

# Orders



SOUTH  
AUSTRALIAN  
**EMPLOYMENT**  
**TRIBUNAL**

## Case Details

<b>Agreement title</b>	The Flinders Ranges Council Enterprise Agreement No.11 2022
<b>Employer</b>	The Flinders Ranges Council
<b>Case number</b>	ET-22-03819

## Orders - Approval of Enterprise Agreement The Flinders Ranges Council Enterprise Agreement No.11 2022

I HEREBY APPROVE this Enterprise Agreement pursuant to section 79 of the *Fair Work Act 1994*.

This Agreement shall come into force on and from 19 August 2022 and have a nominal life extending until 30 June 2025.

A handwritten signature in blue ink, appearing to read 'A. Cairney', is positioned above the Commissioner's name.

**Commissioner Cairney**

**19 Aug 2022**

DOC\_BUILDER\_ENTERPRISE\_AGREEMENTS



# **THE FLINDERS RANGES COUNCIL**

## **ENTERPRISE AGREEMENT NO. 11 - 2022**

### **CLAUSE 1 - TITLE**

This Agreement shall be entitled The Flinders Ranges Council Enterprise Agreement No. 11 - 2022.

### **CLAUSE 2 - ARRANGEMENT**

1. Title
2. Arrangement
3. Application
4. Period of Operation
5. Definitions
6. Relationship to Current Award
7. Objectives
8. Consultative Mechanism
9. Work Health and Safety
10. Employee Relations
11. Grade 9/10 Employees
12. Specific Changes
13. Sick/Carer's Leave
14. Security of Employment
15. Employees Protection
16. Shut Down
17. Training
18. Wage Increases
19. Superannuation
20. Salary Sacrifice
21. Contestability
22. No Further Claims
23. Settlement of Disputes
24. Disciplinary Procedure
25. Not to be Used as a Precedent
26. Signatories

- Appendix A Rates of Pay  
Appendix B Contestability Reference Document

### **CLAUSE 3 - APPLICATION**

- 3.1 This Agreement shall apply to The Flinders Ranges Council (the Employer) and the Australian Workers Union (Amalgamated AWU (SA) State Union) (the Union) and all Employees of The Employer who perform work covered by this Agreement and are eligible to be members of the Australian Workers Union (Amalgamated AWU (SA) State Union).
- 3.2 Cleaners employed by The Employer will be covered by The Flinders Ranges Council Enterprise Agreement No. 11 - 2022 and the Local Government Employees Award.
- 3.3 Pool Attendants employed by The Employer will be covered by The Flinders Ranges Council Enterprise Agreement No. 11 - 2022 and the Local Government Employees Award. Pool attendants will be employed from year to year on a fixed term seasonal contract.

#### **CLAUSE 4 - PERIOD OF OPERATION**

- 4.1 This Agreement shall commence from the day of certification in the South Australian Employment Tribunal and remain in force until 30 June 2025.
- 4.2 The parties shall conduct a review of the Agreement every six (6) months after certification; any matters requiring attention shall be identified and reviewed at that time by the Single Bargaining Unit.
- 4.3 This Agreement will be renegotiated during the final six (6) months of the period of operation.

#### **CLAUSE 5 - DEFINITIONS**

- 5.1 For the purposes of this Agreement:

- 5.1.1 **"Award"** means Local Government Employees Award (as varied).
- 5.1.2 **"Employer"** means The Flinders Ranges Council.
- 5.1.3 **"Union"** means the Australian Workers Union (Amalgamated AWU (SA) State Union).
- 5.1.4 **"Employee"** means any Employee of the Employer who performs work covered by this Agreement and the Award and includes Cleaners and Pool Operators and Pool Supervisors
- 5.1.5 **"Agreement"** means The Flinders Ranges Council Enterprise Agreement No. 11 - 2022.
- 5.1.6 **"Tribunal"** means the South Australian Employment Tribunal of South Australia.
- 5.1.7 **"Parties"** means the Employees, the Union and the Employer
- 5.1.8 **"RDO"** means Rostered Day Off
- 5.1.9 **"TOIL"** means Time of in Lieu

#### **CLAUSE 6 - RELATIONSHIP TO CURRENT AWARD**

- 6.1 This Agreement shall be read in conjunction with the Award, provided that where there is any inconsistency this Agreement shall take precedence.
- 6.2 This Agreement supersedes all other certified Enterprise Agreements between the parties.

