DECISION

Fair Work Act 2009
s.185—Enterprise agreement

William Angliss Institute of TAFE T/A William Angliss Institute of TAFE
(AG2020/882)

WILLIAM ANGLISS INSTITUTE OF TAFE ACADEMIC STAFF ENTERPRISE AGREEMENT 2019

Educational services

COMMISSIONER LEE MELBOURNE, 20 APRIL 2020

Application for approval of the William Angliss Institute of TAFE Academic Staff Enterprise Agreement 2019.

[1] An application has been made for approval of an enterprise agreement known as the William Angliss Institute of TAFE Academic Staff Enterprise Agreement 2019 (the Agreement). The application was made pursuant to s.185 of the Fair Work Act 2009 (the Act). It has been made by William Angliss Institute of TAFE T/A William Angliss Institute of TAFE. The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement. The undertakings are taken to be a term of the agreement.

[3] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] The National Tertiary Education Industry Union being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisation.
The Agreement is approved and, in accordance with s.54 of the Act, will operate from 27 April 2020. The nominal expiry date of the Agreement is 19 April 2024.

COMMISSIONER

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.: AG 2020/882 William Angliss Institute of TAFE Academic Staff Agreement 2019

Applicant: William Angliss Institute of TAFE

Section 185 – Application for approval of a single enterprise agreement

Undertaking - Section 190

I, Michele Clark, Manager People & Capability for William Angliss Institute of TAFE give the following undertakings with respect to the William Angliss Institute of TAFE Academic Staff Agreement 2019 (“the Agreement”):

1. I have the authority given to me by William Angliss Institute of TAFE to provide this undertaking in relation to the application before the Fair Work Commission.

2. In relation to clause 20, Dispute Resolution Procedure, the Employer undertakes to insert the following at the end of clause 20.1.1.

   “The exclusion of termination of employment has the effect of excluding any dispute that could otherwise be dealt with by way of an application to the Commission for an unfair dismissal remedy or general protections dismissal dispute and does not have the effect of excluding any dispute in relation to the Agreement or the NES.”

3. This undertaking is provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

__________________________

Signature

17th April 2020
Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.

William Angliss Institute of TAFE
Academic Staff Agreement
2019
ABOUT THIS AGREEMENT .................................................................................................................................. 4

1. TITLE .................................................................................................................................................. 4

2. DEFINITIONS ....................................................................................................................................... 4

3. COMMENCEMENT AND NOMINAL EXPIRY DATE ............................................................................ 5

4. NEGOTIATING A REPLACEMENT TO THIS AGREEMENT ....................................................................... 5

5. APPLICATION AND SCOPE .................................................................................................................. 5

6. RELATIONSHIP TO AWARD AND NATIONAL EMPLOYMENT STANDARDS (NES) .................... 6

7. NO EXTRA CLAIMS COMMITMENT ....................................................................................................... 6

8. POSTING OF THE AGREEMENT ........................................................................................................... 6

TYPES OF EMPLOYMENT AND TERMINATION OF EMPLOYMENT .............................................................. 6

9. TYPES OF EMPLOYMENT ...................................................................................................................... 6

10. EMPLOYMENT CATEGORIES .................................................................................................................. 6

11. INCIDENTS OF FIXED TERM CONTRACT OF EMPLOYMENT .................................................................. 7

12. CASUAL EMPLOYMENT ........................................................................................................................... 8

13. REQUIREMENT TO STATE TERMS OF ENGAGEMENT ........................................................................ 10

14. REDEPLOYMENT AND REDUNDANCY .................................................................................................. 10

15. NOTICE OF TERMINATION ................................................................................................................... 11

16. DISCIPLINE PROCEDURES ................................................................................................................... 12

17. INDIVIDUAL FLEXIBILITY ARRANGEMENTS ...................................................................................... 12

18. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS ..................................................................... 13

CONSULTATION AND DISPUTE RESOLUTION ............................................................................................ 14

19. CONSULTATION ..................................................................................................................................... 14

20. DISPUTE RESOLUTION PROCEDURE .................................................................................................. 16

CLASSIFICATIONS, RATES OF PAY AND RELATED MATTERS ........................................................................ 18

21. CLASSIFICATION OF ACADEMIC STAFF (MSAL) .................................................................................. 18

22. SALARY INCREASES ............................................................................................................................... 18

23. INCREMENTAL PROGRESSION .................................................................................................................. 18

24. PAYMENT OF SALARIES ......................................................................................................................... 19

25. SUPERANNUATION .................................................................................................................................. 19

26. SALARY PACKAGING ............................................................................................................................... 20

27. ACADEMIC PROMOTION ......................................................................................................................... 21

28. HIGHER DUTIES ALLOWANCE ................................................................................................................ 21

29. ACCIDENT MAKE-UP PAY ...................................................................................................................... 22

30. REIMBURSEMENT OF EXPENSES .......................................................................................................... 22
ABOUT THIS AGREEMENT

1. TITLE

This agreement will be known as the William Angliss Institute of TAFE Academic Staff Enterprise Agreement 2019.

2. DEFINITIONS

For the purpose of this Agreement:

- Academic employee means an employee appointed to an academic position and/or engaged to perform teaching and/or research.
- Act means the Fair Work Act 2009 (Cth) as amended from time to time.
- Agreement means this Agreement.
- Casual employee means an employee who is engaged and paid by the hour.
- CEO means Chief Executive Officer.
- Employee means a person to whom this Agreement applies.
- Employer means William Angliss Institute of TAFE.
- Executive Officer means employees who are employed under Government Sector Executive Remuneration Panel (GSERP) contracts.
- Fixed term employee means a person who is employed either full-time or part-time pursuant to a written contract which specifies the date the employee is to commence work and the date on which employment will terminate.
- Full-time employee means an employee who is employed to work the ordinary hours of duty prescribed by this Agreement.
- FWC means Fair Work Commission.
- Institute means William Angliss Institute of TAFE.
• NES means the National Employment Standards as contained in sections 59 to 131 of the Fair Work Act 2009 (Cth).

• Ordinary rate per hour means the hourly rate payable to an employee by applying the formula:

\[
\text{Annual Salary} \times \frac{14}{365.25} \times 76
\]

• “Partner” (Spouse) Where present throughout this Agreement, “spouse” will be read as “partner” and defined as a person who is a member of a couple, living together in a married or de facto relationship, without discrimination as to gender.

• Part-time employee means an employee other than a casual employee who is employed to work for less than 38 hours per week.

• Public Holiday means any or all of the holidays specified in clause 44

• Regulations means the Fair Work Regulations 2009 as amended from time to time.

• Union means the National Tertiary Education Industry Union.

3. COMMENCEMENT AND NOMINAL EXPIRY DATE

The Agreement will come into operation 7 days after the date of its approval by the Fair Work Commission and its nominal expiry date is 4 years from the date of the Agreement’s approval. Despite the nominal expiry of the Agreement, it will continue to apply until such time as it is terminated or replaced by another agreement.

4. NEGOTIATING A REPLACEMENT TO THIS AGREEMENT

The parties agree to re-open negotiation six months prior to the nominal expiry date of this Agreement for the purposes of negotiating a new Agreement.

5. APPLICATION AND SCOPE

The parties to this Agreement are:

(a) William Angliss Institute of TAFE;
(b) All Academic employees employed by William Angliss Institute of TAFE, except those employed as Executive Officer;
(c) The National Tertiary Education Union (NTEU) and any other bargaining representative if a notice is provided to the Fair Work Commission pursuant to section 183(1) of the Fair Work Act 2009 (Cth).
6. RELATIONSHIP TO AWARD AND NATIONAL EMPLOYMENT STANDARDS (NES)

6.1 This Agreement constitutes a comprehensive Agreement and operates to the exclusion of the Higher Education Industry – Academic Staff - Award 2010.

6.2 This agreement is not intended to exclude any provision of the National Employment Standards in the Fair Work Act, except to the extent permitted by law. To the extent that a term of this Agreement is inconsistent with section 55 of the FW Act, the term will be read and interpreted so that it is consistent with section 55 of the FW Act.

7. NO EXTRA CLAIMS COMMITMENT

It is a term of this Agreement that there will be no further claims on matters covered by the Agreement before the nominal expiry date of this Agreement.

8. POSTING OF THE AGREEMENT

The employer will keep a copy of this Agreement and any associated documents named in the Agreement for perusal by an employee(s) on the employer intranet.

TYPES OF EMPLOYMENT AND TERMINATION OF EMPLOYMENT

9. TYPES OF EMPLOYMENT

9.1 The Institute will engage a person as an employee on terms that correspond with the types of employment prescribed in clauses 10, 11 and 12.

9.2 An employee may apply to the employer for a temporary adjustment of their position time fraction. The employer may agree for a temporary adjustment of the time fraction applying to the position for a specified period of time having regard to the employee's reasons and the operational requirements of the Institute. Reversion to the prior time-fraction will occur at the conclusion of the temporary adjustment unless otherwise agreed between the employee and the employer.

10. EMPLOYMENT CATEGORIES

10.1 The standard mode of employment for an employee is ongoing. However some fixed term or casual employment will be necessary.
10.2 The Institute may engage an employee in one of the following modes of employment:
(a) ongoing employment on a full-time or part-time basis;
(b) fixed-term employment on a full-time or part-time basis as provided for in sub-clause 11; or
(c) casual employment as provided for in sub-clause 12.

11. INCIDENTS OF FIXED TERM CONTRACT OF EMPLOYMENT

11.1 Employees employed in a position or vacancy created on or after the commencement of this Agreement, may only be employed fixed term for the following reasons:
(a) When an employee is employed for a fixed period of time to replace another employee who is temporarily absent from the position (except in the case of parental leave in which case clause 11.1 (f) applies);
(b) When an employee is employed for a fixed period of time for the predominant purpose to undertake a specific project of limited duration;
(c) Where a new and/or short term program is implemented;
(d) Where reducing numbers threaten the viability of an existing program;
(e) Where an employee with current industry experience is required for a limited term;
(f) Where an employee is employed to replace an employee on parental leave, the employee will be employed for the period of parental leave approved. If the employee on parental leave returns to duty as a result of
   (i) a reduction of parental leave by agreement,
   (ii) the pregnancy ending other than by the birth of a living child, or the child dies, or
   (iii) the employee ceases to have responsibility for care of the child,
the parental leave replacement employee’s employment may cease prior to the expiration of the contract provided that 6 weeks’ notice of termination is given by the employer to the employee.

11.2 Further employment

11.2.1 Where the employee employed pursuant to 11.1 (b) to (e) has two or more years of contiguous fixed term contracts and the need for the duties to be performed continues, the employment of the employee will be converted to ongoing at the request of the employee.

11.2.2 An employee whose fixed term employment commenced prior to the commencement of this Agreement may request and be converted without undue delay to ongoing employment if that employee has had 2 or more contiguous fixed term contracts with the Institute as at the commencement of the Agreement.
12. CASUAL EMPLOYMENT

12.1 Where an employee is engaged as a casual employee they will be paid by the hour.

12.1.1 A casual employee must be engaged and paid for at least 2 hours of work for each occasion they are required to attend work by the Institute, inclusive of any incorporated time and payment for preparation or associated working time associated with teaching delivery.

12.2 A casual employee will be entitled to apply to convert to non-casual employment in accordance with clause 12.6 of this Agreement.

12.3 Subject to the terms of this Agreement, a casual employee's periods of regular and systematic employment will count as continuous service for all purposes other than annual leave and personal leave.

