

29 April 2022

TfNSW and Sydney Metro Responses to Combined Transport Unions’ claims on Work Health and Safety, Flexibility and Salary Packaging

2022 Awards negotiations

Transport for NSW and Sydney Metro Salaries and Conditions Award 2021 (‘TfNSW Award’) and Road and Maritime Services Consolidated Salaried Award 2019 (‘RMS Award’)

2. Wages and Costs - Salary Packaging		
Item	CTU draft text for clause	TfNSW and Sydney Metro’s (‘Transport’) Response
2.3	<p>Unions’ claim (from 2 March 2022 log of claim for RMS Award)</p> <p>2.3 Salary packaging</p> <p>A) Broader options for salary sacrifice</p> <p>B) car packaging</p> <p>C) Salary sacrificing for mortgage payment</p>	<ul style="list-style-type: none"> Salary Packaging is an existing program that is available to employees in Transport, including those employed under the TfNSW Award and the RMS Salaried Award. The details of the program are contained in the TfNSW Pay, Expenses and Allowances Procedures. The Procedures are consistent with the provisions under both Awards with respect to salary packaging (clause 29 of the TfNSW Award and 18.8 of the RMS Award). Transport has been reviewing the Salary Packaging program and is looking to expand the current scope to cover E-bikes and Remote Area Benefits, in addition to novated leases for vehicles and superannuation salary packaging. While it is noted that the CTU’s claim is currently limited to employees under the RMS Award, the proposed additional options for salary packaging will be applicable to all eligible employees, as outlined in the proposed Procedures. Information on the proposal and amendments to the TfNSW Pay, Expenses and Allowances Procedures was provided to the Unions via email on 12 April 2022 (Annexure 1). We are of the view that an Award variation is not required to address this claim.

5. Work Health and Safety		
Item	CTU draft text for clause	Transport's response
5.1	<p>TfNSW and RMS Awards</p> <p><i>30.XX The employer recognises the negative impact consistent workplace change has on an employee's wellbeing. In accordance with the employer's commitment to providing a work environment that enables physical and mental wellbeing, to prevent unnecessary and ongoing restructures the employer must review:</i></p> <p><i>a) the current structure's success; and/or</i></p> <p><i>b) the success of the previous restructure, including whether the rationale for the proposed changes based on business needs have been met.</i></p> <p><i>The employee representatives will be provided with the review.</i></p> <p><i>8.XX The Employer must as part of implementing a restructure have a process to review the success of the restructure including whether the rationale for the proposed changed has been met. The employer as part of consultation will provide the employee representatives with the outcomes from the review.</i></p>	<ul style="list-style-type: none"> • Both Awards currently include provisions on consultation and change, which set out an agreed process on consultation generally, as well as consultation on workplace changes where those changes are likely to have an impact on employees. • Current Award provisions already impose obligations on the employer to provide relevant information on the proposed change, effects on the employees, rationale of the changes based on business needs etc. as well as an obligation to consider and respond to feedback from employees and the Unions (e.g. sub-clause 8.4-6 of TfNSW Award, and 7.6 of RMS Award.) • Provisions relating to consultative committees (Peak Consultative Committee and Joint Consultative Committee) also provide a framework for strategic workplace planning and implementation issues to be explored and discussed at regular intervals. • Transport is of the view that an Award variation is not required to address this claim.
5.2	<p>TfNSW and RMS Awards</p> <p><i>Commitment</i></p> <p><i>TfNSW is committed to continually improving its policies, strategies, and initiatives for enabling employee's physical, psycho-social, and mental safety and wellbeing while they are at work. This includes strategies and initiatives that promote the participation and contribution of all employee's improvement to safety and wellbeing, and the prevention and</i></p>	<ul style="list-style-type: none"> • Transport is committed to ensuring our people feel safe and well at work. We are committed to the prevention of discrimination, harassment and bullying and to improving support for people experiencing these issues. • Transport has a range of existing prevention and support measures in place but is keen to work with the CTU on improvements within the Awards. Specifically, Transport is keen to discuss the amendments to improve inclusivity and support, including:

