

**REGISTER OF  
ENTERPRISE AGREEMENTS**

**ENTERPRISE AGREEMENT NO:** EA12/11

**TITLE:** Sutherland Shire Council Waste Services (Domestic Collection Employees) Agreement 2012

**I.R.C. NO:** IRC12/800

**DATE APPROVED/COMMENCEMENT:** 24 July 2012 / 24 July 2012

**TERM:** 24

**NEW AGREEMENT OR  
VARIATION:** Replaces EA09/27.

**GAZETTAL REFERENCE:** 31 August 2012

**DATE TERMINATED:**

**NUMBER OF PAGES:** 27

**COVERAGE/DESCRIPTION OF**

**EMPLOYEES:** The agreement applies to all employees employed by Sutherland Shire Council located at Eton Street, Sutherland NSW 2232, who are engaged in the domestic waste collection duties of the Council's Waste Services, (whether they are members of the Union or not) who fall within the coverage of the Local Government (State) Award 2010.

**PARTIES:** Sutherland Shire Council -&- the Transport Workers' Union of New South Wales

**ENTERPRISE AGREEMENT No.**

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SUTHERLAND SHIRE COUNCIL

and

THE TRANSPORT WORKERS UNION,  
NEW SOUTH WALES BRANCH

WASTE SERVICES EMPLOYEES

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## PARTIES TO THIS AGREEMENT

An Enterprise Agreement, made in accordance with:

- (a) the provisions of Section 32-47 of the Industrial Relations Act, 1996 and
- (b) the Principles for approving enterprise agreements as provided by section 33(1) of the Act

The parties of this agreement are the Sutherland Shire Council and the Transport Workers Union, NSW Branch on behalf of Domestic Waste Services Employees whether they are members of the Union or not.

It is agreed by the parties as follows:-

### **1. TITLE OF THE AGREEMENT**

This Agreement shall be referred to as the Sutherland Shire Council Waste Services (Domestic Collection Employees) Agreement 2012

### **2. ARRANGEMENT**

This Agreement is arranged as follows:-

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**3. PARTIES BOUND BY THIS AGREEMENT**

This Agreement shall apply to and be binding upon the:-

- (i) Council of the Sutherland Shire: and
- (ii) Transport Workers Union, NSW Branch: and
- (iii) on behalf of the employees engaged in Council's Domestic Waste Services whether they be T.W.U members or not.

**4. SCOPE OF THIS AGREEMENT**

(a) This Agreement is to be read in conjunction with the:-

- (i) Local Government (State) Award 2010
- (ii) Sutherland Shire Council Staff Handbook, Policies & Procedures
- (iii) Job Descriptions applicable to Domestic Waste Services.
- (iv) Code of Practice – Collection of Domestic Waste, effective from 29 July 2005:  
web site  
[http://www.workcover.nsw.gov.au/](http://www.workcover.nsw.gov.au/Documents/Publications/LawandPolicy/)  
Documents/Publications/LawandPolicy/

CodesOfPractice/cop\_collection\_domestic\_waste1327.pdf  
Documents (i) through (iv) as amended from time to time

- (b) Where this Agreement is inconsistent with one of the documents specified in (a) then this Agreement shall prevail.
- (c) This Agreement rescinds and replaces any previous Agreements whether they have been registered or not in so far as they affect members of the Transport Workers Union, NSW Branch and employees engaged in Council's Domestic Waste Services.

**5. DURESS**

This Agreement was not entered into under any duress by any party to it.

**6. COMMENCEMENT AND DURATION**

- (a) This Agreement shall operate from the date of approval by the Industrial Relations Commission to the 30 June 2014. The rates of pay and other conditions referred to in this Agreement shall operate from the first pay period commencing on or after 1 July 2012.
- (b) This Agreement may be varied with the mutual consent of the parties during the nominated period of this Agreement.

**7. ACCESS**

All employees will have access to this Agreement and be able to view the provisions at their request.

**8. DEFINITIONS**

AGREEMENT – the term means the Sutherland Shire Council Waste Services (Domestic Collection Employees) Agreement 2012

COUNCIL – the term means Sutherland Shire Council

T.W.U. - the term means the Transport Workers Union, NSW Branch and those employees of this Union who are employed in Council's Waste Services undertaking domestic waste collection duties.

G.M. - the term means the position of General Manager of the Sutherland Shire Council.

G.C.C - the term means the Garbage Consultative Committee

"CALLED IN" - in Clause 13 (a) means that the driver contacts the Garbage Supervisor and records the address of a property where the bin has not been placed for collection.

**9. ANTI DISCRIMINATION**

- (i)** It is the intention of the parties bound by this Agreement 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 and age.
- (ii)** It follows that in fulfilling their obligations under the dispute resolution procedure in this agreement the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfillment of these obligations for the parties to make application to vary any provision of this Agreement which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii)** 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.
- (iv)** 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 Agreement from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon 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 with the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of adherents of that religion.”

### 10. **GRIEVANCE AND DISPUTE PROCEDURES**

#### **(i) Objectives**

The Council and the T.W.U agrees to observe the following procedures based on the provision of information and explanation, consultation, cooperation and negotiation, in order to resolve industrial disputes with a minimum of disruption to the effective operation of the Council's business.

At any stage of the procedure, the employee(s) may be represented by the T.W.U or its local representative/ delegate and the Council may be represented by the Association or nominated legal representative.

The T.W.U delegate shall have reasonable time, without loss of pay, to discuss a grievance or dispute with the Council's Management at the local level where prior approval is sought. Such approval shall not unreasonably be withheld.