12.4 Casual employees are not entitled to the following benefits under the Agreement:

notice of termination; redundancy pay; annual leave; paid personal/carer’s leave; paid compassionate leave; paid parental leave; unpaid parental leave (unless they are an Eligible Casual employee); payment for absence on public holidays; and penalty rates, unless specifically provided for in this Agreement.

12.5 Casual employees will be paid the rates set out in Schedule 1 of this Agreement.

12.6 Right to request casual conversion

(a) A person engaged as a regular casual employee may request that their employment be converted to full-time employment or part-time employment.

(b) A regular casual employee is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee.

(c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months’ casual employment may request to have their employment converted to full-time employment.

(d) A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months’ casual employment may request to have their employment converted to part-time employment on a part-time basis consistent with the duties and pattern of hours previously worked.

(e) Any request under this subclause must be in writing and provided to the employer.

(f) Where a regular casual employee seeks to convert to full-time or part-time employment the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.

(g) Reasonable grounds for refusal include:

(i) that it would require a significant adjustment to the casual employee’s hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this Agreement – that is, the casual employee is not truly a regular casual employee as defined in paragraph (b);
(ii) that it is known or reasonably foreseeable that the regular casual employee’s position will cease to exist within the next 12 months;

(iii) that it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or

(iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee’s hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.

(h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.

(i) Where the employer refuses a regular casual employee’s request to convert, the employer must provide the casual employee with the employer’s reasons for refusal in writing within 21 days of the request being made. If the employee does not accept the employer’s refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 20. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.

(j) Where it is agreed that a casual employee will have their employment converted as provided for in this clause, the employer and employee must discuss and record in writing:

(i) the form of employment to which the employee will convert; and

(ii) if it is agreed that the employee will become a part-time employee, the number of hours to be worked each week and the days of the week the employee will work.

(k) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.

(l) Employees converted under this clause will not have their casual service counted as service for the purpose of calculating any other existing entitlements except for any applicable paid or unpaid parental leave or paid long service leave.

(m) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.

(n) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.

(o) Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.

(p) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.

(q) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee’s first engagement to perform work.

(r) A casual employee’s right to request to convert is not affected if the employer fails to comply with the notice requirements in paragraph (q).
12.7 Further Applications

An employee whose application for conversion is rejected will not be entitled to apply again within 12 months except where the grounds for rejection of their previous application cease to apply.

13. REQUIREMENT TO STATE TERMS OF ENGAGEMENT

13.1 Upon engagement, the employer must provide to the employee an instrument of appointment which stipulates the type of employment and informs the employee of the terms of engagement at the time of the appointment including:

(a) for employees other than casual employees, the classification level and salary of the employee on commencement of the employment, and the hours or the fraction of full-time hours to be worked;

(b) for a fixed-term employee, the term of the employment and the circumstance(s) by reference to which the use of fixed-term contract for the type of employment has been decided for that employment;

(c) for casual employees, the duties required, the number of hours required, the rate of pay for each class of duty required and a statement that any additional duties required during the term will be paid for;

(d) for any employee subject to probationary employment, the length and terms of the probation; or

(e) other main conditions of employment including the employer's name, the name of the document which governs conditions, the location of other relevant documents and the duties and reporting relationships to apply upon appointment.

14. REDEPLOYMENT AND REDUNDANCY

Redundancy process and entitlements

14.1 This clause does not apply to:

(a) casual employees; and

(b) Employees engaged on a fixed-term contract whose employment ends because of the expiry of the fixed-term.

14.2 The employer will adopt the following process to identify employees in excess of employer requirements and therefore to be considered for selection.

14.3 Subject to satisfying the requirements of Clause 19 (Consultation on Major Change) the employer will convene meetings of potentially affected employees to seek volunteers. The employer may only reject an expression of interest from any volunteer where selection of that employee creates a consequential vacancy or a deficit in the skills required for the employer's continuing function.
14.4 Where insufficient volunteers or too many volunteers are forthcoming, the employer will determine those employees in excess of its requirements taking into account the following criteria:

(a) the required qualifications, skills and abilities between employees as required for the continuing operation of the program;

(b) any special qualifications or aptitude for the position/s continuing to be required to be performed by the employer; and

(c) any reasons, including compassionate grounds, advanced by an employee as to why they should not be considered for redeployment.

14.5 The employer will not redeploy an employee into a position outside of the employee's discipline expertise unless the employee consents to the redeployment.

14.6 Provided that where a decision is to be made about employees who are otherwise considered equal in relation to these criteria, the employee to be identified as excess to employer requirements will be that person whose selection causes the least disruption to the continuing operation of the employer.

Redundancy pay

14.7 An employee is entitled to redundancy pay in accordance with Public Sector Industrial Relations Policy 2015, as amended from time to time.

15. NOTICE OF TERMINATION

15.1 An ongoing employee will provide the employer four weeks' notice in writing of an intention to terminate their employment.

15.2 Where the employer gives notice of termination it will be in accordance with the NES with the period of notice specified in the table below.

<table>
<thead>
<tr>
<th>Period of continuous service</th>
<th>Period of notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year or less</td>
<td>1 week</td>
</tr>
<tr>
<td>More than 1 year but not more than 3 years</td>
<td>2 weeks</td>
</tr>
<tr>
<td>3 years and up to the completion of 5 years</td>
<td>3 weeks</td>
</tr>
<tr>
<td>5 years and over</td>
<td>4 weeks</td>
</tr>
</tbody>
</table>

15.3 In addition to the notice in clause 15.1, employees over 45 years of age at the time of the giving of the notice with not less than two years continuous service, will be entitled to an additional week's notice.

15.4 Time off during notice period

An employee other than a casual or a fixed term employee who has received notice of termination of employment due to redundancy will be granted reasonable leave with full pay during the notice period to investigate alternative job offers or seek appropriate advice or counselling on early retirement.
16. DISCIPLINE PROCEDURES

16.1 The Academic Staff Disciplinary Procedure will apply to Academic employees.

17. INDIVIDUAL FLEXIBILITY ARRANGEMENTS

17.1 An employee and the employer may enter into an individual flexibility arrangement pursuant to this clause in order to meet the genuine needs of the employee and employer. An individual flexibility arrangement must be genuinely agreed to by the employee and employer.

17.2 An individual flexibility arrangement may vary the effect of the following terms in this Enterprise Agreement:

(a) Arrangements about when work can be performed;
(b) Allowances; and
(c) Leave loading.

17.3 An employee may nominate a representative to assist in negotiations for an individual flexibility arrangement.

17.4 The employer must ensure that any individual flexibility arrangement will result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.

17.5 The employer must ensure that an individual flexibility arrangement is in writing and signed by the employee and employer. If the employee is under 18, the arrangement must also be signed by a parent or guardian of the employee.

17.6 The employer must give a copy of the individual flexibility arrangement to the employee within 14 days after it is agreed to.

17.7 The employer must ensure that any individual flexibility arrangement sets out:

(a) the terms of this Enterprise Agreement that will be varied by the arrangement;
(b) how the arrangement will vary the effect of the terms;
(c) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and the day on which the arrangement commences.

17.8 The employer must ensure that any individual flexibility arrangement:

(a) is about matters that would be permitted matters under section 172 of the Act if the arrangement were an Enterprise Agreement;
(b) does not include any terms that would be an unlawful term under section 194 of the Act if the arrangement were an Enterprise Agreement; and
(c) provides for the arrangement to be terminated:

(i) by either the employee or employer giving a specified period of written notice, with the specified period being not more than 28 days; and

(ii) at any time by written agreement between the employee and employer.

17.9 An individual flexibility arrangement may be expressed to operate for a specified term or while the employee is performing a specified role (such as acting in a specified higher position). Such an arrangement will terminate on expiry of the specified term or when the employee ceases to perform the specified role unless terminated earlier on notice by agreement.

18. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

Employee may request change in working arrangements

18.1 An employee may request a change in working arrangements in the following circumstances:

a) the employee is the parent, or has responsibility for the care, of a child who is of school age or younger;

b) the employee is a carer (within the meaning of the Carer Recognition Act 2010);

c) the employee has a disability;

d) the employee is 55 or older;

e) the employee is experiencing violence from a member of the employee’s family;

f) the employee provides care or support to a member of the employee’s immediate family, or a member of the employee’s household, who requires care or support because the member is experiencing violence from the member’s family.

18.2 The employee

(a) for an employee other than a casual employee, the employee has completed at least 12 months of continuous service with the employer immediately before making the request; or

(b) for a casual employee, the employee:

(i) is a long term casual employee of the employer immediately before making the request; and

(ii) has a reasonable expectation of continuing employment by the employer on a regular and systematic basis.

18.3 The request must:

(a) be in writing; and

(b) set out details of the change sought and the reasons for the change.

Reasonable Business Grounds for Refusal

18.4 The employer may only refuse a request under this clause on reasonable business grounds.

18.5 Without limiting what are reasonable business grounds for the purposes of this clause, reasonable business grounds include the following:
(a) that the new working arrangements requested by the employee would be too costly for the employer;
(b) that there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;
(c) that it would be impractical to change the working arrangements of other employees, or recruit new employees, to accommodate the new working arrangements requested by the employee;
(d) that the new working arrangements requested by the employee would be likely to result in a significant loss in efficiency or productivity;
(e) that the new working arrangements requested by the employee would be likely to have a significant negative impact on customer service.

Responding to the request

18.6 Before responding to a request, the employer will discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to:

(a) the needs of the employee arising from their circumstances;
(b) the consequences for the employee if changes in working arrangements are not made; and
(c) any reasonable business grounds for refusing the request.

Response in writing

18.7 The employer will respond in writing to the employee's request within 21 days stating whether the employer grants or refuses the request.

18.8 If the employer and employee reach agreement on a change in working arrangements that differ from that initially requested by the employee, the employer's written response will set out the agreed change(s) in working arrangements.

18.9 If the employer refuses the request, the written response will include:

(a) the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
(b) If the employer and employee could not agree on a change in working arrangements:
   (i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee's circumstances; and
   (ii) if so, set out those changes in working arrangements.

CONSULTATION AND DISPUTE RESOLUTION

19. CONSULTATION

19.1. Consultation on Major Change

19.1.1 Where the employer proposes to make a definite decision to introduce major changes in production, program, organization, structure or technology that are likely to have significant effects on employees, the employer will notify the employees who may be affected by the proposed changes (the relevant employees) and the Union.
19.1.2 The relevant employees may appoint a representative for the purpose(s) of the procedures in this term (which may include the relevant Union).

19.1.3 “Significant effects” may include but not limited to termination of employment, major changes in the composition, operation or size of the employer’s workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs, proposals by the employer to outsource services or contracting out services currently provided by the employer’s staff, provided that where the Agreement makes provision for alteration of any of the matters referred to herein an alteration will be deemed not to have significant effect.

19.1.4 A change such as redeployment which is at the request of an employee, and where the main effects are expected to be limited to the employee’s physical location and/or direct supervisory relationship, will not normally require any action under these procedures.

19.1.5 The employer will discuss with the employees affected, the employees’ representative and the Union, the introduction of the changes referred to in clause 19.1.1 above, the effects the changes are likely to have on employees, measures to avert or mitigate the adverse effects of such changes on employees and give prompt consideration to matters raised by the employees and/or the employees’ representative and the Union in relation to the changes.

19.1.6 The discussions will commence as early as practicable and prior to a decision being made by the employer to make the changes referred to in clause 19.1.1 above.

19.1.7 For the purposes of such discussion, the employer will provide in writing to the employees concerned, the employees’ representative and the Union all relevant information about the changes including the nature of the changes proposed; the expected effects of the changes on employees and any other matters likely to affect employees provided that the employer will not be required to disclose confidential information the disclosure of which would be prejudicial to the employer’s interests.