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	<p><i>elimination of harmful practices related to inclusion, diversity, safety, discrimination, bullying and harassment, including sexual harassment.</i></p> <p><i>TfNSW will enliven this commitment by:</i></p> <p><i>a) meeting the objectives and requirements of relevant Acts, regulations and codes of practice, as a minimum standard;</i></p> <p><i>b) consulting and collaborating with employees, unions and employee representatives in accordance with provisions related to Consultation, workplace change and dispute resolution, and work health and safety consultative practices such as committees, work groups, and health and safety representatives;</i></p> <p><i>c) providing confidential and safe avenues for employees to report their concerns and needs, including trained and nominated reporting officers and external services, where appropriate;</i></p> <p><i>d) dealing with matters sensitively, efficiently, fairly and confidentially;</i></p> <p><i>e) developing a socially responsible, inclusive, collaborative and supportive leadership culture;</i></p> <p><i>f) providing employee support including:</i></p> <p><i>i. leave in accordance with clause XX</i></p> <p><i>ii. personal support and counselling via TfNSW Employee Assistance Program and other specialised counselling services, where appropriate; and</i></p> <p><i>iii. safe and healthy return to work of ill or injured employees</i></p> <p><i>g) promoting awareness, understanding and commitment to policies, strategies and initiatives that focus on prevention;</i></p> <p><i>h) systems for the identification, elimination or control of workplace hazards and the prevention of harm, injury or illness; and</i></p> <p><i>i) providing employees with relevant skills and knowledge through training, leadership practice and supervision.</i></p>	<ul style="list-style-type: none"> ▫ Administrative updates to provide more inclusive language throughout the Awards, including updates to the Anti-Discrimination and other relevant sections. ▫ Enhancement to breastfeeding support, inclusion of gender neutral paid parental leave, updating domestic and family violence leave, and prevention of sexual harassment. • A number of capability uplift programs for leaders which are also in place or in development to effect positive culture change through leadership and support. These aligns with the Culture Strategy in Transport, with programs and tools available to support individuals, leaders and teams to work towards achieving Transport’s cultural aspirations – Customer at the Centre, People at the Heart and For the Greater Good. • In addition to existing initiatives to support our people, Transport is developing an overarching Wellbeing strategy. This work is being coordinated by the Wellbeing team which is a newly formed team tasked with supporting leaders and empowering employees to feel safe and supported in the workplace. The team will work with an external provider to identify best practice strategies and conduct internal focus groups, interviews and surveys to ascertain the current state of wellbeing across the cluster. As part of this process, Transport is committed to engage with nominated Union delegates to participate in focus groups/interviews and surveys. The output will be an evidence-based strategy that comprises of realistic and practical initiatives for our people, with achievable goals of improving the wellbeing of our people. • Transport is of the view that an Award variation is not required to address this claim.
5.3	TfNSW and RMS Awards	

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	<p><i>30. XX If an employee notifies the employer of mental or physical health issues that may impact on their capacity to under the role, the employer's processes will be supportive and respectful of the employee. Only if there is an issue about the employee's fitness for duty will the employer request medical information. If the employer requires medical information due to concerns about the employee's fitness for duty the employer must first seek the relevant information from the employee's treating doctor. An independent medical assessment is a last resort.</i></p>	<ul style="list-style-type: none"> • There are existing policies and procedures in place that guide the management of these issues. Part of the purpose of asking for medical information is to determine if a condition is relevant to the employee's duties. The opinion of the treating doctor is usually sought, where the employee has provided consent. • The existing Grievance Processes and Dispute Resolution Procedures provide avenues to deal with potential issues that may arise. • Transport is of the view that an Award variation is not required to address this claim. We are however open to discussing issues that our people may be experiencing and how these can be addressed through amendments to procedures or processes to achieve meaningful change through the consultation forums.
<p>5.4</p>	<p>TfNSW and RMS Awards</p> <p><i>Clause 11 To reduce the spread of molecular particles, the Employer's owned and rented office space will have:</i></p> <p><i>a) HVAC systems with appropriate HEPA filters; and/or</i></p> <p><i>b) appropriate cross ventilation; and</i></p> <p><i>c) all indoor working areas (including workstation areas, meeting areas and other areas where co-mingling occurs), screens and office fit-out are supplied to ensure adequate social distancing to minimise the risk of airborne disease infection.</i></p>	<ul style="list-style-type: none"> • In addition to Work Health and Safety legislation, which imposes specific obligations with respect to work health and safety matters in workplaces, both Awards have existing provisions relating to Work Environment - including commitment to achieving and maintaining accident-free and healthy workplaces by: <ul style="list-style-type: none"> ▫ <i>“the development of policies and guidelines on Workplace Health, Safety and Rehabilitation;</i> ▫ <i>assisting to achieve the objectives of the Work Health and Safety Act 2011 and the Work Health and Safety Regulation 2017 by establishing agreed Work Health and Safety consultative arrangements in the workplace; to identify and implement safe systems of work, safe work practices, working environments and appropriate risk management strategies; and to determine the level of responsibility to achieve these objectives; (emphasis added)</i> ▫ <i>identifying training strategies for Employees, as appropriate, to assist in the recognition, elimination or control of workplace hazards and the prevention of work related injury and illnesses.”</i> • With respect to HVAC, in line with legislative and Award provisions, Transport have engaged external subject matter experts to help deliver some ideation on how