A grievance or dispute shall be dealt with as follows:

- (a) The employee(s) shall notify the supervisor or other authorised officers of any grievance and dispute and the remedy sought, in writing.

- (b) 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.
- (c) If the matter remains unresolved, the employee(s) may request the matter be referred to Group Manager Engineering Operations and/or Manager Waste services for discussion. A further meeting between all parties shall be held as soon as practicable.
- (d) 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.
- (e) 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 Local Government and Shires Association or legal representative for further discussion between the parties.

The Industrial Registrar may be advised of the existence of a dispute at any stage of this procedure.

During this procedure and whilst 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.

**(iv) Dispute settlement procedures - general matters**

Where the GM is aware of any issue that has, or has the potential of having implications for a number of employees of Council covered by this Agreement, the GM shall arrange to discuss the matter with the T.W.U.

**11. RATES OF PAY**

After the signing of this Agreement the pay scales for employees covered by this Agreement will be as follows, and unless otherwise specified, will include all allowances and over-Award payments within the base rate.

It is agreed that the rates of pay contained in this Agreement shall apply to all permanent employees covered by this Agreement employed by Council as at the date of signing this Agreement. Negotiations for the next Enterprise Agreement must commence 6 months prior to the expiration of this Agreement. If these negotiations have not been completed 6 months after the expiration of this Agreement, then a pay increase of 2½% will be paid to all employees, backdated to the date of expiration of this Agreement. If these negotiations have not been completed 12 months after the expiration of this Agreement, then a further pay increase of 2½% will be paid to all employees. Increases granted in accordance with this clause are to be absorbed into any negotiated wage increase applying from 1<sup>st</sup> July 2015.

- (a) All allowances prescribed within Clause 12 'Skills/ Performance Based Pay' will increase by the same percentage as that prescribed within this Agreement for pay rates.



These pay scales are to apply from the first complete pay period commencing on or after the 1<sup>st</sup> July 2012

Classification	Rate per Week	Sick Leave Payment	Base Rate per Week
One Man Operator	967.20	50.89	1018.49
Rear Loader Driver	967.20	50.89	1018.49
Offsider	803.25	48.53	851.78

These pay scales are to apply from the first complete pay period commencing on or after the 1<sup>st</sup> July 2013

Classification	Rate per Week	Sick Leave Payment	Base Rate per Week
One Man Operator	998.63	52.54	1051.17
Rear Loader Driver	998.63	52.54	1051.17
Offsider	829.36	50.11	879.47

## 12. SKILLS/PERFORMANCE BASED PAY

The performance based pay structures offered below are underpinned by continued productivity improvements being achieved. Both staff and management will bring matters pertaining to proposed operational change including bin collections (type and location), reblocking of runs and any other proposed operational change during the life of this Agreement to the Garbage Consultative Committee (GCC) for consultation prior to being put into effect by agreement.

Employees may be required to pick up a minimum of 1100 putrescible garbage bins each day and drivers will absorb any increase in the number of bins during the life of the Agreement. The maximum load to be collected without the payment of a bonus is 800 bins or as determined by the GCC. A bonus of 31 cents per bin will be paid for each bin over 800 bins picked up on any one day. It is also agreed that this bonus is a standard rate and penalty rates do not apply.

Drivers collecting Greenwaste, recycling waste or attending to missed services as well as assisting Greenwaste and recycling pickups will be paid a bonus of \$28.00 per day worked in consideration of the extra paper work required for recording data relating to contaminated bins and for the tagging of bins. A further bonus of \$42.90 per day worked will be paid, provided the Greenwaste and/or recycling presented for disposal attracts the lowest gate fee for the disposal of greenwaste and recycling at the receiving facility. One off errors as a result of incorrect weight sensors in trucks will not carry a penalty. Council acknowledges that where staff demonstrate reasonable effort that such effort will not attract a penalty. The removal of the allowance is designed for instances where an

employee continually overloads the truck. Two instances of overloading on the one day will result in non payment of the \$42.90 bonus for that day.

The number of bins per load is to be determined by the GCC and when these load limits have been set, they must be adhered to.

Employees will be given appropriate training to allow them to advance to more highly paid positions. Promotion will be based on competency and a vacancy being available. Employees agree to undertake appropriate skill competency tests. Data Loggers will be used to assist in driver training and collection of relevant information on daily activities.

The parties to this Agreement agree to analyse the waste services operations of the Council on an ongoing basis, to ensure continuous improvement within the Waste Services Unit.

Every permanent employee will be required to hold a current Class HR driver's licence.

Permanent offsideers must be capable of operating automated garbage trucks and may be assigned to those duties as required. Once the employee has worked greater than 60 % of ordinary hours over a three month period performing driving duties, the employee is to be reclassified as a driver.

Where Council requires an employee to relieve in higher positions for a period greater than three months, an Expression of Interest for the higher position will be sought from Domestic and Non Domestic permanent and casual employees. Those selected would be paid the appropriate rate prescribed by this Agreement as well as the terms and conditions applicable to this Agreement.

It is agreed that all employees will undertake a medical examination at Council's discretion with Council's Doctor as required, to ensure that they are not at risk of injury in accordance with the OH&S Act. Any employee who is at risk of injury will be redeployed in accordance with Council's redeployment policy.

When productivity bonus referred to above is claimed, no overtime is payable. Where the hours of work exceed the standard daily hours for any employee, that employee may claim overtime in lieu of the productivity bonus.

Where a number of operators complete a run, the total "claims" for the number of bins for that run cannot exceed the number recorded. In the event that there is a discrepancy, the supervisor will make the necessary corrections.