19.1.8 The employer may have regard to matters raised in discussions with affected employees, the employees’ representative and the Union, but the employer will retain the right to decide on the introduction of the changes.

19.2 Consultation about changes to rosters or hours of work

19.2.1 Where the employer proposes to change an employee’s regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.

19.2.2 The employer must:

(a) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee’s regular roster or ordinary hours of work and when that change is proposed to commence);
(b) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
(c) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.

19.2.3 The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.

19.2.4 These provisions are to be read in conjunction with other provisions concerning the scheduling of work and notice requirements.

20. DISPUTE RESOLUTION PROCEDURE

20.1 Resolution of disputes on matters arising out of this Agreement

20.1.1 Unless otherwise provided for in this Agreement, a dispute about a matter arising under this Agreement or the NES, other than termination of employment, must be dealt with in accordance with this clause. This includes a dispute about whether the employer had reasonable grounds to refuse a request for flexible working conditions or an application to extend unpaid parental leave.

20.1.2 This clause does not apply to any dispute on a matter or matters arising in this course of bargaining in relation to a proposed Enterprise Agreement.

20.1.3 The employer or an employee covered by this Agreement may choose to be represented at any stage by a representative, which may include a union representative or employer organisation.

20.1.4 A dispute may be notified under this clause by an employee, the Union or the employer.

20.2 Obligations

20.2.1 The parties to the dispute and their representatives must genuinely attempt to resolve the dispute through the processes set out in this clause and must cooperate to ensure that these processes are carried out promptly.

20.2.2 While a dispute is being dealt with in accordance with this clause, work must continue according to usual practice, provided that this does not apply to an employee who has a reasonable concern about a risk to his or her health or safety and has advised the employer of this concern and has not unreasonably failed to comply with a direction by the employer to perform other available work that is safe and appropriate for the employee to perform.

20.2.3 No person covered by the Agreement will be prejudiced as to the final settlement of the dispute by the continuance of work in accordance with this clause.
20.3 Agreement and dispute resolution facilitation

20.3.1 For the purposes of compliance with this Agreement (including compliance with this dispute resolution procedure) where the chosen employee representative is another employee of the employer, he/she must be released by his/her employer from normal duties, after consultation with their manager, for such periods of time as may be reasonably necessary to enable him/her to represent employees concerning matters pertaining to the employment relationship including but not limited to:

(a) investigating the circumstances of a dispute or an alleged breach of this Agreement or the NES;
(b) endeavouring to resolve a dispute arising out of the operation of this Agreement or the NES; or,
(c) participating in conciliation, arbitration or any other agreed alternative dispute resolution process.

20.3.2 The release from normal duties referred to in this clause is subject to the proviso that it does not unduly affect the operations of the employer.

20.4 Internal Process

20.4.1 The party with the dispute must notify the other party at the earliest opportunity.

20.4.2 The employee/s concerned will first meet and confer with their immediate supervisor.

20.4.3 If the matter is not resolved at such a meeting the parties will arrange further discussions which should include the Manager Human Resources (or nominee), the relevant Executive member (or nominee) from the employer and a nominated employee/s representative.

20.4.4 Throughout all stages of the procedure all relevant facts must be clearly identified and recorded.

20.4.5 Reasonable time limits must be allowed for completion of the various stages of discussion. However, the parties must co-operate to ensure that the dispute resolution procedures are carried out as quickly as possible.

20.4.6 Where a dispute cannot be resolved, at the request of either party, a Disputes Committee will be convened within one working week unless agreed otherwise. The Disputes Committee will consist of two nominees of the employer and two staff nominees of the local branch of the Union.

20.4.7 The Disputes Committee will attempt to resolve the matter within one working week of its first meeting. Any resolution will be in the form of a written agreement subject, if necessary, to ratification by either party. By agreement, the Disputes Committee may nominate an independent chairperson/facilitator.

20.4.8 In the event the dispute remains, discussion will occur with the CEO (or nominee) and the Secretary of the State branch of the Union (or nominee) and/or the parties may by agreement nominate an independent chairperson/facilitator.

20.4.9 Until the procedures prescribed above have been exhausted:
(a) work will continue in the normal manner;
(b) neither party will take any action likely to exacerbate the dispute;
(c) subject matter of the dispute will not be taken to FWC by the Union or the employer;
(d) it is agreed that industrial action will not be taken by either party at any stage of the above process.
20.4.10 Should the dispute not be resolved by the process referred to in this sub-clause, the matter may be referred to FWC for resolution.

CLASSIFICATIONS, RATES OF PAY AND RELATED MATTERS

21. CLASSIFICATION OF ACADEMIC STAFF (MSAL)

21.1 Academic employees will be employed according to the Minimum Standards for Academic Levels (MSALs), which are set out in Schedule 2 of this Agreement, and are indicative of the functions that Academic Employees perform.

22. SALARY INCREASES

22.1 The following salary increases will be applied for all employees covered by the Agreement, as set out in Schedule 1.

22.2 From the first pay period on or after 29/10/2019, each employee covered by this Agreement will be entitled to a salary uplift of 5.5% (Column 1 of Schedule 1), with a further increase of 2% on the uplifted rates (Column 2 of Schedule 1).

22.3 From the first pay period on or after 29/10/20, each employee covered by this Agreement will be entitled to a salary increase of 2% as outlined in Column 3 of Schedule 1.

22.4 From the first pay period on or after 29/10/21, each employee covered by this Agreement will be entitled to a salary increase of 2% as outlined in Column 4 of Schedule 1.

22.5 From the first pay period on or after 29/10/22, each employee covered by this Agreement will be entitled to a salary increase of 2% as outlined in Column 5 of Schedule 1.

23. INCREMENTAL PROGRESSION

Transitional arrangements for employees employed at the commencement of this Agreement

23.1 Staff employed prior to the commencement of this Agreement will maintain their classification level without regard to MSALs and be entitled to incremental progression within the academic level.

Annual Incremental Progression

23.2 Progression through the pay increments in each salary level is accessible following the completion of twelve months on a pay increment subject to the following clauses.

23.2.1 A Level A employee may not progress beyond Level A4 without an AQF 8 qualification.
23.2.2 Other than provided in clause 23.1, Level B employees may not progress beyond Level B3 without a doctorate qualification.

23.2.3 Progression of an employee from one increment to the next increment within a classification level will not be automatic but will be dependent upon satisfactory performance over the preceding twelve months.

23.2.4 An employee's performance is assessed as unsatisfactory if discipline procedures have commenced in respect to the employee and have not concluded at the time an increment is due.

23.2.5 Where a salary increment is intended to be deferred on the basis of unsatisfactory work performance, such an increment can only be deferred where the following process has been followed:

(a) the employer has counselled the employee and explained clearly:
   (i) the requirements that are expected;
   (ii) how the employee has failed to fulfil these requirements; and
   (iii) the consequences of continued or repeated failure to meet these requirements.

(b) The employer has provided the opportunity through mentoring, guidance and support to assist employees who are not performing satisfactorily.

23.2.6 Salary progression can only be deferred where the process outlined above has been commenced early enough to ensure the employee receives sufficient notice to enable improvement in performance, being at least three months before a decision is taken.

23.2.7 Should it be determined at the conclusion of the disciplinary process that no disciplinary action will be taken, or that if disciplinary action to be taken does not include denial of an increment, the staff member will have their increment reinstated with effect from the date it was due with regard to 23.2.

24. PAYMENT OF SALARIES

24.1 Consistent with current practice, an employee's salary will be paid fortnightly by electronic funds transfer into an account in a financial institution nominated by the employee. Where the day of payment falls on a public holiday, the salary will be paid on the preceding working day.

<table>
<thead>
<tr>
<th>Type of employee</th>
<th>Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full-time</td>
<td>Annual salary x 14/365.25</td>
</tr>
<tr>
<td>Part-time</td>
<td>Annual salary x actual hours of duty x 14 divided by 365.25 x 76</td>
</tr>
</tbody>
</table>

24.2 Salary records

Salary payments will be accompanied by a pay advice which will include payments and deductions.
25. SUPERANNUATION

25.1 All new employees will be registered in the VicSuper fund administered by VicSuper Pty Ltd unless the employee chooses to nominate an alternative complying fund from the register of Complying Superannuation Funds. Employer contributions in line with the Superannuation Guarantee (Administration) Act 1992 will be made to all employees, including those over 70 years of age.

Voluntary Employee contributions

25.2 Subject to the rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay a specified amount from their post-taxation wages into the same superannuation fund as the employer makes the superannuation contributions provided for in subclause 25.1.

26. SALARY PACKAGING

26.1 The rates of pay outlined in Schedule 1 will be provided as a salary package by agreement between the employer and an individual staff member.

26.2 Salary packaging will be available for staff in accordance with employer’s policy.

26.3 The employer will encourage staff to obtain independent financial advice when seeking to enter a salary packaging arrangement. Any such advice sought will be at the staff member’s expense.

26.4 All costs associated with a salary packaging arrangement including the Fringe Benefit Tax component, and other than normal employer processing costs, will be met by the participating member of staff.

26.5 In the event of legislative or other changes having the effect of salary packaging increasing the cost to staff, staff participating in salary packaging may choose to cease or modify the arrangement.

26.6 Notwithstanding anything contained within this clause, the relevant salary as defined in Schedule 1 of this Agreement will be used in determining the following:

(a) termination payments, including superannuation, annual leave and long service leave entitlements;
(b) calculation of redundancy benefits; and
(c) calculation of early retirement benefits.

26.7 The employer will be entitled to recover any payment of salary and benefits paid in advance.

26.8 A staff member who enters into a salary packaging arrangement will be entitled to vary that arrangement annually providing that one (1) months’ notice of intended changes be provided to the employer in writing.
26.9 A staff member wishing to withdraw from the salary packaging arrangement may do so at any time with four (4) weeks' notice in writing.

26.10 The employer will maintain the option of this salary packaging arrangement subject to it remaining lawful.

27. ACADEMIC PROMOTION

27.1 The Institute will consult with employees and the NTEU in the development and finalisation of an Academic Promotion policy which will be implemented within six months of approval of the Agreement by FWC.

27.2 The policy will incorporate 27.3 and 27.4 of this clause and will set out the academic promotion process to determine applications for promotion.

27.3 Academic staff will have opportunity to apply for promotion once a year.

27.4 Promotion is based on academic merit measured across the full range of academic work, including teaching and learning, research and scholarship, administration, and service, as appropriate to the nature of the applicant's current appointment and the MSAL for the level to which promotion is being sought.

28. HIGHER DUTIES ALLOWANCE

28.1 A higher duties allowance will be paid where an employee is required by the employer to undertake all or part of the duties of a higher classified position for a period longer than five consecutive working days.

28.2 Where an employee performs a proportion of duties of a higher salary the higher duties allowance will be paid on a pro-rata basis.

28.3 Higher duties allowance will be calculated on the first increment of the higher position.

28.4 On completion of each continuous twelve month period during which an Employee undertakes higher duties, the employee will be granted salary increments applicable to the next incremental level. For the purpose of this clause, undertaking coordination for a continuous period of twelve months will be satisfied where the coordination occurs across two consecutive semesters (for example semester 1 and 2 in the same year or semester 2 this year and semester 1 of the following year).

28.5 Where an employee in receipt of higher duties allowance is promoted to the higher level, she/he will be appointed at the same increment level that the employee is receiving at the time of promotion.