		<p>better HVAC solutions could operate on our assets and in our offices. This activity will lead to engagement with internal groups to understand what actions, if any, are viable and what are priorities.</p> <ul style="list-style-type: none"> • We are committed to provide updates on the progress of this program to Unions in our regular Consultation Forum (PCC/JCC) and to employees via existing communication channels. • Transport is of the view that an Award variation is not required to address this claim.
<p>5.5</p>	<p>TfNSW and RMS Awards</p> <p><i>8.3 The Consultative Committee will also consider</i></p> <p><i>a) strategic workforce planning issues and implementation, including securing a workforce for the future, the role of labour hire in delivering that workforce (subject to subclause 14.2) and the capability requirements for that workforce. Relevant information will be provided to the Unions to facilitate such discussions, such as:</i></p> <p><i>Divisional organisation structures</i> <i>Active and budgeted positions by classification by Division, grade and location;</i> <i>Available breakdown figures for full time, part time, casual and temporary employees, as well as numbers, usage and length of hire of labour hire.</i></p> <p><i>b) workload issues across the workforce.</i></p> <p><i>Relevant information will be provided to the Unions to facilitate the discussions. The reports will include:</i> <i>quarterly report on the workloads of employees. This will include but not be limited to:</i></p> <p><i>1. the number of hours forfeited each settlement period;</i> <i>ii. the number of flex days taken each settlement period;</i></p>	<ul style="list-style-type: none"> • It is Transport’s view that the management of workload and flex is best done at the local level where leaders and employees have greater understanding of business needs, as well as the needs of individuals and the broader team. Issues relating to workload or utilisation of flex can be dealt with locally, and/or through the Grievance Resolution Procedures or Dispute Settlement Procedures, as appropriate. • There are some challenges with ongoing reporting around forfeited flex in the way the CTU have proposed, as discussed in our meetings. Reporting of the nature suggested has been limited to the ELIPSE system formerly in use in Sydney Trains and has not been adapted for the current Transport EQUIP/SAP system. • Notwithstanding, Transport is open to further exploring the CTU’s concerns regarding forfeit flex and discussions about ways to ensure that employees are not regularly required to forfeit Accrued Work Time (AWT) hours. This can be achieved together with looking at workload and wellbeing concerns raised by the CTU. • Some work has been and continues to be done to highlight the issue of work demands to the attention of people leaders through the recent PulseCheck results and actions debriefs. We will report on this as part of the upcoming JCC and take CTU’s feedback on ways to address the issues raised. • Transport is of the view that an Award variation is not required to address this claim.

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	<p><i>iii. the number of employees utilising flex days each settlement period.</i></p> <p><i>The information is to be provided:</i></p> <p><i>a) by branch and/or function;</i></p> <p><i>b) raw numbers; and</i></p> <p><i>c) averaged by the number of employees.</i></p>	
<p>5.6</p>	<p>TfNSW and RMS Awards</p> <p><i>30.XX The employer accepts unreasonably high workloads can have a negative impact on employees. In accordance with the employer’s commitment to employee wellbeing the employer will proactively manage employee hours of work by:</i></p> <p><i>a) Where employees:</i></p> <p><i>i. Are consistently working above their contracted hours resulting in the forfeiting of hours of work; and/or</i></p> <p><i>ii. the employees normal hours of work have increased and they are forfeiting hours of work for a period of greater than 6 weeks.</i></p> <p><i>b) The relevant employee representatives are to be notified and the employer is to consult with the employee and the employee representatives to ensure the employee’s future hours of work are not resulting in the employee forfeiting hours of work.</i></p>	<ul style="list-style-type: none"> • Across the cluster, Transport conducts regular employee surveys and pulse checks to better gauge issues affecting our workforce. The most recent Pulse Check was conducted in March 2022. Transport has, in the debriefs of the Pulse Check results and actions, highlighted workload/work demands as a focus from the Pulse Check results along with the more dominant themes of leadership and support. In the debrief sessions, leaders and People and Culture partners were also provided context that workload has been highlighted as a focus by the CTU and provided support on how to further explore these topics in subsequent debriefs and conversations with their teams. • Transport remains open to discussions about ways to ensure that employees are not regularly required to forfeit Accrued Work Time (AWT) hours at the regular consultation forums. We can discuss a plan to engage on these matters at the upcoming JCC meeting. • Transport is of the view that an Award variation is not required to address this claim.
<p>5.7</p>	<p>TfNSW and RMS Awards</p> <p><i>8.4(a)(v) how the number of positions in the structure ensures the Employer is resourcing the business needs and objectives.</i></p> <p><i>8.3 (d) resourcing the workforce is meeting the business needs and objectives</i></p>	<ul style="list-style-type: none"> • Both Awards currently include provisions relating to consultation and change. They set out agreed processes on consultation generally, as well as consultation on the introduction of workplace change where that change is likely to have an impact on the working arrangements of employees.