In the case when a block or a street of bins is "missed", these bins will be deducted from the operator who "missed" the bins. The driver who

returns to collect the block or street of bins will be paid at the productivity rate

Additional collections may be assigned to any operator in addition to their usual workload. Such additional collections to be paid at the agreed productivity rate. No operator will be required to work longer than 11 hours per day.

Employees are required to work a reasonable amount of overtime. The requirement to work reasonable overtime will have regard to: any risk to employee health and safety; the employee's personal circumstances, including any family responsibilities; the needs of Council; the notice given by the Supervisor of the overtime and by staff member of his or her intention to refuse it; and any other relevant matter. If unable to work overtime on any given day, employees are to notify the Operations Controller as early as practicable – which would mean, wherever possible, the day preceding.

A refusal to work overtime on a specific day, for example every Wednesday, is unacceptable.

Greenwaste Drivers are to work as a team. Greenwaste Drivers are not to end the shift until the last Greenwaste bin is emptied, unless authorised to do otherwise by the Operations Controller.

Recycling Collection Drivers are to work as a team. Recycling collection drivers are not to end the shift until the last Recycling bin is emptied, unless authorised to do so by the Operations Controller.

### **13. COLLECTION SCHEDULE**

Rapid Rail Operators will be required to complete the "Rapid Rail Operator's Productivity Claim Form" on a daily basis.

All drivers are required to complete all forms and paperwork as directed.

All drivers will be required to complete a daily report sheet detailing the day's operation.

It is agreed that garbage services throughout the Sutherland Shire will be "re-blocked" to allow an even distribution of collections throughout the week. The compilation of these runs will be by mutual agreement of the GCC. It is also agreed that each run will have a proportion of high and medium density development to service.

Council reserves the right to "re-block" any run as may be deemed necessary by the Waste Services Manager, following consultation with the GCC.

Collection routes for each run will be established within six months of re-blocking. There will be no departure from the established route, unless approved or directed by the operations controller.

No vehicle will be permitted to depart Bath Road Depot prior to 5:50am (except if specifically directed by the operations controller).

#### **14. COLLECTION METHODS**

There are no minimum manning requirements for any operation.

It is acknowledged that clean up collection methods may be varied due to:-

- \* Acquisition of alternative plant
- \* Waste minimisation initiatives
- \* Changed customer requirements

##### **a) Missed Services**

It is agreed that some services reported as being "missed" have not been collected due to residents failing to place the bin out for collection on time. Nonetheless, all reported missed/incomplete/spillage services must be collected as part of the daily work schedule.

The driver who is assigned to pick up the bin will be paid \$2.84 per missed service at the discretion of the Operations Controller.

It is agreed that the operator as directed by the Operations Controller will collect all "missed" services reported as being missed/incomplete/spillage, by the following day.

If it is found that the resident is regularly requesting a pick up of a missed service, then Council will advise the resident in writing that the bin will not be picked up.

##### **b) Unserviceable Bins**

Where a bin is unable to be serviced due to the type, volume or weight of material in it, the operator will place the appropriate notification attached to the bin. The operator will also immediately notify the operations controller of any such occurrence.

##### **c) Spilt Garbage**

Where garbage has been spilt from bins prior to or during collection, the operator will replace the spilt contents into the bin and empty the bin

accordingly. The requirement to collect spilt garbage will apply to 15 bins per day per operator.

#### **d) Inaccessible Bins**

Where bins on a normal collection run are rendered inaccessible by parked cars or the like, then the operator will be required to reposition the bin and empty the contents into the garbage compactor. The operator will proceed to place an appropriate notice, as provided by Council, on any bin and/or car involved. If on more than two occasions there is a repetition of a similar nature involving the same bin and/or car, the operator will notify the operations controller who will take all available steps to resolve the situation.

The requirement to service inaccessible bins will apply up to 15 bins per day per operator. In home unit areas, and designated medium density development sites, all bins placed out for collection are to be serviced regardless of the bins' position or accessibility.

#### **e) Clean-up Materials**

Where clean up materials have not been left out in accordance with the clean up notice delivered to residents, the driver will leave the appropriate notification to the resident and note the address on the daily run sheet. The Operations Controller shall make the final decision as to whether such materials remain uncollected.

#### **f) Compaction of Garbage Materials - Rapid Rail vehicles**

The body of a Waste Collection vehicle is not to be raised to assist in compaction. It is agreed that severe disciplinary action (including the issuing of a final warning) will occur for employees identified as using this practice.

### **15. HOURS OF DUTY**

The standard working day for permanent employees will be 8 hours 27 minutes, based on a nine-day fortnight from Monday to Friday. The hours of work will be from 5.30am to 2.30pm for 9 days and a paid rostered day off each fortnight. For new employees, this RDO day can be on any day of the week. It may not necessarily fall on a Monday or Friday. Payment for work on a Saturday or Sunday will be at overtime rates in accordance with the Local Government (State) Award.

The practice of leaving the yard when work is completed before the end of shift will only apply to

56002	WEIGAND	Larry
56003	OWEN	Graeme Hugh
56004	KING	Kerry Michael
56005	TOWNSEND	Leslie Alan
56006	MERILLO	Sam
56007	LOTZE	Robert John
56008	FOGARTY	Darrin John
56011	BELL	Leslie
56012	JONES	Craig Barry

No employee will be able to work their RDO to obtain payment, unless in accordance with Clauses 22 or 23 of this Agreement (Sick Leave, Personal Leave). No additional payment will be made for working an RDO day unless directed. The rostered day off (ie. the 10th day in each fortnight) will be staggered for various groups of employees, to ensure that an adequate supply of labour is available each day to meet Council's requirements.