28.6 An employee is entitled to payment of a higher duties allowance during any period of paid leave that occurs during the period of the higher duties assignment.
29. ACCIDENT MAKE-UP PAY

29.1 Entitlement

The employer will pay or cause to be paid accident make-up pay during incapacity of an employee as defined by the Workplace Injury Rehabilitation and Compensation Act 2013 as amended from time to time:
(a) Until the incapacity ceases; or
(b) Until the expiration of an aggregate of 52 weeks, whichever may first occur, even if the employer terminates the employee's employment during that period. This clause does not displace or override the Workplace Injury Rehabilitation and Compensation Act 2013 or any successor workers compensation legislation.

Make-up pay calculation

29.2 Accident make-up pay is the amount equivalent to the difference between the weekly compensation and the amount that would have been payable to the employee as their salary, as if the employee had been performing their normal duties. Any absence from work during a period of make-up pay will be exclusive of any sick leave entitlement due and owing to the employee.

29.3 Any period of time during which make-up pay is paid will count as service for all purposes as if the employee had not sustained an injury or incapacity. Accordingly, the Employee continues to accrue annual leave and long service leave while in receipt of accident make-up pay as they were accruing such leave immediately prior to commencing accident make-up pay.

Civil Damages

29.4 If an employee receives monies in settlement of or pursuant to a judgement for a civil claim to damages in connection with the incapacity the employee will repay any payments made under this clause.

30. REIMBURSEMENT OF EXPENSES

30.1 An employee will be entitled to reasonable out-of-pocket expenses actually and necessarily incurred in the course of the employee's authorised duties subject to the following conditions:
(a) the activity and the expenses must be approved in advance by the employer and, when required by the employer, receipts validating the expenditure are to be supplied;
(b) the amount of an expense will be considered reasonable where it does not exceed the relevant amount set by the Australian Taxation Office (ATO) as adjusted from time to time; and
(c) where the expense exceeds the relevant ATO amount the employer is only required to reimburse at the ATO rate unless prior authorisation is provided to incur the greater expense.
30.2 Allowable expenses are:

(a) travel, accommodation, meals and incidental expenses associated with overnight absences from home or part day activities, including professional development, away from the workplace;

(b) expenses incurred in the use of the employee's private motor vehicle provided that, in situations where the employer has offered the employee the use of reasonable alternative transport and the employee refuses that offer, the employee will be reimbursed the cost of the reasonable alternative transport; and

(c) any other expenses incurred in the course of the employee's employment that have the prior approval of the employer.

HOURS OF WORK AND WORKLOAD ALLOCATION

31. HOURS OF WORK

31.1 For the purpose of the NES, and for administrative purposes, full-time employment is 38 hours per week.

31.2 For the purpose of the NES, and for administrative purposes, part-time employment is less than 38 hours per week.

32. MEAL BREAKS

An employee will not be required to work for more than five consecutive hours without being allowed a meal break of at least 30 minutes up to a maximum of one hour. Time taken as meal breaks will not be paid and will not be counted as time worked.

33. WORKLOAD ALLOCATION

33.1 Work will be allocated within a maximum of 1748 hours per calendar year (pro rata for part-time staff). The maximum of 1748 hours is based on 38 hours a week over 46 weeks per year taking into account annual leave and public holidays.

33.2 The references to percentage allocations in this clause are percentages of 1748 hours.

33.2.1 A part time staff member's work allocation will be adjusted on a proportionate basis, and all measures referred to in this clause will be adjusted appropriately taking into account the staff member's fractional appointment.

33.3 For each employee, the workload allocation will be negotiated with the Institute in a manner that reflects the needs of the Institute and the capability of the employee.
33.4 Each employee’s workload will be reflected in an annual work plan which will take into account factors including but not limited to:

(a) The Institute’s strategic plan and reasonable expectations and recognition of the employee’s contribution to that plan;
(b) The employee’s academic classification and position description;
(c) The working hours specified in this agreement;
(d) The identification of professional developmental needs which may be required to assist in the employee’s individual contribution to the Institute plan, and which facilitates the employee’s academic and career development;
(e) The employee’s leave plans; and
(f) Any responsibilities undertaken by the employee and sanctioned by the institute.

33.5 The Academic Staff Performance Expectations and Outcomes Framework or any replacement, will be used to guide each academic employee’s three year career strategy and annual work plan discussions. The Institute will maintain the Framework which may be altered with agreement of the NTEU, with the changes taking effect in the following academic year. The Framework sets out expected performance levels across the five academic levels (Levels A-E) and the four academic activities of teaching, research, scholarship and service.

33.6 A Teaching Work Allocation Model has been agreed between the Institute and NTEU providing the ratios and allowances for various tasks and activities within the broader remit of teaching and related duties, in accordance with clause 33.7. The Teaching Work Allocation Model may be altered with agreement of the NTEU, with the changes taking effect in the following academic year.

33.7 Workload Allocations will be made in accordance with the following table:

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>ACADEMIC RANGE %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teaching and related activities</td>
<td>0-85%</td>
</tr>
<tr>
<td>Scholarship</td>
<td>Minimum 5%</td>
</tr>
<tr>
<td>Research</td>
<td>0-85%</td>
</tr>
<tr>
<td>Service</td>
<td>Minimum 10%</td>
</tr>
</tbody>
</table>

33.7.1 In considering workload allocation, the following sequence will be used.

<table>
<thead>
<tr>
<th>SEQ</th>
<th>ACTIVITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Service (minimum)</td>
</tr>
<tr>
<td>2</td>
<td>Scholarship (minimum)</td>
</tr>
<tr>
<td>3</td>
<td>Research</td>
</tr>
<tr>
<td>4</td>
<td>Additional Scholarship</td>
</tr>
<tr>
<td>5</td>
<td>Additional Service</td>
</tr>
<tr>
<td>6</td>
<td>Portfolio, Course and Subject Leadership</td>
</tr>
<tr>
<td>7</td>
<td>Teaching and Related Duties</td>
</tr>
</tbody>
</table>
33.8 The Institute is responsible for the fair and equitable distribution of workload and for providing opportunity for individual staff to be consulted about their workload allocation.

33.9 Transitional arrangements for current academic staff employed prior to the commencement of the Agreement ('transitioning staff')

33.9.1 Transitional arrangement for all academic employees employed at the commencement of the Agreement will apply from 1 January 2020 until 31 December 2020.

33.9.2 All transitioning staff are recognised by the Institute as teaching and research academic staff.

33.9.3 During the transition period, transitioning employees will maintain their current workload allocation of 60% teaching, 20% research, 10% scholarship and 10% service.

33.9.4 During the transition period, academic employees will develop their 3 year strategic career plan (to operate from 2021 to 2023) including a 1 year work plan for teaching, scholarship, research and service for discussion with their manager. The expected outputs must be reasonable and provide an opportunity to build a research, scholarship, leadership or service profile for teaching and research staff currently not undertaking any of these functions.

33.9.5 By 31 October 2020, each transitioning employee will nominate whether they will remain teaching and research staff or whether they will become teaching focused.

33.9.6 At any time during the transition period a teaching and research transitioning academic can opt to become a teaching focused academic.

33.10 Arrangements for all academic employees appointed after the operative date of this agreement and all academic employees after the transition period.

33.10.1 Academic employees will maintain a three year strategic career plan from which they prepare a draft annual workload plan comprising allocations for teaching, scholarship, research and service, where applicable, for discussion with their manager.

33.10.2 Allocation of workload for research, scholarship, service and leadership will take into consideration the Institute’s needs, the academic employee’s aspirations and demonstrated capability, performance and contribution over at least the previous 12 months.

33.10.3 An academic employee who has met annual work plan outputs will maintain their agreed workload allocation.

33.10.4 An academic employee may request a change in their teaching, scholarship, research or service workload allocation. Such requests will consider their three year career strategic plan and annual workload plan and their performance therein, will not be unreasonably denied, and will be implemented as soon as practicable.

33.10.5 Academic employees demonstrating a desire to transition into a research or increase scholarship or service workload (as evidenced in their career strategic plan and proposed annual workload plan) may be allocated a research, scholarship or service workload of between 5-15% for this purpose.
33.10.6 An academic employee who has not met their annual work plan will participate in a formal review of their three year career strategic plan and annual work plan and their performance therein to be conducted by the Institute. This review will give consideration to any circumstances that may account for the failure to meet expectations and will seek to identify the most appropriate approach to establish a meaningful and viable three year career strategic plan and annual work plan.

33.10.7 Academic employees with the minimum scholarship and service allocation and no research or leadership allocation may be allocated the maximum teaching workload as outlined in clause 33.7.

33.10.8 A staff member who is dissatisfied with their workload allocation should attempt to address their concerns in the first instance with the Associate Dean Higher Education Operations and/or Associate Director Higher Education, Scholarship & Research. Where the issue remains unresolved, the Dispute Resolution Procedures (Clause 20) may be applied.

Teaching and related activities

33.11 In relation to teaching and related activities, the following caps will apply:

- No more than 480 teaching delivery hours per annum for teaching intensive academics with no service and scholarship (above the minimum allocation), research or leadership allocations;
- No more than 20 hours of teaching delivery hours per week;
- No more than 4 subjects per delivery period; and
- No more than 6 different subjects in any calendar year.

The agreed Teaching Work Allocation Model will calculate teaching and related activity workload allocations, in accordance with clause 33.7, from the date this agreement comes into operation.

33.12 Following consultation, staff will be advised of their anticipated teaching workload allocation no less than four weeks prior to the teaching commencing.

Reasonable Workload Allocation

33.13 In determining what is reasonable workload allocation the Institute will also have regard to the following factors:

(a) the total number of teaching and/or required hours worked on a particular day or week;
(b) the number of teaching and/or required hours without a break;
(c) the time off between finishing and starting times of teaching sessions; and
(d) the number of days of the week during which teaching and/or required duties are scheduled.
Scholarship

33.14 All academic employees will receive a minimum scholarship allocation of 5% for scholarly practices as outlined in the Institute's scholarly practices framework.

33.15 Where staff may undertake more than the minimum scholarship activities, a higher allocation will be negotiated.

Service

33.16 All staff will receive a minimum service allocation of 10% for core service activities that all staff are required to perform and which includes: attendance at staff meetings and operations meetings, attendance at all staff communication meetings, non-teaching related administration, orientation activities, attendance at open day, staff training and workshops and attendance at graduation ceremonies.

33.17 Where staff may undertake more than the minimum service activities, a higher allocation will be negotiated.

Research

33.18 Research work allocation will take into account the research outputs of the staff member measured over a three years period (including with different employers).

33.19 Academic staff who hold a doctoral qualification or have a high quality research profile can expect to be allocated a base 20% workload for research subject to demonstrated capability and performance.

33.20 Academic staff who are undertaking a relevant PhD may be allocated a base 20% research workload subject to demonstration of satisfactory progress and outputs.

33.21 Eligible academic employees may apply for an increased research workload allocation subject to their three year career strategic plan and proposed annual workload plan and demonstration that they have satisfactorily met the expectations for their research allocations in the previous year.

LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

34. ANNUAL LEAVE AND LEAVE LOADING

34.1 A full-time employee is entitled to 4 weeks' (152 hours) paid annual leave per year of service, or the pro-rata equivalent for part-time employee. This entitlement accrues progressively and accumulates from year to year.
34.2 Annual leave will be taken as mutually agreed between the employer and the employee having regard to the operational needs of the employer and the following conditions:

(a) An employee request to take leave at a time of their choosing will not be unreasonably withheld;

(b) the employer may specify up to one closure period each year, during which the employer will be closing down its operations. For this period, an employer may require an employee to take annual leave up to a maximum of 5 days.

