

**REGISTER OF
ENTERPRISE AGREEMENTS**

ENTERPRISE AGREEMENT NO: EA20/05

TITLE: Tweed Shire Council Preserved Sick Leave Enterprise Agreement 2020

CASE NO: 2020/112378

DATE APPROVED/COMMENCED: 29 April 2020 / 29 April 2023

TERM: 36 months

NEW AGREEMENT OR VARIATION: Replaces EA17/02

GAZETTAL REFERENCE: 1 May 2020

NUMBER OF PAGES: 11

COVERAGE/DESCRIPTION OF EMPLOYEES:

The agreement applies only to employees employed by Tweed Shire Council prior to 15 February 1993 with continuous service of employment since that date, who have a preserved entitlement under Council Policy for the payout of untaken sick leave upon age retirement, who fall within the coverage of the Local Government (State) Award 2017.

PARTIES:

New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union; The Local Government Engineers' Association of New South Wales; Development & Environmental Professionals Association of New South Wales.



TWEED SHIRE COUNCIL
Preserved Sick Leave Enterprise Agreement 2020

THIS PAGE IS BLANK

8



Table of Contents

1.	Title	1
2.	Definitions	1
3.	Parties to the Agreement	2
4.	Coverage	2
5.	Relationship with the Award	2
6.	Terms of the Agreement	2
7.	Duress.....	2
8.	Statement of Intent.....	3
9.	Buyout of Preserved Sick Leave Provisions.....	3
10.	Preserved Sick Leave as a Weekly Salary.....	4
11.	Grievance and Dispute Procedures	5
12.	Schedule 1 – Acceptance Proforma.....	7
13.	Signatories to the Agreement.....	8

R



1. Title

- 1.1 This Agreement shall be known as the *Tweed Shire Council Preserved Sick Leave Enterprise Agreement 2020* ("Agreement").

2. Definitions

- 2.1 In this Agreement, unless the contrary intention appears:

Act means the *Industrial Relations Act 1996* (NSW).

Agreement means the *Tweed Shire Council Preserved Sick Leave Entitlements Enterprise Agreement 2020*.

Association means Local Government NSW.

Award means the *Local Government (State) Award 2017* and any variation thereof and/or any successor awards.

Council means Tweed Shire Council.

Ordinary Pay means remuneration for the employee's normal weekly number of hours of work calculated at the ordinary time rate of pay. Ordinary pay shall include, but not be limited to the following penalties and allowances where they are regularly received:

- Saturday, Sunday and shift penalties;
- hours of work flexibility agreements allowances;
- adverse working conditions allowances;
- toll allowances;
- on call allowance;
- first aid allowance
- community language and signing work allowances

provided that subject to the exclusions below and at clauses 10(ii) and 21D(ix) of the Award an employee's ordinary pay during periods of paid leave under this Agreement shall not be more or less than what the employee would have received had the employee not been on paid leave.

The following allowances shall be excluded from the composition of ordinary pay:

- overtime payments
- camping allowance
- travelling allowances
- sewer chokes allowance
- vehicle allowances
- meal allowances

Union means the New South Wales Local Government, Clerical Administrative, Energy, Airlines & Utilities Union (USU); Development & Environmental Professionals Association (DEPA) and the Local Government Engineers Association (LGEA).

3. Parties to the Agreement

3.1 The parties to this Agreement are:

- a) Tweed Shire Council;
- b) New South Wales Local Government, Clerical, Administration, Energy and Utilities Union (USU);
- c) Development and Environmental Professionals' Association (DEPA); and
- d) Local Government Engineers Association (LGEA)

4. Coverage

4.1 The Agreement shall apply only to employees employed prior to 15 February 1993, with continuous service of employment since that date, who have a preserved entitlement under Council Policy for the payout of untaken sick leave upon age retirement.

5. Relationship with the Award

5.1 This Agreement is to be read and applied in conjunction with the *Local Government (State) Award 2017* (the 'Award') or any successor award.

5.2 Where there is any inconsistency between this Agreement and the Award, the Agreement shall prevail to the extent of the inconsistency.

6. Terms of the Agreement

6.1 This Agreement will operate from the first full pay period on or after the date of approval by the NSW industrial Relations Commission, and shall remain in force for a period of three (3) years.

6.2 The terms and conditions of this Agreement will continue to apply until a new agreement is made in accordance with the Act or the Agreement is terminated upon written notification by either party to the Industrial Relations Commission in accordance with the Act.

6.3 The parties agree to commence negotiations on a new agreement no later than 6 months prior to the termination of this agreement.