All employees will be required to take the rostered day off on a fortnightly basis. There will be no accrual of actual hours worked, except in special circumstances as approved by the Operations Controller. Employees will have a fixed RDO unless permitted by the Waste Services Manager to take an alternative day. Where a rostered day off falls on a public holiday, the employee will take that day off as an RDO and accrue a day in lieu.

Council and the Union agree that working hours and lunch break can be varied if necessary, providing it is mutually agreeable to both parties and is in accordance with the law. Lunch breaks are to be taken during the shift, not at the end of the shift. The practice of adding half an hour to the finish time is not permitted.

It is agreed that drivers may start early on Christmas Day and Good Friday, subject to the opening hours of the tip. The commencing time will be negotiated from time to time by the Garbage Consultative Committee.

When occasional operational difficulties occur, starting and finishing times may be altered (with 24 hours notice), by the Waste Services Manager.

A system will be implemented whereby the statistics are examined concerning

- mechanical problems,
- accidents,
- complaints recorded.

Where vehicles are not available for employees to carry out their normal duties, such employees may be assigned alternative duties as determined

by the Operations Controller. Such duties to be carried out until the completion of the standard hours of work.

**16. PUBLIC HOLIDAYS**

For all employees, public holidays will be considered as part of the normal working week and will be worked as normal and will be dealt with as follows:-

- a) For employees employed who work on a public holiday they may elect to be paid double time and one half or payment of time and one half will be paid and the employee will accrue a day in lieu.

**17. DRIVERS LICENCE**

Separate payment for licences/permits will not be made as they are incorporated in the employees' rate of pay.

**18. CONDITION OF REAR LOADER AND SIDE LOADER VEHICLES**

Where required and washing facilities are provided at either Lucas Heights Tip or Bath Road/Ethell Road Depots, the internal area of the compactor shall be thoroughly cleaned by the operator prior to the completion of each day's work at the designated wash area. Any contents dislodged from the compactor are to be collected by the driver and deposited in the container supplied.

The vehicle (cab chassis and compactor body) is to be hosed down to remove any mud etc picked up by the vehicle. The arm is to be hosed down and any debris is to be removed from the lifting mechanism. Cleaning of the cabin interior will be the driver's responsibility. Council will supply cleaning materials

All drivers are required to fuel their vehicle at the completion of each day's work. When this is not possible, vehicles are to be refuelled prior to leaving the depot for the following day's work.

Vehicle inspections are to be carried out by the driver in accordance with the vehicle inspection schedule. The completed inspection form shall be delivered to the operations controller at the end of each shift.

The cabin of each truck shall be kept clean and free from dirt and litter.

It is the responsibility of each driver to be aware of and ensure that vehicles do not exceed RTA weight limits. Where any breach is incurred and the driver knowingly has overloaded the truck and where it is found that the driver has loaded the vehicle in excess of the agreed number of bins per load as indicated in Clause 10 (unless authorised by the Supervisor), the driver of the vehicle will be responsible for the payment of any penalties.

It is agreed that employees will provide all practical assistance to mechanical staff attending break downs in the field. Such assistance includes any necessary work required to make safe or clear the area in the vicinity of the break down, (e.g., such as the spreading of sand on oil spills the clearing of spilt garbage, moving off main roads where possible and positioning safety triangles in accordance with road site set up practices).

It is agreed by the parties that staff and management will work together and carry out adequate consultation to determine the most appropriate operational vehicles required to be purchased from time to time.

**19. ALLOWANCES INCLUDED IN RATE OF PAY**

Council will include all allowances that are regularly received by an employee in his or her rate of pay.

**20. EMPLOYEE ASSISTANCE PROGRAMME**

An employee assistance program is in place to provide counselling and ongoing support to employees with personal or work related problems.

**21. CONTINUOUS IMPROVEMENT**

All employees agree to be fully involved in Council's programs and processes for continuous improvement. All employees are committed to seek continuous improvement by;

- . Developing a positive attitude
- . Accepting change
- . Making suggestions to achieve improvement
- . Identifying and solving problems at the closest point of action
- . Taking advantage of training

a) Job Redesign/Work Enhancement

Employees and management agree to the principles of the job redesign/work enhancement process which concentrates on increased employee involvement, multi-skilled work teams and the encouragement of all employees to seek continued improvement in all aspects of Council Business, as well as developing their own personal abilities.

b) Customer Importance

Employees and management recognise the importance of "customers" in our operating environment both internally and externally.

c) Teamwork



Employees and management support the fundamental principle of working in teams. Through training, teams will have greater opportunities to expand and accept responsibility for their own work units, projects and assignments.

During normal working hours as specified in Clause 15 of this Agreement and in addition to normal collection duties, **all employees** must attend discussion/training sessions up to 1 hour per fortnight when required, for the purposes of giving feedback and gaining knowledge on the collection operations. Payment for such training is incorporated in the base rate of pay.

Longer training programs where the employee will be taken off the job will also occur.

Where any employee is required to attend training program(s) in lieu of normal collection duties, the base rate of pay will apply.