**Excessive leave accruals**

34.3 An employee has an excessive Leave Accrual if the employee has accrued more than 30 days (6 weeks for a full-time employee) annual leave.

34.3.1 If an Employee has an Excessive Leave Accrual, the employer will notify the employee and request a plan be developed that will reduce leave accrual to 20 days in accordance with the employer's policy.

34.3.2 If a plan is unable to be developed and agreed upon the employer may direct the employee to take a period of leave that will reduce the employee’s leave accrual to 20 days. The employer must provide the employee with at least 8 weeks’ notice of when the leave is to commence.

**Annual leave in advance**

34.4 An employer and employee may agree in writing to the employee taking a period of annual leave before the employee has accrued an entitlement to the leave.

34.4.1 An agreement must:

(a) state the amount of leave to be taken in advance and the date on which the leave is to commence; and

(b) be signed by the employer and employee.

The employer must keep a copy of the agreement.

34.5 If, on the termination of the employee’s employment, the employee has not accrued an entitlement to all of a period of annual leave already taken in accordance with this clause, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of the part of the period of annual leave taken in advance to which an entitlement has not been accrued.

34.6 Annual leave accrued but not taken at the time of termination of the employee’s employment will be paid in full to the employee at that time.

**Annual leave loading**

34.7 An annual leave loading of 17.5% of 4 weeks ordinary time earnings will be paid to full-time employees.

34.7.1 Employees who are employed on a part-time basis and/or for less than a full calendar year are entitled to pro-rata application of this clause.

34.7.2 The loading will be paid in the first pay in December of each year, or such other date as may be determined by the employer, in respect of the calendar year.
34.7.3 Upon termination of employment with the employer an employee will be paid the annual leave loading on a pro-rata basis.

**35. LONG SERVICE LEAVE**

**Entitlement**

35.1 Long service leave will be calculated at the rate of 13 weeks (65 days) of paid leave for 10 years of service.

35.2 The employee may access the long service leave entitlements on a pro-rata basis after completion of seven (7) years' service.

35.3 An employee will be granted long service leave as follows:

<table>
<thead>
<tr>
<th>YEARS OF SERVICE</th>
<th>AMOUNT OF LONG SERVICE LEAVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seven years of completed service</td>
<td>45.5 days paid leave</td>
</tr>
<tr>
<td>Each additional year of completed service after the first seven years</td>
<td>6.5 days paid leave</td>
</tr>
</tbody>
</table>

35.3.1 The employer and an employee may agree that the employee may take the whole or any part of the long service at half pay for a period equal to twice the whole or part of the leave entitlement.

**Casual Employees**

35.4 Casual employees will accrue long service leave in accordance with the Long Service Leave Act 1992 (Vic) (or its successor).

35.5 Public holidays will not be regarded as part of the leave.

**Notice**

35.6 An employee will give six months' notice of an intention to take long service leave. The employer may shorten the notice period at its discretion.

**35.7 Pro-rata payments**

35.7.1 Where an employee with not less than four completed years of service dies or is terminated on account of:

(a) retirement;
(b) ill health; or
(c) redundancy
the employer will pay to the employee or the employee’s personal representative a sum equal to 1/40 of the period of service.

35.7.2 Where an employee with not less than seven completed years of service resigns or is terminated the employer will in lieu of long service leave pay to the employee a sum equal to 1/40 of the period of service.

35.8 Entitlement eligibility

When calculating an employee’s entitlement to long service leave the following will be taken into account:

(a) periods of employment in or at a:
   (i) State School;
   (ii) State Department;
   (iii) State Government instrumentality or authority;
   (iv) Municipality or other Local Government Authority;
   (v) Commonwealth Department;
   (vi) Commonwealth Department instrumentality or authority (including the armed forces);
   (vii) University; or
   (viii) TAFE Institute;
   provided that there has not been a break in continuous employment of more than twelve months;

(b) aggregated periods of service for a non-continuous employee with any of the employers listed in clause 35.8 (a);

(c) service where an employee was in receipt of a pension pursuant to Section 83A of the State Superannuation Act 1988:

(d) service during which an employee took:
   (i) annual leave;
   (ii) paid sick leave;
   (iii) paid maternity leave;
   (iv) paid adoption leave;
   (v) paid partner leave; and/or
   (vi) any other leave authorised by the employer as counting toward service; and/or

(e) the period following resignation which in the opinion of the employer was due to special circumstances provided that the absence from continuous employment from an employer listed in clause 35.8 (a) was no more than five (5) years.
35.9 Payment

35.9.1 An employee taking long service leave will be entitled to be paid at the rate applicable at the time of taking the leave or receive payment in lieu of leave on termination or resignation.

35.9.2 Salaries paid while on long service leave will be paid fortnightly or as otherwise agreed between the employee and the employer.

35.10 Where an employee has accrued in excess of 13 weeks long service leave the employer may initiate the following steps to reduce the employee’s long service leave balance to an acceptable level:

(a) The employer and employee, through discussion, may agree that the employee will take leave which would reduce the balance to an agreed level.

(b) In the absence of an agreement, the employer may direct the employee to take leave at a particular time that would reduce the long service leave credit to an acceptable level being no less than 13 weeks at the time the leave period has concluded. The employer must give the employee at least 6 months’ written notice of the direction to take leave.

36. PERSONAL LEAVE (SICK LEAVE AND CARER’S LEAVE)

36.1 The provisions of this clause apply to full-time and part-time employees. Refer to sub-clauses 36.6 for the entitlements of casual employees.

36.2 A full-time employee is entitled to 15 days' (114 hours) paid personal/carer’s leave per year of service. This entitlement accrues progressively and accumulates from year to year.

36.3 Paid personal/carer’s leave will be available to an employee when they are absent because of:

(a) personal illness or injury; or

(b) personal illness or injury of an immediate family or household member who requires the employee’s care or support; or

(c) an unexpected emergency affecting an immediate family or household member; or

(d) the requirement to provide ongoing care and attention to another person who is wholly or substantially dependent on the employee, provided that the care and attention is not wholly or substantially on a commercial basis.

Absence on public holidays

36.4 If the period during which an employee takes paid personal/carer’s leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid personal/carer’s leave on that public holiday.
Unpaid personal/carer’s leave

36.5 Where an employee has exhausted all paid personal/carer’s leave entitlements, the employee is entitled to take unpaid personal/carer’s leave to provide care or support in the circumstances outlined in sub-clauses 36.3(c) and 36.3(d). The employer and the employee may agree on the period of unpaid leave. In the absence of an agreement the employee is entitled to take two days’ unpaid carer’s leave for each occasion.

Casual Employees — caring responsibilities

36.6 A casual employee is entitled to be unavailable to attend work or to leave work:

(a) if the casual employee needs to care for a member of the immediate family or household of the employee who are sick and require care or support, or who require care due to an unexpected emergency or the birth of a child; or

(b) upon the death in Australia of an immediate family or household member.

36.6.1 The employer and the casual employee may agree on the period for which the casual employee will be unavailable to attend work. In the absence of an agreement the casual employee will be entitled to not attend work for up to two days per occasion. The casual employee is not entitled to any payment for the time they do not attend.

36.6.2 The employer may require the casual employee to provide satisfactory evidence to support the entitlement not to attend.

Notice and evidence requirements

36.7 An employee must give the employer notice of taking leave under this clause. The notice:

(a) must be given to the employer as soon as practicable (which may be a time after the leave has started); and

(b) must advise the employer of the period, or expected period, of the leave as soon as possible.

36.8 The employee must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is for a reason specified in clause 36.3.

Requirement to attend a medical practitioner

36.9 Where an employee has been on personal leave for at least 6 weeks or in any other case, the employer reasonably believes that an employee’s state of health may make the employee a danger to themselves or other employees, students or other persons at the workplace, the employer may require the employee to absent themselves from duty on personal leave until a registered medical practitioner approved by the employer examines the employee and provides a report to the employer.

36.10 The direction by the employer under sub-clause 36.9 of this clause must not be for a period of more than 10 working days unless the employee unreasonably refuses to attend a medical examination. When this occurs the employer may direct the employee to absent themselves from duty on personal leave until the employee attends the medical examination.

36.11 If the medical report discloses that the employee is unfit for duty, the employee will be granted such further personal leave as the medical report indicates is necessary.
36.12 If the medical report discloses that the employee is fit for duty, or the employer is otherwise satisfied that the employee is fit to resume duty, the personal leave debited as a result of a direction under this clause will be restored and the employee repaid any salary or wages lost as a result of the direction.

37. COMPASSIONATE LEAVE

37.1 An employee, other than a casual employee, is entitled to up to 3 day's paid compassionate leave on each occasion when a member of the employee's immediate family, or a member of the employee's household:

(a) contracts or develops a personal illness that poses a serious threat to their life; or

(b) sustains a personal injury that poses a serious threat to their life; or

(c) dies.

Taking compassionate leave

37.2 An employee may take compassionate leave for a particular permissible occasion if the leave is taken:

(a) to spend time with the member of the employee's immediate family or household who is suffering from a personal illness, or sustained the personal injury referred to in sub-clause 37.1; or

(b) after the death of the member of the employee's immediate family or household.

37.3 An employee is not required to take compassionate leave in respect of a permissible occasion consecutively.

37.4 Compassionate leave will not accrue from year to year and will not be paid out on termination of the employment of the employee.

Payment for compassionate leave (other than for a casual employee)

37.5 Upon satisfactory notice and evidence, the employer will grant compassionate leave for up to three days without loss of pay to an employee on each permissible occasion as described in clause 37.1.

Unpaid Compassionate Leave

37.6 An employee, including a casual employee may take unpaid compassionate leave by agreement with the employer. In the absence of agreement, the employee is entitled to take up to (3) days unpaid leave.

37.7 In addition to the other provisions of this clause, employees of Aboriginal or Torres Strait Islander descent may be granted paid and unpaid leave in relation to the death of a member of their immediate family or extended family.
Notice and evidence requirements

37.8 An employee who is taking compassionate leave under this clause must give notice to the employer as soon as practicable and must advise the employer of the period, or expected period, of the leave.

37.9 An employee who has given the employer notice of taking compassionate leave under this clause must, if required by the employer, give the employer evidence that would satisfy a reasonable person the leave is taken for a permissible occasion in circumstances specified in clause 37.1.

38. PARENTAL LEAVE

38.1 Subject to the terms of this clause employees are entitled to paid and unpaid maternity, partner and adoption leave and to work part-time in connection with the birth or adoption of a child.

38.2 The provisions of this clause apply to full-time, part-time and eligible casual employees, but do not apply to other casual employees.

38.3 An eligible casual employee means a casual employee:

(a) employed by the employer on a regular and systematic basis for a sequence of periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months; and

(b) who has a reasonable expectation of ongoing employment, but for the pregnancy or the decision to adopt.

38.4 For the purposes of this clause, continuous service is work for the employer on a regular and systematic basis (including any period of authorised leave or absence).

38.5 The employer must not fail to re-engage a casual employee because:

(a) the employee or employee’s spouse is pregnant; or

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

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

38.6 Definitions

38.6.1 For the purpose of this clause child means a child of the employee under school age except for adoption of an eligible child where ‘eligible child’ means a person under the age of 16 years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

38.6.2 For the purposes of this clause, spouse includes a de facto spouse, former spouse or former de facto spouse. The employee’s ‘de facto spouse’ means a person who lives with the employee as husband, wife or same sex partner on a bona fide domestic basis, although not legally married to the employee.
38.7 Basic Entitlement

38.7.1 Employees, who have or will have completed at least twelve (12) months continuous service, are entitled to a combined total of 52 weeks paid and unpaid parental leave on a shared basis in relation to the birth or adoption of their child. An employee who does not satisfy the qualifying service requirement for the paid components of leave or an employee, who is an eligible casual employee, will be entitled to leave without pay for a period not exceeding 52 weeks.