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	<p><i>8.7 The employer will only implement structures that ensures their workforce is able to meet the needs and objectives of the employer without requiring employees to consistently work above their ordinary hours.</i></p>	<ul style="list-style-type: none"> • Current Award provisions already impose obligations on the employer to provide relevant information on the proposed change, effects on the employees, rationale of the changes based on business needs... as well as an obligation to consider and respond to feedback from employees and the Unions (e.g. sub-clause 8.4-6 of TfNSW Award, and 7.6 of RMS Salaried Award.) • Award provisions relating to consultative committees (Peak Consultative Committee and Joint Consultative Committee) also provide a framework for strategic workplace planning and implementation issues to be explored and discussed at regular intervals. • The management of specific team and individual workload or allocation of work is best undertaken at the local level where leaders and employees have greater understanding of business needs, as well as the needs of individuals and the broader team. The existing Grievance processes and/or Dispute Settlement Procedures are also available to deal with matters that arise at individual/ team level. • Transport is of the view that an Award variation is not required to address this claim. • We are amenable to continuing engaging with the CTU on this issue as part of the regular consultation forums provided for under the Awards.
<p>5.8</p>	<p>TfNSW and RMS Awards</p> <p><i>Clause XX The employer and their employees will respect employee's non - work time, including periods of leave. The employer will as far as practicable, ensure that employees are not contacted via email or phone to perform work outside of their hours of work expect:</i></p> <p><i>a) in accordance with a relevant clause of this Award (e.g. during authorised overtime or on - call arrangements); or</i></p> <p><i>b) in case of emergency or urgent welfare matter.</i></p>	<ul style="list-style-type: none"> • Transport recognises our people’s need for rest and a proper break from work. • We also acknowledge that working from home and flexible working hours has made it more challenging for people to clearly draw the line between work and home. Throughout the pandemic Transport has supported our people with strategies to ‘switch off’ and manage their work/ life balance. We have a variety of different arrangements based on work requirements and employee needs.

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	<p><i>An employee will not be prejudiced in their employment on the basis that they have not responded to communications outside of their normal working hours unless that communication falls into one of the exceptions clause XX above. In the event an employee is contacted outside the employee’s hours of work they will be entitled to payment of an on-call allowance as per the Award.</i></p>	<ul style="list-style-type: none"> • We are open to discussing the CTU’s proposal for how we can further support our people to disconnect that it is cost neutral and aligns with broader Government policy. • Additionally, Transport is currently reviewing its framework for flexible working to better outline where, how and when work is performed and incorporate hybrid work principles. Transport would invite the CTU to provide input into this.
5.9	<p>TfNSW and RMS Awards</p> <p><i>Where the employer is consulting with employees and/or their representatives on work health and safety matters which require consultation under the Work Health and Safety Act 2011 (NSW) the employer will provide employees paid time to meet with their employee representatives.</i></p>	<ul style="list-style-type: none"> • In line with its legislative obligations, Transport has been and is committed to consulting with our people on matters relating to Work Health and Safety. This is reflected in current Award provisions on Work Environment (cl 9 of RMS Salaried and cl 11 of TfNSW Award). • These Award provisions include <i>“The Employer will allow employees elected as committee members and Health and Safety Representatives (HSRs), reasonable time during working hours to attend meetings of the workplace’s Workplace Health and Safety Committee and participate in all official activities relating to the functions and responsibilities of a Workplace Health and Safety Committee Member and/or HSRs”</i> • The CTU’s proposed clause significantly expands the current provisions in that it obliges the employer to provide (seemingly unlimited) paid time to employees to meet with their employee representative to discuss WHS issues. • If there are particularly instances of these provisions not being applied properly we encourage the CTU to raise this with Employee Relations. • TfNSW does not agree to vary the Award to include this claim as it is not cost neutral.

6. Flexibility		
Item	CTU draft text for clause	Transport's response
6.1	<p>TfNSW Award Unions draft clause 21.7</p> <p><i>21.7 Remote Working</i> <i>(a) The employer supports employees working both remotely and from the office. There are different scenarios that will be supported by the employer including:</i> <i>i. Majority working from home with very limited in person office or work site attendance.</i> <i>ii. Hybrid approach meaning a split between in person and remote working this does not require an equal split.</i> <i>(b) Working remotely will be treated separately to requests for flexible working arrangement at clause 21.XX and will not require more than local management approval.</i> <i>(c) The approving local manager will discuss and agree on a flexible arrangement for working remotely considering how teams will come together and collaborate, as well as individual circumstances to ensure the health of the employee and those whom they with are not placed an unnecessary risk.</i> <i>(d) Employees who work remotely need to be flexible about attending important events in person. Where the employer requires attendance in person reasonable notice will be provided</i> <i>(e) The employer will not unreasonably prevent the employee from working remotely. Where the employer prevents an employee from working remotely they will within a reasonable period provide the employee in writing with the specific reasons for preventing the employee working remotely.</i></p> <p>RMS Award Unions draft clause 26.6</p> <p><i>26.6 Remote Working</i> <i>(f) The employer supports employees working both remotely and from the office. There are different scenarios that will be supported by the employer including:</i></p>	<ul style="list-style-type: none"> • Transport is supportive of increasing flexibility while maintaining efficiency and productivity including remote / hybrid working. • There are existing Flexible Work Arrangement /Practices clauses in both Awards. There are also a range of policies / procedures and initiatives on flexible working, in line with the Award provisions. • Transport is currently reviewing its framework for flexible working to better outline the where, how and when work is performed and incorporate hybrid work principles. • As part of this review, Transport commits to review of the flexible working policies and procedures which will give consideration to: <ul style="list-style-type: none"> ▫ Access to teleworking arrangements and hybrid work arrangements, and ▫ Access to flexible working arrangements requests and how requests are determined. • We are committed to engaging with the CTU to provide input into this.