## **22. SICK LEAVE/CARERS LEAVE**

The sick leave system will operate as follows: -

### For Permanent Employees with more than 12 months permanent service

- (i) Council will provide unlimited paid sick leave of up to 104 weeks in total on the proviso that :
- The safety net is not available for Carers Leave
  - The employee agrees to participate in Council's rehabilitation program to assist them to an early return to work
  - The employee acknowledges that the provision of up to 104 weeks of sick leave would only occur in an extreme case and that the safety net is an interim payment made until the employee is fit to return to work under the provisions of the abovementioned rehabilitation program
  - If the period of sick leave is to be six working days or more (inclusive of RDO and public holidays) (the only time the safety net will apply), then the employee will provide a medical certificate from a registered medical practitioner together with a letter of written application for access to the safety net which is presented to the Garbage Consultative Committee for their determination.
  - The Garbage Consultative Committee will review, approve or deny all sick leave applications of six working days or more and, if necessary, use the provisions of Clause 19A(iii) of the Local Government State Award 2007 in requesting the employee to attend Council's Doctor for further medical advice prior to approval or denial of the safety net application.
  - The standard working week for Waste Services staff will be Monday to Friday for the purposes of this clause.
  - The access to this clause is dependant on one consecutive illness or injury to determine the six day threshold.

- (ii) Any period of leave covered by a medical certificate that is 6 working days or more duration shall be paid as sick leave in accordance with the commitment under (i) above.  
5 days sick leave (42 hours 15 minutes) without a medical certificate will be allowed each 12 months either as ½ days, single days, or multiple day absences.

For any of the five days untaken in the 12 month period, employees will be given the choice of either:

- a) Preserving the entitlement and carrying it into the next year to be used in addition to the 5 days available in that year; or
- b) Payment as a good attendance bonus equivalent to the balance of the threshold 5 days sick leave not taken as at the end of the sick leave year.

If the employee wishes to preserve the benefits from one year to another and then request payment for those periods in the next year, they may do so.

When any more than the 5 days (or other accumulated days) above have been taken in any one 12 month period, any other periods up to a maximum of 5 days must be covered by a medical certificate from a registered medical practitioner and this leave must be taken from some other form of leave; ie., time in lieu, changed RDO (where this is convenient to the organisation), annual leave, long service leave.

Any "unused portion of accumulated sick leave" entitlement as at 1 April 1994, may be used for this purpose until that form of leave is exhausted. Prior to using any unused portion of the accumulated entitlement, the 5 days referred to above must be exhausted.

If the sick leave entitlement referred to above is exhausted and a doctors certificate is provided, it will be deducted and paid from some other form of accrued leave, namely personal leave, annual leave and long service leave in that order. This same process will occur if a doctors certificate is not provided, however, formal disciplinary processes will commence and further review of the employee by Council's doctors to determine the circumstances of the emerging pattern of absenteeism.

Council will also provide a system whereby an employee who has been required to take some form of leave ie. Annual Leave, Long Service Leave to cover a sick leave absence will be able to "make up" time to allow reinstatement of the leave if necessary. This will be by working an RDO or additional time (required by the organisation) and accruing time in lieu for the absence.

- (iii) Included in the rates of pay specified in Clause 11 of this agreement, permanent full time employees classified as Drivers will be eligible for a payment of \$50.89 per week which will be incorporated into the base rate of pay. All other employees will be eligible for a payment of \$48.53 per week, which will be

incorporated into the base rate of pay. If any change is made to this sick leave clause in future Enterprise Agreements, then this payment will be renegotiated to reflect the change.

### New Permanent Employees

Employees in their first 12 months of service will be entitled to five days leave (42hours 15minutes) without a medical certificate which may be taken as either half days, single days or multiple days absences.

For any of the five days untaken in the 12 month period, employees will be given the choice of either:

- i) Preserving the entitlement and carrying it into the next year to be used in addition to the 5 days available in that year; or
- ii) Payment as a good attendance bonus equivalent to the balance of the threshold 5 days sick leave not taken as at the end of the sick leave year.

If the employee wishes to preserve the benefit in one year and then request payment for the period in the next year in addition to that year's entitlement, they may do so.

When any more than the 5 days have been taken in any one 12 month period, any other period must be covered by a medical certificate from a registered medical practitioner and this leave must be taken from some other form of leave; ie., time in lieu, changed RDO (where this is convenient to the organisation), annual leave, long service leave.

No other sick leave entitlements will be available in the employees' first 12 months.

## **23. PERSONAL LEAVE**

Paid Personal Leave of up to 6 days per annum can be taken with 48 hours prior notice, subject to approval of the operations controller.

It is agreed that annual leave loading and compassionate leave is included as part of the Personal Leave entitlement. If an employee wishes to take Annual Leave Loading as a payment they may do so provided they give notice to the Pay Office supervisor by the 1<sup>st</sup> February in any year. An employee may also be paid any or all of their Personal Leave entitlement concurrent with the lodgement of an application for at least one days annual leave.

Personal Leave can be taken in minimum periods of one hour.

**24. CASUAL EMPLOYEES**

It is agreed that casual employees performing the duties set out in Clause 11 of this Agreement will be engaged from a common pool of casual employees who are engaged on a casual basis within various areas of Council's operations, dependant on their level of skills.

It is agreed that casual employees will be paid for the hours worked (Monday to Sunday, including Public Holidays) at the appropriate wage rates specified in Clause 11 of this Agreement, plus a 25% loading which is intended to compensate for all leave entitlements and severance as prescribed under the Local Government State Award 2010 or as amended or replaced. Overtime to be calculated on a daily basis, after 8 hours work, as per permanent employees.

Penalty rates for weekend hours worked for casual staff are to be observed and paid in accordance with the provisions contained within the Local Government State Award 2010 as amended or replaced.

**25. COMMITMENT**

The T.W.U undertakes that for the life of this Agreement, there shall be no further claims of any kind relating to wage rates and employment conditions, except for those granted under the terms of this Agreement.

This Agreement shall not operate to cause an employee to suffer a reduction in ordinary time earnings, or departure from the standards of the NSW Industrial Relations Commission in regards to hours of work, annual leave with pay, long service leave with pay.