38.7.2 Leave available is summarised in the following table:

<table>
<thead>
<tr>
<th>Type of leave</th>
<th>Paid leave</th>
<th>Unpaid leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maternity leave</td>
<td>14 weeks</td>
<td>38 weeks if primary care giver</td>
</tr>
<tr>
<td>Partner</td>
<td>1 week</td>
<td>51 weeks if primary care giver</td>
</tr>
<tr>
<td>Adoption leave – primary care giver</td>
<td>14 weeks</td>
<td>38 weeks</td>
</tr>
<tr>
<td>Adoption leave – secondary care giver</td>
<td>1 week</td>
<td>2 weeks</td>
</tr>
</tbody>
</table>

Leave taken simultaneously

38.8 Parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

(a) in the case of 1 week’s paid partner leave an employee will be entitled to a total of 5 days (which need not be taken consecutively) in connection with the birth of a child for whom he or she has accepted responsibility;

(b) in the case of adoption leave for the secondary care giver, 1 week’s paid leave and up to 2 weeks unpaid leave which may be commenced at the time of the adoption placement;

(c) in the case of two employees of the same organisation who are in a spousal or de facto relationship (an ‘employee couple’) up to 8 weeks leave in total as outlined in clause 38.12.

38.9 Maternity leave

Notice

38.9.1 An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

(a) at least ten weeks prior, a certificate from a registered medical practitioner or evidence that would satisfy a reasonable person, that the employee is pregnant and the expected date of confinement; and

(b) at least four weeks prior, the date on which the employee proposes to commence maternity leave and the period of leave to be taken.
Statutory Declaration

38.9.2 When the employee gives notice under clause 38.9.1 (a) the employee must also provide a statutory declaration stating particulars of any period of partner leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

38.9.3 An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.

38.9.4 Unless agreed otherwise between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of birth, however the period granted will be no more than 52 weeks.

Certificate – Fit to Work

38.9.5 Where an employee continues to work within the six week period immediately prior to the expected date of birth, or is on paid leave under clause 38.18 the employer may require the employee to provide a certificate from a registered medical practitioner that she is fit for work in her present position. The employer may require the employee to start maternity leave if the employee:

(a) does not give the employer the requested certificate within 7 days after the request; or,

(b) within 7 days after the request for the certificate, gives the employer the medical certificate stating that the employee is unfit to work.

Personal leave and special maternity leave

38.9.6 Where the pregnancy of an employee, not then on maternity leave, terminates other than by the birth of a living child, the employee must as soon as practicable give notice to the employer of the taking of leave advising the employer of the period, or expected period, of the leave in accordance with the following:

(a) where the pregnancy terminates during the first 28 weeks, during the notified period/s the employee is entitled to access any paid and/or unpaid personal leave entitlements in accordance with the relevant personal leave provisions;

(b) where the pregnancy terminates after the completion of 28 weeks, during the notified period/s the employee is entitled to paid special maternity leave not exceeding the amount of paid maternity leave available under clause 38.7.2, and thereafter, to unpaid special maternity leave.

38.9.7 If an employee takes leave for a reason outlined in clause 38.9.6 (a) and (b), the employer may require the employee to provide evidence that would satisfy a reasonable person or a certificate from a registered medical practitioner.

38.9.8 Where an employee, not then on maternity leave, is suffering from an illness whether related or not to pregnancy, an employee may take any paid personal leave to which she is entitled and/or unpaid personal leave in accordance with clause 36.5.
38.10 Partner leave

Notice and evidence requirements

38.10.1 An employee will provide to the employer at least ten weeks prior to each proposed period of partner leave, with:

(a) a certificate from a registered medical practitioner or evidence that would satisfy a reasonable person which names his or her spouse and states that she is pregnant and the expected date of confinement or states the date on which the birth took place; and

(b) written notification of the dates on which he or she proposes to start and finish the period of partner leave; and

(c) a statutory declaration stating:

(i) except in relation to leave taken simultaneously with the child’s mother under clause 38.12 that he or she will take the period of partner leave to care for a child for whom they are or will be responsible;

(ii) particulars of any period of maternity leave sought or taken by his or her spouse; and

(iii) that for the period of partner leave he/she will not engage in any conduct inconsistent with his or her contract of employment.

38.10.2 The employee will not be in breach of clause 38.10.1 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

38.11 Adoption leave

Notice and evidence requirements

38.11.1 The employee will provide the employer with written notice of their intention to apply for adoption leave as soon as is reasonably practicable after receiving an adoption placement approval notice from an adoption agency or other appropriate body.

38.11.2 The employee must give written notice of the day when the adoption placement with the employee is expected to start as soon as possible after receiving an adoption placement notice indicating the expected placement day.

38.11.3 The employee must give the following written notice of the first and last days of any period of adoption leave they intend to apply for because of the adoption placement:

(a) where an adoption placement notice is received within the period of 8 weeks after receiving the placement approval notice – before the end of that 8 week period; or

(b) where an adoption placement notice is received after the end of the period of 8 weeks after receiving the placement approval notice – as soon as reasonably practicable after receiving the placement notice.

38.11.4 Generally the employee must apply for leave to the employer at least ten weeks before the date when adoption leave begins. An employee may commence adoption leave before providing such notice where, through circumstances beyond the control of the employee, the adoption of a child takes place earlier.
38.11.5 Before commencing adoption leave, an employee will provide the employer with a statement from an adoption agency of the day when the adoption placement is expected to start and a statutory declaration stating:

(a) that the child is an eligible child, whether the employee is taking adoption leave and the particulars of any other authorised leave to be taken because of the adoption placement;

(b) except in relation to leave that is permitted by this clause to be taken simultaneously with the child’s other adoptive parent, that the employee is seeking adoption leave to care for a child for whom they are or will be responsible;

(c) particulars of any period of adoption leave sought or taken by the employee’s spouse; and

(d) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.

38.11.6 An employee must provide the employer with confirmation from the adoption agency of the start of the adoption placement.

38.11.7 Where the placement of child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately. The employer will then nominate a time, not exceeding four weeks from receipt of notification, for the employee’s return to work.

38.11.8 An employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.

38.11.9 An employee seeking to adopt a child is, on the production of satisfactory evidence if required, entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations necessary to the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee the employer may require the employee to take such leave instead.

38.12 Employee couple – Concurrent Leave

38.12.1 Parental leave is to be available to only one parent at a time in a single unbroken period. However, where two employees of the same organisation are in a spousal or de facto relationship, both parents may at the same time each take up to eight weeks of parental leave (reducing their overall entitlement) either immediately after the birth or adoption placement of a child, or by agreement with the employer, at any time during an extended period starting before the birth and ending no later than six weeks after the birth or adoption placement of the child.

38.12.2 Remaining leave must be taken separately in a single continuous period provided it does not exceed a total of 24 months. If the employee who takes leave first is pregnant or gives birth, they may start their leave up to six weeks before the expected date of birth. If the employee who takes leave first is not pregnant, their leave must start on the date of birth or adoption placement of a child. The second employee must start their leave immediately after the first employee’s leave finishes.
38.13 Right to request

38.13.1 An employee entitled to parental leave pursuant to the provisions of clause 38.7.2 may request the employer to allow the employee:

(a) to extend the period of unpaid parental leave provided for in clause 38.7.2 by a further continuous period of leave not exceeding 12 months;

(b) to return from a period of parental leave on a part-time basis until the child reaches school age.

38.13.2 The employer will consider the request having regard to the employee’s circumstances and provided the request is genuinely based on the employee’s parental responsibilities may only refuse the request on reasonable grounds related to the effect on the workplace or the employer’s business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

Employee’s request and employer’s decision to be in writing

38.13.3 The employee’s request and the employer’s decision made under clauses 38.13.1 (a) and (b) must be in writing. The employer’s response, including details of the reasons for any refusal, must be given as soon as practicable, and no later than 21 days after the request is made.

Notice required for requests to return to work part-time

38.14 A request under clause 38.13.1(b) must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

Variation of period of parental leave

38.15 Unless agreed otherwise between the employer and employee, where an employee takes leave under clauses 38.7.2 and 38.13.1(a), an employee may apply to their employer to change the period of parental leave on one occasion. Any such change must be notified in writing at least four weeks prior to the start of the changed arrangements.

Parental leave and other entitlements

38.16 An employee may in lieu of or in conjunction with parental leave access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks or a longer period as agreed under clause 38.13.1 (a).

38.16.1 Where a public holiday occurs during a period that the employee is absent on paid parental leave no deduction will be made for that day from the employee’s paid parental leave entitlement.

Keeping in touch days

38.17 During a period of parental leave, agreement may be made between employer and employee to enable the employee to perform work on keeping in touch days without breaking the continuity of the period of parental leave.
38.17.1 A day on which the employee performs work for the employer during the period of leave is a keeping in touch day if:

(a) the purpose of performing the work is to enable the employee to keep in touch with his or her employment in order to facilitate a return to that employment after the end of the period of leave; and

(b) both the employee and the employer consent to the employee performing work for the employer on that day; and

(c) the day is not within:

(i) 14 days after the date of birth, or day of placement, of the child to which the period of leave relates, if the keeping in touch day is suggested or requested by the employee; or

(ii) otherwise, 42 days after the date of birth, or day of placement, of the child; and

(d) the employee has not already performed work for the employer or another entity on 10 days during the period of leave that were keeping in touch days. The employee may access a further 10 days of keeping in touch days if they are granted an extension to unpaid parental leave under clause 38.13.1 (a).

38.17.2 Work performed on keeping in touch days will be paid at the appropriate rate under Schedule 1.

38.17.3 The duration of the work the employee performs on a keeping in touch day is not relevant for the purposes of this clause.

Transfer to a safe job

38.18 An employee who is pregnant may be transferred to a safe job with no other change to the employee’s terms and conditions until the commencement of maternity leave if:

38.18.1 The employee provides evidence that would satisfy a reasonable person that she is fit for work but it is inadvisable for her to continue in her present position during a stated period because of illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee. The employee may require a medical certificate as evidence.

38.18.2 The employer deems it practicable.

38.18.3 If the employer does not think it reasonably practicable to transfer the employee to a safe job, the employee may take paid ‘no safe job’ leave, or the employer may require the employee to take paid ‘no safe job’ leave immediately for a period which ends at the earliest of either:

(a) when the employee is certified unfit to work during the six week period before the expected date of birth by a registered medical practitioner; or

(b) when the employee’s pregnancy results in the birth of a living child or when the employee’s pregnancy ends otherwise than with the birth of a living child.

38.18.4 The entitlement to ‘no safe job’ leave is in addition to any other leave entitlement the employee has.
38.19 Returning to work after a period of parental leave

38.19.1 Where leave is granted under clause 38.7.2, during the period of leave an employee may return to work at any time agreed between the employer and employee provided that the actual return to work date does not exceed four weeks from the date desired by the employee.

38.19.2 An employee will notify their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.

38.19.3 Subject to clause 38.19.4 an employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job pursuant to clause 38.18 the employee will be entitled to return to the position they held immediately before such transfer.

38.19.4 Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

38.20 Replacement employee

38.20.1 A replacement employee is an employee specifically engaged or temporarily promoted or transferred as a result of an employee proceeding on parental leave.