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	<p><i>i. Majority working from home with very limited in person office or work site attendance.</i></p> <p><i>ii. Hybrid approach meaning a split between in person and remote working (this does not require an equal split.</i></p> <p><i>(g) Working remotely will be treated separately to requests for flexible working arrangement at clause 21.XX and will not require more than local management approval.</i></p> <p><i>(h) The approving local manager will discuss and agree on a flexible arrangement for working remotely considering how teams will come together and collaborate, as well as individual circumstances to ensure the health of the employee and those whom they with are not placed an unnecessary risk.</i></p> <p><i>(i) Employees who work remotely need to be flexible about attending important events in person. Where the employer requires attendance in person reasonable notice will be provided</i></p> <p><i>(j) The employer will not unreasonably prevent the employee from working remotely. Where the employer prevents an employee from working remotely they will within a reasonable period provide the employee in writing with the specific reasons for preventing the employee working remotely.</i></p>	
6.2	<p>TfNSW Award Unions draft clause 21.4</p> <p><i>21.4 The Employer supports a number of workplace flexibility initiatives and will grant an Employee’s request. The Employer will not unreasonably refuse an Employee’s request for a flexible working arrangement as long as the arrangements can be structured to maintain business efficiency and productivity. Where it is not possible to accommodate such a request:</i></p> <p><i>(a) within 14 days the Employer is to provide in writing to the Employee:</i></p> <p><i>(i) the reason(s) the request cannot be granted; (ii) any alternative arrangements the Employer can provide the Employee; and (iii) any other relevant information that will assist the Employee to understand the reasons the request has been rejected.</i></p> <p><i>(b) Should no alternative arrangements be provided, the Employee may apply to the Director People for a review of the</i></p>	<ul style="list-style-type: none"> • Transport is open to discussions about harmonising clause 21 and 26 of the TfNSW and RMS Salaried Awards provided that is cost neutral. • The CTU’s claims as outlined in 6.2-6.4 can be discussed as part of overall review of clauses 21 and 26.

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	<p><i>request who will consider the matter and provide a recommendation to the Employee. (c) Should no agreement be reached following the steps outlined above, the Employee may choose to have the matter progressed under clause 5 Dispute Settlement Procedure.</i></p> <p>RMS Award Unions draft clause 26.2</p> <p><i>26.2 The Employer supports a number of workplace flexibility initiatives and will grant an Employee’s request for flexible working options subject to the arrangements maintaining business efficiency and productivity. The Employer will not unreasonably refuse an employee’s request. Where it is not possible to accommodate such a request: (a) within 14 days the Employer is to provide in writing to the Employee within a reasonable time: (i) the reason(s) the request cannot be granted; (ii) any alternative arrangements the Employer can provide the Employee; and (iii) any other relevant information that will assist the Employee to understand the reasons the request has been rejected. (b) Should no alternative arrangements be provided, the Employee may apply to the Director People for a review of the request who will consider the matter and provide a recommendation to the Employee. (c) Should no agreement be reached following the steps outlined above, the Employee may choose to have the matter progressed under clause 5 Dispute Settlement Procedure.</i></p>	
6.3	<p>TfNSW Award Unions draft clause 21.6</p> <p><i>21.6 any request for flexible work arrangements based on the health of the employee the employer is required to adhere to clause XX [see previous PSA claim] and request any medical information from the employee’s doctor prior to sending the employee to an independent medical assessment.</i></p>	See 6.2 response