The parties to this Agreement are committed to ensuring all processes and strategies undertaken and implemented in accordance with this agreement will be with the parameters of the EEO and WHS Acts.

**26. ANNUAL LEAVE**

Four weeks annual leave will be provided after each 12 months service for permanent full time employees. All leave will be paid at the base rate.

The maximum entitlement for both normal and pro-rata annual leave will be 8 weeks. When an employee has accumulated greater than 8 weeks, then they will be required to take any period of annual leave which has accrued within 1 month of it falling due. This includes pro-rata entitlements.

**27. LONG SERVICE LEAVE**

Employees will not be required to take long service leave within five years of it falling due.

## **28. OVERTIME AND PUBLIC HOLIDAYS**

### Time Off in Lieu of Overtime

It is agreed that time off in lieu of overtime or time worked on public holidays can be granted in lieu of payment, provided both Council and the employee agree. Time will be accrued on the basis at which it is worked; ie, for each hour worked, one hour of time in lieu will accrue (no overtime rates are payable). Time in lieu of up to 5 days debit or credit may occur.

### Time in Lieu of Productivity

It is agreed that time in lieu may be made up by picking up additional bins. It is agreed that 100 bins extra will be required to be picked up for each 1 hour time in lieu.

## **29. DISCIPLINARY PROCEDURE**

Where an employees work performance, sick leave pattern or conduct is considered unsatisfactory the Disciplinary and Counselling procedure attached as Annexure 1 to this Agreement will be followed.

## **30. DISCIPLINARY PROCEDURE FOR NOT WEARING SAFETY GEAR**

Specific disciplinary procedure for not wearing or using safety equipment will apply. The disciplinary procedure will be as follows:-

- (a) If an employee fails to wear or use safety equipment as required by Council, he/she will be given a verbal warning by his/her supervisor or Manager. A written record will be kept of this warning in the Supervisors own notes.
- (b) If he/she again fails to wear or use safety equipment on a second occasion he/she will be given a second verbal warning by his/her supervisor or Manager. Notification will then be made to the appropriate Safety Committee to allow the Committee to arrange appropriate training of the employee if necessary.
- (c) If the employee again fails to wear or use appropriate safety equipment, then he/she will be warned in writing by the Director.
- (d) If the employee again fails to wear or use appropriate safety equipment, then he/she will be suspended with a loss of one day's pay.
- (e) If the employee again fails to wear or use appropriate safety equipment within six months of the one day suspension, he/she will be suspended for three days without pay.
- (f) If the employee again fails to wear or use safety equipment within six months of the second suspension, then termination of the employee will occur in accordance with the Award.

**31. WORKERS COMPENSATION PAY**

- (i) The base rate paid in relation to a workers compensation claim shall be the base rate of pay in accordance with this agreement; ie. the pay level applicable when any form of leave is taken.
- (ii) Workers Compensation claims will be handled expeditiously by Council as a self insurer. Payment for workers compensation claims will be made as soon as the claim is accepted by Council following appropriate medical advice. If a claim is denied by Council, then sick pay can be claimed in accordance with the provisions of Clause 22 (sick leave). Payment of sick leave will be made only after the claim has been processed and declined.
- (iii) If a casual employee is absent from duty and such absence arises from circumstances which have a right to compensation, the employee will be paid their average weekly base rate for a period of up to twenty six weeks. This average is calculated using their weekly pay over the twelve months immediately preceding the commencement of their absence or over their period of employment with Council, whichever is the greatest.

**32. WET WEATHER CLOTHING**

The Council shall supply to all employees wet weather clothing as mutually agreed and required from time to time by the parties to this Agreement.

**33. REDUNDANCY POLICY**

In the event that Council finds it necessary, following consultation with the Union to reduce its workforce through retrenchment/redundancy of employees, the following conditions will apply.

**(i) Employees who commenced prior to 1st April 1977,**

- a) a severance payment of four (4) weeks pay will be made  
PLUS
- b) a service related payment of three (3) weeks per completed year of service will be made  
PLUS
- c) A gratuity payment will be paid in accordance with Council's Policy.

**(ii) Employees who commenced after 1st April 1977**

- a) a severance payment of four (4) weeks pay will be made  
PLUS
- b) a service payment of four (4) weeks pay per year of service will be made with a cap of 52 weeks payment. For those employees who were employed prior to 1st December 1997 and who are disadvantaged by the cap of 52 weeks payment, as they have a greater entitlement than 52

weeks based on years of service, will be provided with a service related payment of 3 weeks per year unlimited.

- c) Employees with greater than 13 years of service as at 1st December 1997 will have the option of requesting 3 weeks per year of service in the future if their entitlement to service payment is greater than 52 weeks using this multiplier.
- d) Employees with less than 13 years service as at 1st December 1997 shall have an entitlement to a service payment of 4 weeks per year of service with a cap of 52 weeks.

**(iii) All employees**

- a) It is agreed that the Retrenchment process will be applied to all positions of classifications under Clause 11 Rates of Pay of this Agreement that are identified as being redundant.
- b) For all employees whose employment is covered by this Agreement at the date of being redundant, a payment of \$400.00 per completed year of service will be made. Employees with six months or greater service will be eligible for pro-rata entitlements based on completed months of service. ie. if an employee has eight months service, he/she will be entitled to 8/12 of \$400-00.
- c) The year of service payment will be pro-rated on a monthly rest basis based on the employees' commencement date.
- d) The calculation of service years will be made from the employees' commencement date to the date on which the employee exits the organisation.
- e) An "outplacement service" to a value of \$3,000-00 will be provided to those employees who are made redundant.

