvon (WA)	\$186.00
			Christmas Island	\$211.00
Dampier (WA)			\$189.00	
Devonport (Tas)	\$190.00			
Exmouth	\$186.00			
Gold Coast (Qld)	\$197.00			
Halls Creek	\$194.50			
Horn Island (QLD)	\$200.00			

		Jabiru (NT)	\$296.00
		Kalgoorlie (WA)	\$186.00
		Karratha (WA)	\$243.00
		Kununurra (WA)	\$210.00
		Launceston (TAS)	\$186.00
		Maitland (NSW)	\$183.00
		Newcastle (NSW)	\$199.00
		Newman (WA)	\$208.00
		Norfolk Island	\$191.00
		Pt Hedland (WA)	\$208.00
		Queenstown (TAS)	\$186.50
		Thursday Island (Qld)	\$231.00
		Weipa (Qld)	\$216.00
		Wilpena (SA)	\$194.00
		Wollongong (NSW)	\$191.00
		Yulara	\$373.00
	27(2)(a)	Tier 2 country centres	Per day
		Ararat (Vic)	\$170.00
		Bathurst (NSW)	\$170.00
		Bendigo (Vic)	\$170.00
		Bordertown (SA)	\$170.00
		Broken Hill (NSW)	\$170.00
		Bunbury (WA)	\$170.00
		Cairns (Qld)	\$170.00
		Castlemaine (VIC)	\$170.00
		Cocos (Keeling) Islands	\$170.00
		Geelong (VIC)	\$170.00
		Mount Gambier (SA)	\$170.00
		Mount Isa (QLD)	\$170.00
		Northam (WA)	\$170.00
		Orange (NSW)	\$170.00
		Port Lincoln (SA)	\$170.00
		Portland (VIC)	\$170.00
		Wagga Wagga (NSW)	\$170.00
		Warnambool (Vic)	\$170.00
			Per Day
	27(2)(a)	Other country centres	\$158.00
	27(2)(b)	Incidental expenses when claiming actual expenses - all locations	\$14.55
	27(5)	Daily allowance payable after 35 days and up to 6 months in the same location all locations	50% of the appropriate location rate
3	28	NSWALC accommodation- incidental expenses	\$14.55 per day
4	33(d)	Use of private motor vehicle	Cents per kilometre
		Official business	
		Engine capacity-	
		over 2700cc	79.1
		1600cc to 2700cc	73.6
		under 1600cc	52.7
		Casual rate	
		Engine capacity-	
		Over 2700cc	28.1
		1600cc-2700cc	26.1
		under 1600cc	22.0
5	34	Insurance cover	Up to \$A 1,173.00
6	36	Exchanges	Actual cost

7	38(a)	Garage and carport allowance - Garage allowance - Carport allowance	Per annum \$491 pa \$109 pa
8	39 (a)	First aid allowance - Holders of basic qualifications - Holders of current occupational first aid certificate	Per annum \$615 pa \$926 pa
9	78(a)	Overtime meal allowances Breakfast Lunch Dinner	Effective 1 July 2005 \$21.10 \$21.10 \$21.10

Table 2 - Rates of Pay

	1 October 2004	25 Oct 2005	1 July 2006	1 July 2007	1 July 2008
	\$	\$	\$	\$	\$
Group 11					
Year 3	68,037	72,119	75,004	78,004	81,124
Year 2	64,945	68,842	71,596	74,460	77,438
Year 1	61,852	65,563	68,186	70,913	73,750
Group 10					
Year 3	61,852	65,563	68,186	70,913	73,750
Year 2	59,040	62,582	65,085	67,688	70,396
Year 1	56,229	59,603	61,987	64,466	67,045
Group 9					
Year 3	56,229	59,603	61,987	64,466	67,045
Year 2	53,673	56,893	59,169	61,536	63,997
Year 1	51,118	54,185	56,352	58,606	60,950
Group 8					
Year 3	51,118	54,185	56,352	58,606	60,950
Year 2	48,795	51,723	53,792	55,944	58,182
Year 1	46,470	49,258	51,228	53,277	55,408
Group 7					
Year 3	46,470	49,258	51,228	53,277	55,408
Year 2	44,358	47,019	48,900	50,856	52,890
Year 1	42,246	44,781	46,572	48,435	50,372
Group 6					
Year 3	42,246	44,781	46,572	48,435	50,372
Year 2	40,326	42,746	44,456	46,234	48,083
Year 1	38,406	40,710	42,338	44,032	45,793
Group 5					
Year 3	38,406	40,710	42,338	44,032	45,793
Year 2	36,661	38,861	40,415	42,032	43,713
Year 1	34,914	37,009	38,489	40,029	41,630
Group 4					
Year 3	34,914	37,009	38,489	40,029	41,630
Year 2	33,327	35,327	36,740	38,210	39,737
Year 1	31,741	33,645	34,991	36,391	37,847
Group 3					
Year 3	31,741	33,645	34,991	36,391	37,847
Year 2	30,299	32,117	33,402	34,738	36,128
Year 1	28,856	30,587	31,810	33,082	34,405
Group 2					
Year 3	28,856	30,587	31,810	33,082	34,405
Year 2	27,544	29,197	30,365	31,580	32,843
Year 1	26,232	27,806	28,918	30,075	31,278

Group 1					
Year 3	26,232	27,806	28,918	30,075	31,278
Year 2	25,040	26,542	27,604	28,708	29,856
Year 1	23,848	25,279	26,290	27,342	28,436

M. SCHMIDT *J*

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