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	<p>RMS Award Unions draft clause 26.5</p> <p><i>26.5 any request for flexible work arrangements based on the health of the employee the employer is required to adhere to clause XX [see previous PSA claim] and request any medical information from the employee’s doctor prior to sending the employee to an independent medical assessment.</i></p>	
6.4	<p>TfNSW Award Unions draft clause 21.1, 21.2, 21.5</p> <p><i>21.1 The Employer recognises the importance of ensuring Employees maintain a work/life balance. Workplace flexibility underpins Employees performance and productivity and is a key contributor to the achievement of the Employers’ corporate objectives. It also contributes to the attraction and retention of people with valuable skills and assists the participation of diverse groups in the workforce.</i></p> <p><i>21.2 Flexible work arrangements may be agreed between the Employer and the Employee.</i></p> <p><i>21.2 In addition to leave and flexible working hours arrangements/time in lieu, examples of workplace flexibility initiatives that may be considered include:</i></p> <ul style="list-style-type: none"> <i>(a) Remote working (including working from home or specified Telecentre) Working from home</i> <i>(b) Changing from full-time to part-time employment on a temporary or permanent basis</i> <i>(c) Job-sharing</i> <i>(d) Transition to retirement arrangements</i> <p><i>21.5 Consideration and approval of flexible working initiatives is in accordance with the TfNSW Group Workplace Flexibility Policy and other relevant Policies, Procedures or Guidelines.</i></p> <p>RMS Award Unions draft clause 26.3</p>	See response to 6.2

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	<p>26.3 In addition to leave and flex-time/time in lieu (TIL) initiatives, examples of workplace flexibility initiatives that can be considered include:</p> <p>(a) Remote working (including working from home or specified Telecentre) teleworking (including working from home or a specified Telecentre)</p> <p>(b) Changing from full-time to part-time employment on a temporary or permanent basis</p> <p>(c) Job-sharing</p> <p>(d) Phased retirement arrangements in accordance with published procedures</p> <p>(e) Other negotiated flexible working requests</p>	
<p>6.5</p>	<p>Flexible Working Hours Agreement/Flex Time (RMS & TfNSW Awards)</p> <p>19.1 Flexible working hours is defined as where an Employee is able to:</p> <p>(a) vary their start and finish times within the bandwidth which is 6:00am to 8:00pm Monday to Friday;</p> <p>(b) accrue six flex day (7 hours) in each 12 week settlement period;</p> <p>(c) take flex leave at any time throughout the 12 week settlement period with management approval.</p> <p>19.2 Definitions specific to this clause: <i>Accrued Work Time (AWT) means all time worked by Employees within the bandwidth with the exception of paid overtime and meal breaks</i></p> <p><i>Bandwidth means the period during the working day when all Employee may work, record time and accrue credit for time worked.</i></p> <p><i>Contract Hours - The contract hours for a settlement period shall be calculated by multiplying the Employee's weekly contract hours by the number of weeks in a settlement period.</i></p>	<ul style="list-style-type: none"> • The Transport for NSW, Sydney Metro and Roads and Maritime Services Flexible Working Hours Agreement 2019 (the Flex Agreement) was negotiated and agreed in accordance with the provisions of clause 10 and 22 Local Arrangements of the TfNSW and RMS Awards and cannot be unilaterally changed. • With this in mind, Transport is not clear of the purpose for incorporating the Flex Agreement into the Awards. • It is Transport's view that the Flex Agreement as it currently stands should continue to operate as standalone agreement. • Transport is amenable to continue engaging with the CTU on the issue of forfeiting flex as part of the regular consultation forums provided for under the Awards. We can discuss a plan to engage on these matters at the upcoming JCC meeting.