38.20.2 Before the employer engages a replacement employee the employer must inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

38.20.3 Where an employee is employed to replace an employee on parental leave, the employee will be employed for the period of parental leave approved. If the employee on parental leave returns to duty as a result of:

(a) a reduction of parental leave by agreement;
(b) the pregnancy ending other than by the birth of a living child, or the child dies; or
(c) the employee ceases to have responsibility for care of the child;

the replacement employee’s employment may cease prior to the expiration of the contract provided that 6 weeks’ notice of termination is given by the employer to the employee.

38.21 Consultation and communication during parental leave

38.21.1 Where an employee is on parental leave and definite decision has been made that will have a significant effect on the status, pay or location of the employee’s pre-parental leave position the employer will take reasonable steps to:

(a) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
(b) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
38.21.2 The employee will take reasonable steps to inform the employer about any significant matter that will affect the employee’s decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.

38.21.3 The employee will also notify the employer of changes of address or other contact details which might affect the employer’s capacity to comply with clause 38.19.1.

39. EMERGENCY RESPONSE LEAVE

39.1 An employee may be granted up to 38 hours paid leave in circumstances where an employee is requested by an Emergency Service of which they are a member to attend an emergency that is causing or threatens to cause damage or injury to life, property or stock. The employer may approve further leave with or without pay where the need is of such a magnitude as to warrant special consideration.

39.2 Employees will be required to give the employer notice of an absence for an eligible community service activity under this clause and must advise the employer of the period or expected period of absence. The employer may also require satisfactory evidence of the employee’s participation in the relevant activity for which leave is requested.

40. JURY SERVICE

40.1 An employee required to appear and serve as a juror in any court will be granted leave at the Base Rate of Pay for the period during which the attendance of the employee at court is required.

40.2 To obtain approval for leave under this clause, a leave application must be supported by a copy of the notification that the employee has attended the court.

40.3 Any payment made to the employee for serving as a juror during their ordinary hours of work must be repaid to the employer, less an amount for reasonable expenses actually incurred.

41. FAMILY VIOLENCE LEAVE

41.1 The employer recognises that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore the employer is committed to providing support to employees who experience family violence.

41.2 Leave for family violence purposes is available to employees who are experiencing family violence, and also to allow them to be absent from the workplace to attend counselling appointments, legal proceedings and other activities related to, and as a consequence of, family violence.

41.3 Family violence includes physical, sexual, financial, verbal or emotional abuse by a family member as defined by the Family Violence Protection Act 2008 (Vic).
41.4 Family violence leave is available to all employees with the exception of casual employees. Casual employees are entitled to leave without pay for family violence purposes.

General Measures

41.5 Evidence of family violence may be required and can be in the form of a document issued by the Police Service, a Court, a registered health practitioner, a Family Violence Support Service, district nurse, maternal and health care nurse or lawyer. A signed statutory declaration can also be accepted as evidence.

41.6 All personal information concerning family violence will be kept confidential consistent with the employer’s policies and appropriate legislation. No information will be kept on the employee’s personnel file without the express written permission of the employee.

41.7 No adverse action will be taken against an employee if the employee’s attendance or performance at work suffers as a result of experiencing family violence.

41.8 The employer will identify contacts within each Institute who will be trained in family violence and associated privacy issues. The employer will advertise the names of family violence contacts within the Institute.

41.9 An employee experiencing family violence may raise the issue with the immediate supervisor, a family violence contact, Union delegate or Human Resources contact. The immediate supervisor may seek advice from Human Resources if the Employee chooses not to see Human Resources or family violence contact.

41.10 Where requested by an employee, the Human Resources contact will liaise with the employee’s manager on the employee’s behalf, and will make a recommendation on the most appropriate form of support to provide in accordance with clauses 41.12 to 41.17 below inclusive.

41.11 The employer will develop guidelines to supplement these family violence provisions and which detail the appropriate action to be taken in the event that an employee reports family violence.

41.12 An employee experiencing family violence will have access to 20 days per year of paid special leave following an event of family violence and for related purposes such as medical appointments, legal proceedings and other activities related to family violence. This leave is not cumulative but if leave is exhausted consideration will be given to providing additional leave. This leave will be in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.

41.13 An employee who supports a person experiencing family violence may utilise their personal/carer’s leave entitlement to accompany the person to court, to hospital or to care for children. The employer may require evidence consistent with clause 41.5 from an employee seeking to utilise the personal/carer’s leave entitlement.

Individual Support

41.14 In order to provide support to an employee experiencing family violence and to provide a safe work environment to all employees, the employer will approve any reasonable request from an employee experiencing family violence for:

(a) temporary or ongoing changes to the span of hours or pattern of hours and or shift patterns;
(b) temporary or ongoing job redesign or changes to duties;
(c) temporary or ongoing relocation to suitable employment;
(d) a change to the telephone number or email address to avoid harassing contact;
(e) any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.

41.15 Any changes to an employee’s role should be reviewed at agreed periods. When an employee is no longer experiencing family violence, the terms and conditions of employment may revert back to the terms and conditions applicable to the employee’s substantive position.

41.16 An employee experiencing family violence will be offered access to the Employee Assistance Program (EAP) and/or other available local support resources. The EAP will include professionals trained specifically in family violence.

41.17 An employee who discloses that they are experiencing family violence will be given information regarding current support services.

42. DEFENCE RESERVE SERVICE LEAVE

42.1 An employee required to complete Defence Reserve Service may be granted leave for up to 4 weeks or 28 calendar days in a year commencing on 1 January.

42.2 On recruitment or for initial training as a member of the Defence Reserve an employee may be granted leave for up to 2 weeks or 14 calendar days. This leave is restricted to the employee’s first year of Defence Reserve Service.

42.3 With the exception of the additional two weeks on recruitment or for initial training as described in sub-clause 42.2 leave can be accumulated and taken over two years to enable the employee to undertake training as a member of the ADF Reserves.

42.4 An employee may apply for additional Defence Reserve Service leave which the employer may refuse or grant as leave subject to all the circumstances.

42.5 The employee will consult with the employer regarding the proposed timing of the leave and will give the employer as much notice as possible of when Defence Reserve Service for which leave is required will take place. Failure to provide reasonable notice will be grounds for the leave to be refused.

42.6 Where the base salary, excluding allowances, received by the employee from the Australian Defence Force or Defence Reserve Service during the employee’s ordinary hours of duty is below the employee’s salary under this Agreement, the employer will, unless exceptional circumstances arise, pay to the employee make up pay to the level of the employee’s salary under this Agreement for the period of the Defence Reserve Service leave.
43. CULTURAL AND CEREMONIAL LEAVE

NAIDOC Week Leave

43.1 An employee of Aboriginal or Torres Strait Islander descent is entitled to one day of paid leave per year to participate in National Aboriginal and Islander Day Observance Committee (NAIDOC) week activities and events.

43.2 NAIDOC week leave will not accrue from year to year and will not be paid out on termination of the employment of the employee.

Leave to attend Aboriginal community meetings

43.3 The employer may approve attendance during working hours by an employee of Aboriginal or Torres Strait Islander descent at any Aboriginal community meetings, except the Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.

Leave to attend Annual General Meetings of Aboriginal community organisations

43.4 The employer may grant an employee of Aboriginal or Torres Strait Islander descent accrued annual or other leave to attend Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.

Ceremonial leave

43.5 Ceremonial leave may be granted to an employee of Aboriginal or Torres Strait Islander descent for ceremonial purposes:

(a) connected with the death of a member of the immediate family or extended family (provided that no employee will have an existing entitlement reduced as a result of this clause); or

(b) for other ceremonial obligations under Aboriginal and Torres Strait Islander lore.

43.6 Where ceremonial leave is taken for the purposes outlined in clause 43.5(a), up to three days in each year of employment will be with pay. Paid ceremonial leave will not accrue from year to year and will not be paid out on termination of the employment of the employee.

43.7 Ceremonial leave granted under this clause is in addition to compassionate leave granted under clause 37.

43.8 The employee must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is for the reason specified.
44. PUBLIC HOLIDAYS

44.1 Meaning of public holiday

The following are public holidays:

(a) each of these days:
   (i) 1 January (New Year's Day);
   (ii) 26 January (Australia Day);
   (iii) Labour Day (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
   (iv) Good Friday;
   (v) Easter Sunday (Victorian employees only);
   (vi) Easter Monday;
   (vii) 25 April (Anzac Day);
   (viii) The Queen's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
   (ix) AFL Grand Final Eve (Victorian employees only);
   (x) Melbourne Cup Day (Melbourne Metropolitan area only);
   (xi) 25 December (Christmas Day);
   (xii) 26 December (Boxing Day);

(b) the following additional public holidays will apply for Victorian employees:
   (i) when Christmas Day (25 December) is a Saturday, an additional holiday will be observed on the next Monday;
   (ii) when Christmas Day (25 December) is a Sunday, an additional holiday will be observed on the next Tuesday;
   (iii) When Boxing Day (26 December) is a Saturday, an additional holiday will be observed on the next Monday;
   (iv) When Boxing Day (26 December) is a Sunday, an additional holiday will be observed on the next Tuesday; and

(c) any other day, or part-day, declared by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the regulations from counting as a public holiday.

Substituted public holidays under State or Territory laws

44.2 If, under a law of a State or Territory, a day or part-day is substituted for a day or part-day that would otherwise be a public holiday because of clause 44.1, then the substituted day or part-day is the public holiday.
Request to work on public holidays

44.3 The employer may request an employee to work on a public holiday if the request is reasonable. An employee may refuse the employer's request if the request is not reasonable or the refusal is reasonable. Section 114 on the Fair Work Act outlines the matters to be taken into account to determine whether a request or refusal is reasonable.

Public Holidays while on overseas assignments

44.4 For work overseas, consultation and agreement will occur as to the public holidays to be observed.

OTHER MATTERS

45. ACADEMIC FREEDOM

Academic employees are encouraged to contribute in a personal capacity to public debate and discussion on matters relevant to their areas of specialist knowledge and expertise.

46. PAID EDUCATION LEAVE FOR EMPLOYEE REPRESENTATIVES

46.1 The employer may grant an employee representative up to five (5) days leave per year with pay to undertake approved training which will enhance the employee representative's role in dispute resolutions, and implementation of this Agreement. In the granting of such leave, consideration will be given to operating requirements and the overall annual extent of paid education leave undertaken.

46.2 Approved training will include but not be limited to any course, workshop, seminar or like activity carried out as follows:

(a) by or with the support of the National Tertiary Education Union;
(b) by or under the auspices of an association of trade unions, the scope, content and level of which course contributes to a better understanding of industrial relations.

46.3 An application for leave under this clause will be accompanied by a statement from the relevant trade union to the effect that the union has nominated the employee for the course or supports the employee's application. The application must be accompanied by a statement detailing dates, times, venue and content of the education course.
46.4 Leave granted under this section:

(a) will be on full pay which will include payments which are deemed to be part of pay for all purposes including higher duties allowance;
(b) may include any necessary travelling time in normal working hours immediately before or after the education courses; and
(c) will count as service for all purposes.

46.5 An employee granted leave under this clause will not be entitled to reimbursement of personal expenses such as fares, accommodation or meal costs incurred in attending an education course.

47. ELECTRONIC COMMUNICATIONS

47.1 Employees are allowed reasonable access to electronic communication to facilitate communication between employees and their representative, which may include a Union, on matters pertaining to the employer/employee relationship.

47.2 The employer will not interfere with communications between an employee and a Union representative and will consider such communication as confidential between the employee and the Union.