7. Duress

7.1 This Agreement has not been entered into by any duress by any party to it.

4

8. Statement of Intent

- 8.1 The intent of this Agreement is to create greater flexibility in the options available to staff, whilst at the same time assisting to manage Council's leave liability reserves.
- 8.2 The flexibility contemplated by this Agreement enables Council to offer eligible employees the opportunity to:
- a) buyout preserved sick leave in advance of retirement; or
 - b) to take all or some preserved sick leave as a weekly salary in unexpected or unusual circumstances such as major floods, pandemics or operational close downs.

9. Buyout of Preserved Sick Leave Provisions

- 9.1 Council reserves the right, at a time or times of its choosing to offer eligible individuals or groups of individuals the opportunity to have their entitlement to the payout of untaken sick leave upon age retirement, bought out in advance of retirement.
- 9.2 Offers will be made dependent on a number of factors, including but not limited to, available budget, and maximum liability reduction.
- 9.3 Eligibility is determined based on the employee:
- c) having commenced employment with Council prior to 15 February 1993, and having been employed on a continuous basis since that date; and
 - d) not being designated in accordance with the provisions of the *Local Government Act 1993* (NSW), as senior staff.

Such staff have a preserved entitlement under Council Policy for the payout of untaken sick leave upon age retirement.

- 9.4 Offers of this nature will be made in accordance with the following provisions:
- a) Buy-outs will be at the employee's substantive ordinary pay rate at the time of offer;
 - b) Buy-outs will be for the entire value of the employees sick leave entitlement at the time of offer, minus sixty (60) days sick leave which will be required to be preserved by the employee to cover future sick leave needs;
 - c) Buy-out offers will be made in writing, including details of the value of the offer, the acceptance process; and acceptance timeframes;
 - d) Offers are open for a period of six (6) weeks, after which time, if not accepted, the offer is withdrawn.
 - e) Staff are strongly advised to seek independent financial advice prior to making any decision in relation to a buy-out offer;

- f) Acceptances will be by way of signing the proforma acceptance form, attached as Schedule 1 of this Agreement.

- 9.5 Buy-out offers will be made in accordance with the employee's length of service with Council as detailed in the table below:

Years of Continuous Service with Council	% Payout of Accrued Sick Leave
5	5%
10	15%
15	30%
20	50%
25	75%
30	100%

(There is no prorata entitlement between listed qualifying years)

- 9.6 When calculating length of continuous service, periods of leave without pay are not counted.
- 9.7 On acceptance of a buyout offer:
- Sick leave will continue to accrue as per Award conditions; however
 - On retirement, remaining sick leave entitlements, including any balance of the preserved 60 days under clause 9.4 (b) of this Agreement, will be forfeited and will attract no further pay-out entitlement.

10. Preserved Sick Leave as a Weekly Salary

- 10.1 In unexpected or unusual circumstances such as major floods, pandemics, and operational close downs, Council may offer eligible individuals or groups of individuals an opportunity in advance of retirement to take some or all of the individual's preserved sick leave entitlement to be paid as a weekly salary.
- 10.2 The payment of preserved sick leave as a weekly salary will be at the employee's substantive ordinary rate of pay at the time of the payment.
- 10.3 Employees are required to maintain a minimum sick leave entitlement of sixty (60) days to cover future sick leave requirements.
- 10.4 The entitlement to preserved sick leave will be determined by reference to the table found in clause 9.5 of this Agreement.
- 10.5 Calculation of an employee's length of continuous service does not include periods of leave without pay.
- 10.6 Employees are advised to seek independent financial advice prior to making any decision in relation to accessing preserved sick leave.

4

- 10.7 The process of taking preserved sick leave as a weekly salary will be managed on an offer and acceptance basis, with employees required to detail in writing their request to utilise their preserved sick leave entitlement in this way. Details required include start and end leave dates and whether the leave is being taken to cover the employee's full ordinary hours or as a top up payment.
- 10.8 Where an employee reduces their sick leave down to the minimum sixty (60) day balance required to be maintained they will be regarded as having their entitlement to the payout of preserved sick leave on age retirement full paid out.
- 10.9 Thereafter:
- a) Sick leave will continue to accrue as per Award conditions; however
 - b) On retirement, remaining sick leave entitlements, including any balance of the preserved 60 days under clause 9.4 (b) of this Agreement, will be forfeited and will attract no further pay-out entitlement.