This service can include

- i) Counselling
  - ii) Resume preparation
  - iii) Travelling expenses for interviews
  - iv) Interview expenses and fees
  - v) Training and re-training
- f) It is agreed that the 4-week notice period can be worked by the employee at the discretion of Council. During the 4 week notice period time off to attend interviews will be provided.
  - g) Payment of all annual level entitlements (including pro-rata)

- h) Payment of all Long Service Leave entitlements (including pro-rata).
- i) Payment of cumulative sick leave in accordance with State Legislation, the Award, this Enterprise Agreement, conditions of employment and entitlements
- j) Superannuation - entitlements to be based on a “retrenchment” notification being forwarded to the appropriate Superannuation Board.
- k) Employees to be retrenched will be given as much notice as possible of impending redundancy, but will be given a **minimum** of four weeks notice.
- l) Payments shall only be made to an employee whose position is declared redundant by Council, and provided such employees terminate their services on the date nominated by Council.
- m) If Council agrees to any redundancies, applications for Expressions of Interest can be made. However, agreement between the Union and Council will occur on who will be offered the redundancy package.
  - n) Once an employee indicates a willingness for “voluntary” redundancy and agreement is reached between representatives of the union and Council that they can be made redundant, then that employee must accept redundancy.
- o) The rate of pay to be applicable for redundancy/retrenchment payment is to be the base rate of pay.

**34. LEAVE REQUIREMENTS**

- (i) Employees who absent themselves from duty either due to sickness or other circumstances, shall advise Council prior to commencement of such absence, and if not, as soon as practicable, having regard to any extenuating circumstances, giving the reason and, where possible, the expected duration of the said absence.
- (ii) An employee who absents himself/herself in excess of five consecutive working days without prior approval or without notifying Council in accordance with sub-clause (i) of this clause, or due to sickness, accident or other extenuating circumstances satisfactory to Council. (subject to Council endeavouring to contact the employee by registered letter to his last address notified to Council, and failing a reply to such letter within two weeks), shall be deemed to have abandoned his employment. Subject to the Local Government State Award he/she will have their employment terminated.
- (iii) An employee who repeatedly absents himself/herself without prior approval or without notifying Council in accordance with sub-clause (i) of this clause, or due to sickness, accident or other extenuating circumstances as satisfied by Council, and after the disciplinary



procedure has been followed, shall be liable to have his employment terminated subject to the Local Government State Award.

**35. INDUSTRIAL CLOTHING**

All employees covered by this Agreement will be supplied with 5 sets of shirts and trousers and safety boots and a hat as required. They will be Council set issue as a formal uniform.

Clothing and safety equipment (including safety boots) which are "worn out" will be replaced when returned to the store. A decision on whether clothing is worn out will be made by the Head of the Store following a recommendation from the employees' supervisor. Any dispute will be referred to the Manager for decision.

It is further agreed that any employee who is required to work outside the vehicle will refer to Council's Sun Protection Policy.

**36. PAYMENT OF COUNCIL RATES BY DEDUCTION**

Council will allow employees the opportunity to pay rates by deduction from the employees' pay providing the payments are made in the following manner: -

- (i) The total initial quarterly payment is made by the due date.
- (ii) Other payments are made by payroll deduction so that they satisfy the quarterly payment due date.
- (iii) No receipts shall be issued other than pay slip.

To allow the initial quarterly payment to be made an initial quarterly payment will be required.

If for some reason the total quarterly payment is not able to be deducted from the employees pay, then the employee must make up any arrears payable otherwise daily interest will accrue.

**37. SIGNATORIES**

Signed for and on behalf of  
Sutherland

Shire

Council

\_\_\_\_\_

John Rayner  
General Manager

Date:

\_\_\_\_\_

Witness

\_\_\_\_\_

Position

\_\_\_\_\_

Date

\_\_\_\_\_

Signed for and on behalf of  
The Transport Workers Union  
NSW Branch.

\_\_\_\_\_

State Secretary/Treasurer  
T.W.U (NSW Branch)

Date

\_\_\_\_\_

Witness

\_\_\_\_\_

Position

\_\_\_\_\_

Date

\_\_\_\_\_

## **COUNSELLING AND DISCIPLINARY POLICY AND PROCEDURES**

### **POLICY**

This policy reflects Council's commitment to improving poor performance and conduct by the employee using staff counselling and a performance management review process and that disciplinary action will only be used after the employee has been given adequate opportunity to improve.

#### **A. Employee's Rights**

Notwithstanding the procedures below, an employee shall:

- (i) Have access to their personal files and may take notes and / or obtain copies of the contents of the file.
- (ii) Be entitled to sight, note and / or respond to any information placed on their personal file, which may be regarded as adverse.
- (iii) Be entitled to make application to delete or amend any disciplinary or other record mentioned on their personal file that the employee believes is incorrect, out-of-date, incomplete or misleading.
- (iv) Be entitled to request the presence of a union representative and / or the involvement of their union at any stage.
- (v) Be entitled to make application for accrued leave for whole or part of any suspension during the investigation process.

#### **B Employer's Rights and Obligations**

Notwithstanding the procedures contained below, a council shall:

- (i) Be entitled to suspend an employee with pay during the investigation process provided that:
  - (a) The suspension shall not effect the employee's continuity of service for the purposes of accruing leave entitlements.
  - (b) Council shall not unreasonably refuse an application for paid leave under this provision.
  - (c) By agreement an employee may be transferred to another position or place of work.
- (ii) Properly conduct within one week an investigation into the alleged unsatisfactory work performance or conduct.
- (iii) Be entitled to take other disciplinary action before and / or during the procedures in cases of misconduct or where the employee's performance warrants such action.
  - (iv) In appropriate circumstances be entitled to terminate an employee's services in accordance with the Termination of Employment clause in the Local Government and Shires (State) Award.