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<p><i>Flex Leave means a period of time that an Employee may, subject to approval of the Employee's supervisor and the terms of the Agreement, absent themselves from work within the bandwidth.</i></p> <p><i>Flexible Working Hours Credit means the time which exceeds the Minimum Contract Hours- An Employee may carry a maximum of 10 hours credit into the next settlement period. Subject to clauses 17.2(m) and 17.2(p), additional hours are forfeited.</i></p> <p><i>Flexible Working Hours Debit: means the debit which arises when the actual hours worked in a settlement period including approved leave taken during the settlement period and including any carry over from the previous settlement period, are less than the contract hours for the period.</i></p> <p><i>Lunch break - The standard lunch period shall be no less than ½ hour and no more than 1 hour. However, by agreement with the Employer, an Employee may take up to 2½ hours.</i></p> <p><i>Minimum Daily Contract Hours: for a full time Employee means 7 hours of work engaged on a 35 hours per week basis, excluding any meal breaks.</i></p> <p><i>Minimum Daily Contract hours for part time Employees will be pro rated, unless agreed to within the part time work agreement.</i></p> <p><i>Minimum ordinary hours of work: on any day will be 5 for a full-time Employee and 3 for a part-time Employee, excluding breaks.</i></p> <p><i>Maximum ordinary hours of work on any day to be accredited as flex-time will be 10 hours, excluding breaks.</i></p>	
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<p><i>Ordinary hours: means those hours worked within the bandwidth that are not overtime.</i></p> <p><i>Settlement period - The settlement period shall be 12 weeks, and for time recording purposes, the settlement period and flex leave must coincide.</i></p> <p><i>Settlement period: 12 consecutive weeks. The settlement periods for the purposes of time recording and for flex leave shall coincide.</i></p> <p><i>Standard hours: in accordance with subclause 18.7(a) of the Transport for NSW and Sydney Metro Salaries & Conditions of Employment Award 2019 or subclause 23.2(d) of the Roads and Maritime Services Consolidated Salaries Award 2019.</i></p> <p><i>19.3 Flexible working hours are to operate as follows: AWT will operate as follows:</i></p> <p><i>(a) the employee may work within the bandwidth subject to the following factors.</i></p> <ul style="list-style-type: none"><i>i. the operational requirements of the business unit and employee's role,</i><i>ii. the individual employee's personal circumstances</i><i>iii. any impact on other employees within the business unit,</i><i>iv. demonstrated service delivery contact hours of the employer</i><i>v. availability of work,</i><i>vi. demonstrated peak of work, including within the relevant business unit,</i><i>vii. project based nature of some business units,</i><i>viii. the need to limit excessive hours of work,</i><i>ix. WHS</i> <p><i>(b) The employer may direct an employee when to start and or finish work due to the factors at clause 19.3(a).</i></p> <p><i>(c) Work outside of the bandwidth and above the maximum ordinary hours is overtime and will not be credited as AWT.</i></p>	
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<p><i>(d) All employees are entitled to work their minimum Daily contract hours and cannot be directed to work less. Only in exceptional circumstances may the employer direct an Employee to work their Minimum Daily contract hours.</i></p> <p><i>(e) All employees may work their minimum ordinary hours on any day anything less than that and the employee must take leave to make up the hours to their minimum ordinary hours.</i></p> <p><i>(f) An employee may only accumulate AWT in excess of the Minimum Daily contract hours where the employer is satisfied that work is available and approves the Employee to carry out such work.</i></p> <p><i>(g) All time worked during the settlement period in accordance with the flexible working hours clause (including approved leave) will count towards the Employee's AWT except approved overtime.</i></p> <p><i>(h) An employee should have a minimum AWT of 406 hours at the conclusion of a settlement period. The minimum 406 hours include all credit AWT and all approved leave. Where an employee's AWT is less than 406 hours at the end of the settlement period, the employee may choose a form of accrued leave to cover the shortfall.</i></p> <p><i>(i) An employee is entitled to carry over up to an additional 30 hours in excess of 420 AWT in any settlement period except where approval is given in accordance with clause XX.</i></p> <p><i>(j) Where exceptional circumstances arise and it appears that the employee will be required to be required to by the Employer to accrue more than 450 hours in a settlement period, the Employee's manager shall, with the agreement of the Employee, seek approval of the Employer, in writing, to allow the</i></p>	
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<p><i>Employee to carry over credit of more than 30 hours into the next settlement period, subject to a plan as to how those hours will be reduced before the end of the next settlement period.</i></p> <p><i>(k) Managers have a responsibility to ensure employees are not working in excess of 450 hours AWT. Where an employee works in excess of 450 AWT the employee will be paid overtime.</i></p> <p><i>(l) Repeated patterns whereby employees work above 450 AWT the employee and manager will formulate a plan so that future hours of work will not exceed 450 AWT.</i></p> <p><i>Monitoring of AWT</i></p> <p><i>(a) Hours worked are to be monitored by the employee and employer over a 12 week settlement period, through the use of flex time records, as determined by TfNSW.</i></p> <p><i>(b) All employees must complete an approved flex record, in a manner determined by the Employer from time to time, for each settlement period and must record working times on a daily basis where practical to do so.</i></p> <p><i>(c) The employer may direct an Employee to reduce their hours of work to their minimum daily contracted hours during any normal working week during the settlement period for health and safety, employee welfare or if there is cause to believe the staff member is working excessive hours</i></p> <p><i>Flex Leave</i></p> <p><i>(a) Employees must apply for flex leave in a manner determined by the employer from time to time.</i></p> <p><i>(b) The requesting, approving and taking of flex leave will be done in an equitable, transparent and fair manner and subject to demonstrated operational requirements.</i></p> <p><i>(c) Employees may take a maximum of 6 flex days (42 hours) per settlement period. Banked flex days may be used in addition to the maximum number of days.</i></p>	