47.3 Union representatives using the employer’s electronic communication systems for Union related matters will exercise their rights reasonably, in accordance with law and pursuant to the employer’s policy. Where the Employer proposes to introduce or vary an electronic communications policy related to union utilisation, there will be consultation between the employer and the union.
SIGNATORIES

EXECUTED as an Enterprise Agreement

Name: Nicholas Hunt
Signature: 
Position Held: Chief Executive Officer
William Angliss Institute of TAFE
555 La Trobe Street
Melbourne, VIC, 3000
Date: 17 March 2020

Name: Matthew McGowan
Signature: 
Position Held: General Secretary
National Tertiary Education Union
PO Box 1323
South Melbourne, VIC, 3205
Date: 18 March 2020
SCHEDULE 1 - Salary Scales (including casual academic rates)

<table>
<thead>
<tr>
<th>WAI Rates</th>
<th>Column 1 29/10/2019 5.5% salary uplift</th>
<th>Column 2 29/10/2019 2% salary increase</th>
<th>Column 3 29/10/2020 2% salary increase</th>
<th>Column 4 29/10/2021 2% salary increase</th>
<th>Column 5 29/10/2022 2% salary increase</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Level A</strong></td>
<td></td>
<td></td>
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<tr>
<td>A1</td>
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<td>$59,079</td>
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<td>$62,320</td>
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<td>A3</td>
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<td>A4</td>
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<td>A5</td>
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<td>A7</td>
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<td>$78,555</td>
<td>$80,126</td>
<td>$81,729</td>
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<td>A8</td>
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<td>$81,800</td>
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<tr>
<td>B1</td>
<td>$80,767</td>
<td>$85,209</td>
<td>$86,913</td>
<td>$88,652</td>
<td>$90,425</td>
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<tr>
<td>B2</td>
<td>$83,567</td>
<td>$88,163</td>
<td>$89,926</td>
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<td>B3</td>
<td>$86,367</td>
<td>$91,117</td>
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<td><strong>Level C</strong></td>
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<td>C1</td>
<td>$96,920</td>
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<td>$104,296</td>
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<td><strong>Level D</strong></td>
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<td>D1</td>
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<td>$135,269</td>
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<td><strong>Level E</strong></td>
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<tr>
<td>E1</td>
<td>$136,581</td>
<td>$144,093</td>
<td>$146,975</td>
<td>$149,914</td>
<td>$152,913</td>
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</tbody>
</table>
### Academic Staff Casual Rates and Descriptors

The following will apply to casual academic teachers:

<table>
<thead>
<tr>
<th>Lecturing</th>
<th>Casual rate as at 1/7/19</th>
<th>5.5% uplift from date of agreement</th>
<th>29/10/2019 2% increase</th>
<th>29/10/2020 2% increase</th>
<th>29/10/2021 2% increase</th>
<th>29/10/2022 2% increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lecture (one hour of delivery and two hours of associated working time)</td>
<td>139.99</td>
<td>$ 167.31</td>
<td>$ 170.66</td>
<td>$ 174.07</td>
<td>$ 177.55</td>
<td>$ 181.10</td>
</tr>
<tr>
<td>Developed lecture (1 hour of delivery and 3 hours associated working time)</td>
<td>N/A</td>
<td>$ 223.08</td>
<td>$ 227.54</td>
<td>$ 232.09</td>
<td>$ 236.73</td>
<td>$ 241.47</td>
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<tr>
<td>Specialised lecture (1 hour of delivery and 4 hours associated working time)</td>
<td>N/A</td>
<td>$ 278.85</td>
<td>$ 284.43</td>
<td>$ 290.12</td>
<td>$ 295.92</td>
<td>$ 301.84</td>
</tr>
<tr>
<td>Repeat lecture (one hour of delivery and one hour associated working time)</td>
<td>89.37</td>
<td>$ 111.54</td>
<td>$ 113.77</td>
<td>$ 116.05</td>
<td>$ 118.37</td>
<td>$ 120.73</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tutoring</th>
<th>Casual rate as at 1/7/19</th>
<th>5.5% uplift from date of agreement</th>
<th>29/10/2019 2% increase</th>
<th>29/10/2020 2% increase</th>
<th>29/10/2021 2% increase</th>
<th>29/10/2022 2% increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tutorial, including seminar delivery (one hour of delivery and two hours associated working time)</td>
<td>107.82</td>
<td>$ 118.25</td>
<td>$ 120.62</td>
<td>$ 123.03</td>
<td>$ 125.49</td>
<td>$ 128.00</td>
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<tr>
<td>Repeat tutorial, including seminar delivery (one hour of delivery and one hour associated working time)</td>
<td>71.86</td>
<td>$ 78.83</td>
<td>$ 80.41</td>
<td>$ 82.02</td>
<td>$ 83.66</td>
<td>$ 85.33</td>
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<tr>
<td>Tutorial, including seminar delivery (one hour of delivery and two hours associated working time) (where academic holds a Doctorate)</td>
<td>118.74</td>
<td>$ 142.90</td>
<td>$ 145.76</td>
<td>$ 148.67</td>
<td>$ 151.65</td>
<td>$ 154.68</td>
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<tr>
<td>Repeat tutorial, including seminar delivery (one hour of delivery and one hour associated working time) (where academic holds a Doctorate)</td>
<td>79.13</td>
<td>$ 95.27</td>
<td>$ 97.17</td>
<td>$ 99.12</td>
<td>$ 101.10</td>
<td>$ 103.12</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Marking</th>
<th>Casual rate as at 1/7/19</th>
<th>5.5% uplift from date of agreement</th>
<th>29/10/2019 2% increase</th>
<th>29/10/2020 2% increase</th>
<th>29/10/2021 2% increase</th>
<th>29/10/2022 2% increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard marking (see note below)</td>
<td>45.92</td>
<td>$ 39.42</td>
<td>$ 40.21</td>
<td>$ 41.01</td>
<td>$ 41.83</td>
<td>$ 42.67</td>
</tr>
<tr>
<td>Marking as a supervising examiner, or marking requiring a significant exercise of academic judgment appropriate to an academic at level B</td>
<td>44.70</td>
<td>$ 55.77</td>
<td>$ 56.89</td>
<td>$ 58.02</td>
<td>$ 59.18</td>
<td>$ 60.37</td>
</tr>
<tr>
<td>Standard marking (where staff holds a Doctorate)</td>
<td>45.92</td>
<td>$ 47.63</td>
<td>$ 48.59</td>
<td>$ 49.56</td>
<td>$ 50.55</td>
<td>$ 51.56</td>
</tr>
<tr>
<td>Marking as a supervising examiner, or marking requiring a significant exercise of academic judgment appropriate to an academic at level B (where staff holds a Doctorate)</td>
<td>44.70</td>
<td>$ 55.77</td>
<td>$ 56.89</td>
<td>$ 58.02</td>
<td>$ 59.18</td>
<td>$ 60.37</td>
</tr>
<tr>
<td>Other required staff activity</td>
<td>45.92</td>
<td>$39.42</td>
<td>$40.21</td>
<td>$41.01</td>
<td>$41.83</td>
<td>$42.67</td>
</tr>
<tr>
<td>------------------------------------------------------------------</td>
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<td>--------</td>
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</tr>
<tr>
<td>Where academic does not hold doctorate qualifications or perform full subject co-ordination duties (see note below)</td>
<td>45.92</td>
<td>$47.63</td>
<td>$48.59</td>
<td>$49.56</td>
<td>$50.55</td>
<td>$51.56</td>
</tr>
</tbody>
</table>

Note actual paid rate is $45.92 until EBA rate exceeds this amount.
Minimum standards for levels of academic staff, other than a casual, are set out in Minimum Standards for Academic Levels (MSAL). The levels are differentiated by level of complexity, degree of autonomy, leadership requirements of the position and level of achievement of the academic. The responsibilities of academic staff may vary according to the specific requirements of the employer to meet its objectives, to different discipline requirements and/or to individual staff development.

An academic appointed to a particular level may be assigned and may be expected to undertake responsibilities and functions of any level up to and including the level to which the academic is appointed or promoted. In addition, an academic may undertake elements of the work of a higher level in order to gain experience and expertise consistent with the requirements of an institute’s promotion processes.

MSAL will not be used as a basis for claims for reclassification.

**Teaching and research academic staff**

**Level A**

A Level A academic will work with support and guidance from more senior academic staff and is expected to develop their expertise in teaching and research with an increasing degree of autonomy. A Level A academic will normally have completed four years of tertiary study or equivalent qualifications and experience and may be required to hold a relevant higher degree.

A Level A academic will normally contribute to teaching at the institute at a level appropriate to the skills and experience of the staff member, engage in scholarly, research and professional activities appropriate to their profession or discipline, and undertake administration primarily relating to their activities at the Institute. The contribution to teaching of Level A academics will be primarily at undergraduate and graduate diploma level.

**Level B**

A Level B academic will undertake independent teaching and research in their discipline or related area. In research, scholarship and teaching a Level B academic will make an independent contribution through professional practice and expertise and coordinate and lead the activities of other staff, as appropriate to the discipline.

A Level B academic will normally contribute to teaching at undergraduate, honours and postgraduate level, engage in independent scholarship and research and professional activities appropriate to their profession or discipline. They will normally undertake administration primarily relating to their activities at the Institute and may be required to perform the full academic responsibilities of and related administration for the coordination of an award program of the institute.
Level C

A Level C academic will make a significant contribution to the discipline at the national level. In research, scholarship and teaching they will make original contributions, which expand knowledge or practice in their discipline.

A Level C academic will normally make a significant contribution to research, scholarship and teaching and administration activities of an organisational unit or an interdisciplinary area at undergraduate, honours and postgraduate level. They will normally play a major role or provide a significant degree of leadership in scholarly, research and professional activities relevant to the profession, discipline and/or community and may be required to perform the full academic responsibilities of and related administration for the coordination of a large award program or a number of smaller award programs of the Institute.

Level D

A Level D academic will normally make an outstanding contribution to the research, scholarship, teaching and administration activities of an organisational unit, including a large organisational unit or interdisciplinary area.

A Level D academic will make an outstanding contribution to the governance and collegial life inside and outside of the Institute and will have attained recognition at a national or international level in their discipline. They will make original and innovative contributions to the advancement of scholarship, research and teaching in their discipline.

Level E

A Level E academic will provide leadership and foster excellence in research, teaching and policy development in the academic discipline within the Institute and within the community, professional, commercial or industrial sectors.

A Level E academic will have attained recognition as an eminent authority in their discipline, will have achieved distinction at the national level and may be required to have achieved distinction at the international level. A Level E academic will make original, innovative and distinguished contributions to scholarship, researching and teaching in their discipline. They will make a commensurate contribution to the work of the Institute.
IN THE FAIR WORK COMMISSION

FWC Matter No.: AG 2020/882 William Angliss Institute of TAFE Academic Staff Agreement 2019

Applicant: William Angliss Institute of TAFE

Section 185 – Application for approval of a single enterprise agreement

Undertaking - Section 190

I, Michele Clark, Manager People & Capability for William Angliss Institute of TAFE give the following undertakings with respect to the William Angliss Institute of TAFE Academic Staff Agreement 2019 (“the Agreement”):

1. I have the authority given to me by William Angliss Institute of TAFE to provide this undertaking in relation to the application before the Fair Work Commission.

2. In relation to clause 20, Dispute Resolution Procedure, the Employer undertakes to insert the following at the end of clause 20.1.1.

“The exclusion of termination of employment has the effect of excluding any dispute that could otherwise be dealt with by way of an application to the Commission for an unfair dismissal remedy or general protections dismissal dispute and does not have the effect of excluding any dispute in relation to the Agreement or the NES.”

3. This undertaking is provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

____________________________
Signature

17th April 2020