- (v) Be entitled to request the presence of a union representative at any stage.

## **C. PROCEDURES**

**This Counselling and Disciplinary procedure is based on a five (5) step process. The initial step is a verbal warning, the second, third and fourth steps are written warnings. If the employee does not respond to counselling following the final warning, then suitable disciplinary action can be taken as the final step.**

If the employee does not re-offend for specified periods throughout the process, they regress back through the disciplinary steps until the offences are no longer taken into consideration.

The employee shall be advised in writing of the required time needed for the offences no longer to be taken into consideration. All correspondence relating to the Disciplinary Process will remain on the employee's file for the benefit of all parties.

### **Step 1 Initial Verbal Warning**

Where an employee's work performance or conduct is considered unsatisfactory, the employee shall be informed in the first instance verbally, by the employee's immediate supervisor or other appropriate officer of Council. They shall be counselled on the nature of the unsatisfactory performance or conduct and of the required standard to be achieved.

Unsatisfactory work performance or conduct shall include, but not be limited to, neglect of duties, breach of discipline, absenteeism and non-compliance with safety standards. A written record shall be kept on the employees' staff file of the initial warning. The employee shall be entitled to sight and sign the written record and add any notations regarding the contents of such record.

Should an employee's work performance improve satisfactorily within twelve (12) months, then the employee will be notified in writing that the offence will no longer be taken into consideration.

### **Step 2 First Written Warning**

Where there is re-occurrence of unsatisfactory work performance or conduct within 12 months of the initial verbal warning, the employee shall be given an initial (first) formal written warning.

Counselling should reinforce the standard of work or conduct expected and, where the employee is failing to meet these required standards, a suitable review period for monitoring the employee's performance; the severity of the situation; and whether disciplinary action will follow should the employee's work performance or conduct not improve. A written record shall be kept of this first formal warning and counselling. The employee shall be entitled to sight and sign the written record and add any notations regarding the contents of such record.

Where there is no re-occurrence of unsatisfactory work performance or conduct within 6 months of the first written warning, the employee's record will revert back to "Step 1" of the procedure.

From "Step 2", for the offence to be no longer taken into consideration it will require satisfactory work performance or conduct for a period of 18 months from the date of the first written warning letter.

**Step 3**      **Second Written Warning**

If the employee's unsatisfactory work performance or conduct continues or resumes within six (6) months following the first formal warning and counselling, the employee shall be given a second warning in writing giving notice of disciplinary action should the unsatisfactory work performance or conduct not cease immediately.

Where there is no re-occurrence of unsatisfactory work performance or conduct within 6 months of the second warning, the employee's record will revert back to "Step 2" of the procedure.

From "Step 3", for the offence to be no longer taken into consideration it will require satisfactory work performance or conduct for a period of 24 months from the date of the second written warning letter.

**Step 4**      **Third (final) Written Warning**

If the employee's unsatisfactory work performance or conduct continues or resumes within six (6) months following the second written warning and counselling, the employee shall be given a third (and final) warning in writing giving notice of proposed disciplinary action should the unsatisfactory work performance or conduct not cease immediately.

Where there is no re-occurrence of unsatisfactory work performance or conduct within 6 months of the third warning, the employee's record will revert back to "Step 3" of the procedure.

From "Step 4", for the offence to be no longer taken into consideration it will require satisfactory work performance or conduct for a period of 30 months from the date of the third written warning letter.

**Step 5**      **Disciplinary Action**

If the employee's unsatisfactory work performance or conduct continues or resumes within six (6) months following the third (final) formal warning and counselling, disciplinary action will commence, which may result in termination of service.

**D.      Disciplinary Action**

After complying with the requirements above, Council may:

- (i)      Demote the employee to a lower paid position, provided that the employee shall not suffer a reduction in the rate of pay for 2 weeks from the date of the demotion.

- (ii) Suspend an employee without pay from work for a specified period of time determined by the relevant Director in consultation with the Manager Personnel. The employee is entitled to make application for accrued leave for whole or part of any suspension period.
- (iii) Terminate the employment of the employee.



**MEMORANDUM OF UNDERSTANDING**

This Memorandum Of Understanding is an agreement between the following parties.

**Parties Bound:**

1. **United Services Union, (USU)** 321 Pitt Street Sydney 2000, and its authorised officers. (*"The Union"*)
2. **Transport Workers Union, (TWU)** 31 Cowper Street Parramatta 2150 and its authorised officers.
3. **Sutherland Shire Council,** 4-20 Eaton Street, Sutherland 2232 and its authorised officers. (*"The Employer"*)

The Memorandum of Understanding is between the above named organisations. It relates to employees at Sutherland Shire Council who may from time to time 'act up' in a higher grade which would give rise to them working under an Agreement negotiated between the Transport Workers Union and Sutherland Shire Council.

The Parties recognise that if any dispute or unfair dismissal arises during the period in which the USU member is acting in the higher grade position, the USU will be entitled to initiate the Grievance and Dispute Clause on behalf of the member and any other affected USU members under the Local Government (State) Award.

**Signed:** \_\_\_\_\_  
On behalf of Sutherland Shire Council

**Signed:** \_\_\_\_\_  
On behalf of the United Services Union

**Signed:** \_\_\_\_\_  
On behalf of the Transport Workers Union

On this day \_\_\_\_\_ of \_\_\_\_\_ 2009