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<p><i>(d) Employees may take flex leave as single days (7 hours) or half days (3.5 hours) or combinations of either, or in hours.</i></p> <p><i>(e) Consecutive flex days may be approved by the employer subject to demonstrated operational requirements. [I have removed annual leave at the end of clause 10.4]</i></p> <p><i>(f) Where, due to demonstrated operational requirements, not all flex leave entitlements have been utilised in a settlement period, up to 5 days may be banked or used in accordance with clause XX for use during the Closedown, subject to the minimum AWT at the end of the settlement period not being less than 406 hours after banking of the hours.</i></p> <p><i>(g) Where an employee accrues additional hours in accordance with XX the employer may approve an additional days flex leave in the following settlement period as part of the plan to reduce the excess hours.</i></p> <p><i>(h) The employee may take flex leave together with, or adjacent to other forms of leave, subject to the approval of the Employer.</i></p> <p><i>(i) An employee does not receive any credit towards their accrued work time when taking flex leave.</i></p> <p><i>(j) [removed clause 10.13 clause relating to annual leave]</i></p> <p><i>Additional Flex</i></p> <p><i>(a) Subject to ongoing approval by the Secretary, an Employee entitled to flex time will be granted an additional half day flex (3.5 hours), subject to demonstrated operational requirements, on the Thursday preceding the Good Friday public holiday or a period as determined by the NSW Public Sector Industrial Relations or its successor. All other provisions in relation to flex time are to apply.</i></p> <p><i>(b) Employees are required to work a minimum period of their half days work prior to commencing the Easter additional half day flex.</i></p> <p><i>Closedown</i></p> <p><i>(a) Any additional hours accrued during the year to be taken during the Closedown and which have not be taken will be forfeited on 1 February of that year.</i></p>	
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<p><i>(b) Employees working in the transport management centre – an other business areas as determined by the Employer – who have received approval by the Employer may take the additional hours in accordance with that approval.</i></p> <p><i>(c) [didn't include clause 13.2 and 13.3]</i></p> <p><i>(d) Employees may take flex leave accrued in accordance with this Agreement during the period; accrued but untaken leave per subclause xx, or in combination of both.</i></p> <p><i>(k) An employee who is directed to be on duty for some or all of the working days during the Closedown period will be allowed access to their accrued banked flex that has been accrued in accordance with this clause and not taken during the closedown period by no later than 31 January that year.</i></p> <p><i>(e)</i></p> <p><i>Overtime</i></p> <p><i>(a) An application for overtime will apply;</i></p> <p><i>i. where an employee is directed by the employer to :</i> or</p> <p><i>i. Work outside the bandwidth;</i></p> <p><i>ii. In excess of 7 ordinary hours;</i></p> <p><i>iii. Before 7am or after 7pm.</i></p> <p><i>ii. The employee works above their AWT as it will be considered the employer has approved overtime as the employee's manager is responsible for monitoring the employees hours of work.</i></p> <p><i>(b) Overtime hours are not counted as AWT for the purposes of clause xx</i></p> <p><i>(c) Overtime is to be paid or taken as time in lieu in accordance with subclause 25.9 Transport for NSW and Sydney Metro Salaries & Conditions of Employment Award 2019 or subclause 25.2(a) of the Roads and Maritime Services Consolidated Salaries Award 2019.</i></p> <p><i>(d) Overtime may only be worked with approval of the Employer.</i></p> <p><i>Part time Employees</i></p> <p><i>(a) All part – time employees, including those in job sharing arrangements, have the same rights to flexible working hours</i></p>	
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<p><i>arrangements as full time employees, on a pro rata basis, unless agreed in their part time work agreement.</i></p> <p><i>(b) Flexible working hours credits and debit limits and period of flex leave permitted will the same as for full time employees.</i></p> <p><i>(c) The calculation of hours for a flex day taken on particular work day is based on the work hours as agreed under the Employee's part time work agreement.</i></p> <p><i>Variations to Flexible working hours</i></p> <p><i>(a) Where the employer agrees, an Employee may apply to vary their working hours, including bandwidth at any time to assist them to balance personal or family responsibilities, or to meet the Employer's demonstrated operational requirements. Any such agreement with be recorded in writing and will apply in place of the relevant provision in this Award.</i></p> <p><i>(b) No variation can be longer than 12 months but may be extended for a further minimum of 12 months prior to, or at, its end.</i></p> <p><i>(c) A variation under this clause is not permanent and subject to review based on the Employee's changed circumstances and/or the Employer's demonstrated operational needs. No amount of time spent working on agreed variation will be used a basis for permanency. Each agreed variation will be dependent on circumstances and will revert to the terms of this Agreement if the Employer decides. Any such decision will be reasonable.</i></p> <p><i>Separation from the employer</i></p> <p><i>(a) Where an Employee has flexible working hours credit or flexible working hours debit during their notice period, every effort must be made to balance the hours to zero prior to the last day of service. This will not be unreasonably refused.</i></p> <p><i>(b) Any flexible working hours debit on an Employee's last day of service is to be deducted from any unpaid salary or monetary value of accrued recreation or extended leave.</i></p> <p><i>(c) Where flexible working hours credit exists during the notice period the Employer may approve other measures locally, such as</i></p>	
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<p><i>additional flex leave prior to the last day of service in order to balance the hours to zero.</i></p> <p><i>(d) Where flexible working hours credit remaining on the last day of service, will require payment to be made in respect of any residual credit hours. However, where an Employee is to be employed by another NSW Department/Agency following termination of employment, the Employer will take all reasonable steps to provide a schedule of the Employee's balances to the new Department/Agency. The acceptance of any flex credits will be at the discretion of the new Department/Agency.</i></p>	
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