11. Grievance and Dispute Procedures

- 11.1 The provisions of the Award shall apply and are reproduced below.
- 11.2 At any stage of the procedure, the employee(s) may be represented by their union or its local representative/delegate and the employer represented by the Association.
- (a) The union delegate shall have reasonable time, without loss of pay, to discuss a grievance or dispute with management at the local level where prior approval is sought. Such approval shall not be unreasonably withheld.
 - (b) A grievance or dispute shall be dealt with as follows:
 - i) The employee(s) shall notify their supervisor, or other authorised officers of any grievance or dispute and the remedy sought, in writing.
 - ii) A meeting shall be held between the employee(s) and the supervisor to discuss the grievance or dispute and the remedy sought within two working days of notification.
 - iii) If the matter remains unresolved, the employee(s) may request the matter be referred to the Manager Human Resources or other authorised officer for discussion. A further meeting between all parties shall be held as soon as practicable.
 - iv) If the matter remains unresolved the General Manager shall provide the employee(s) with a written response. The response shall include the reasons for not implementing any proposed remedy.
 - a. Where the matter remains unresolved, it may be referred to the employee's union or representative and by the General Manager or other authorised officer to the Association for further discussion between the parties.

- b. The Industrial Registrar may be advised of the existence of a dispute at any stage of this procedure.**
- v) During this procedure and while the matter is in the course of negotiation, conciliation and/or arbitration, the work practices existing prior to the dispute shall as far as practicable proceed as normal.**



12. Schedule 1 – Buy-out Acceptance Proforma

I,
Full Name Employee Number

acknowledge receipt of Council’s written offer to buy-out, on an offer and acceptance basis, my preserved entitlement, under Council Policy, as a pre-1993 employee to the payout of untaken sick leave on age retirement.

In considering this offer I acknowledge and understand that:

1. I am responsible for having sought appropriate financial advice in relation to this offer;
2. Any information provided by Council officers in relation to this matter cannot be construed as financial advice;
3. On acceptance of this offer I forfeit any continuing claim to the payout of untaken sick leave under Council Policy;
4. The buyout of my entitlement will be:
 - a. At my substantive ordinary pay rate at the time of offer;
 - b. For the entire value of my sick leave entitlement at the time of offer, less sixty (60) days sick leave which will be preserved to cover any future sick leave needs.
5. On buyout of my entitlement:
 - a. Sick leave will continue to accrue as per Award conditions; however
 - b. On retirement, remaining sick leave entitlements, including any balance of the 60 days preserved under clause 9.4 of the Enterprise Agreement, will be forfeited and will attract no further pay-out entitlement.
6. The offer expires six (6) weeks from the date of offer.

Having considered all of the matters above, along with the details provided in my offer letter, I accept the offered by-out.

.....
Signature Date

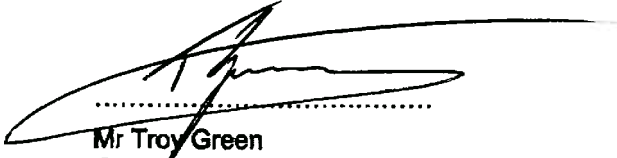
.....
Witness Name Witness Signature

Unless otherwise advised these funds will be paid into your normal pay account within two (2) weeks of receipt of this signed acceptance document

Alternate account details:
Account Name:
Account number:
Banking Institution:
BSB number:

13. Signatories to the Agreement

For and on behalf of Tweed Shire Council



Mr Troy Green
General Manager

Date: 14/4/2020

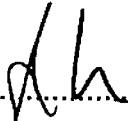


Rosina Nolan
Justice of the Peace
No. 122201

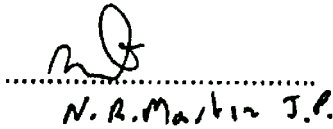
Witness

Date: 14/4/2020

For and on behalf of the New South Wales Local Government, Clerical, Administrative, Energy, Airline and Utilities Union, Australia


per Mr Graeme Kelly
General Secretary
Date: 8/4/20

Stephen Hughes
USU Manager North



Witness


Date:

For and on behalf of the Development & Environment Professionals' Association




Mr Ian Robertson
Secretary

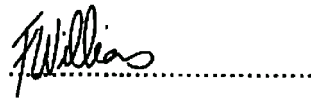
Date: 9.4.2020

Professionals'
Professionals' Association

Witness MARGARET BAYLISS
Date: 9/4/2020

For and on behalf of the Local Government Engineers Association


Mr Gordon Brock
Director
Date: 9/4/20

Ms Alycia Vasilangos
Principal Industrial Officer



Witness

Date: 9/4/20