#### **CLAUSE 7 - OBJECTIVES**

- 7.1 The aim of this Agreement is to develop and support a flexible workforce and management structure committed to the continued improvement and success of The Flinders Ranges Council and there upon develop and encourage an "Enterprise Culture".
- 7.2 The parties believe that the desire to embrace measures aimed at achieving improved productivity will ultimately lead to the success of the Enterprise and therefore offer to Employees a sustainable level of job security.
- 7.3 The aims and objectives of this Agreement will be achieved by addressing such matters as:
  - 7.3.1 The removal of artificial demarcations and unreasonably restrictive working and management practices with a view to further and on-going harmonious industrial relations;
  - 7.3.2 Improving flexibility in labour supply;

- 7.3.3 Reviewing and improving work arrangements;
- 7.3.4 Developing a high degree of participation, team work, trust and shared commitment to the goals and policies of The Employer and the achievement of real and sustainable improvements in productivity;
- 7.3.5 Adoption of practices to improve standards of Work Health and Safety;
- 7.3.6 Looking at new ways of improving work practices and reduction of wastage and lost time;
- 7.3.7 Continuing development and adoption of initiatives designed to enhance Council's performance;
- 7.3.8 Introduction of measures to reduce absenteeism;
- 7.3.9 Continuously looking at new ways to improve processes and customer satisfaction;
- 7.3.10 Affirmative action by all and commitment to Equal Employment Opportunity principles;
- 7.3.11 To ensure the Employers continued viability and stability, with all parties striving at all times to do all that is practical and reasonable to enhance, improve and sustain the image of The Employer;
- 7.3.12 Implement a training and skills improvement program within The Employer for all Employees; such program will enable Employees to increase their level of individual expertise and in turn improve the excellence of The Employer through the provision of defined career paths and opportunities;
- 7.3.13 Ensure adherence to the Award, this Agreement, Employer Policies and all statutory provisions.

## ***CLAUSE 8 - CONSULTATIVE MECHANISM***

- 8.1 The parties agree that the effective operation of this Agreement is dependent on the continuation of the established Consultative Structures within the workplace. The principle Consultative Structure is the Single Bargaining Unit.
- 8.2 The Single Bargaining Unit shall consist of:
  - 8.2.1 Representatives as nominated by The Employer.
  - 8.2.2 Employee representatives employed by The Employer elected by the workforce.
  - 8.2.3 The State Secretary of the Australian Workers Union (Amalgamated AWU (SA) State Union) (or their nominee).
- 8.3 The role of the Single Bargaining Unit shall be:
  - 8.3.1 To reach decisions by consensus. All decisions will operate as recommendations to the parties.

- 8.3.2 To hear and acknowledge reports and ideas generated by Employee and Employer representatives on a range of issues.
- 8.3.3 To provide a forum for information flow between the Employer and Employees.

#### **CLAUSE 9 - WORK HEALTH AND SAFETY**

- 9.1 All Employees of The Employer shall ensure and be ensured a safe working environment at all times.
- 9.2 The Employer, all Employees and the Union shall give full co-operation to the achievement of high standards of Work Health and Safety.
- 9.3 The parties recognise safety education and safety programs shall be fundamental in achieving this objective. On all of the Employer's projects there shall be strict compliance to all Acts and Regulations and the implementation of Industry Codes and Practice, to provide protection to all.
- 9.4 The Employer will endeavour to ensure that all sub-contractors strictly adhere to all Acts and Regulations, Industry Codes of Practice and other relevant Work Health and Safety guidelines, so as to provide and maintain a safe working environment. The Flinders Ranges Council Procurement Policy requires sub-contractors to have a Work Health and Safety Policy and associated procedures in place to the satisfaction of Council.
- 9.5 Work Health and Safety policies and Employer procedures are readily available at Employer depots via internet.

#### **CLAUSE 10 - EMPLOYEE RELATIONS**

- 10.1 The parties recognise the need to maintain mutual trust and understanding to improve Employee relations throughout the organisation.
- 10.2 The parties agree the need to refocus the traditional Industrial Relations approach to one of Employee relations, where consultation is viewed as beneficial to any change. The Employer recognises the need for Employee commitment to achieve effective improvements in productivity.
- 10.3 The Employer is committed to ensure that there is an opportunity for Employees to be consulted pursuant to Clause 3.1.1 of the Award.
- 10.4 All Employees recognise the Employers right to manage the organisation.
- 10.5 All Employees, provided they have the requisite skills and qualifications, will be notified of, and encouraged to apply for, any advertised vacancy of the Employer,

## **CLAUSE 11 - GRADE 9 and 10 EMPLOYEES**

- 11.1 The parties recognise the commitment to quality, cost effective delivery of its infrastructure services which places an additional level of accountability on the positions of site supervisors. Accordingly, the classification of Municipal Employee Grade nine (9) and Grade ten (10) (described hereunder) has been established and added to the Classification Range.

### **11.1.1 Municipal Employee Grade Nine (9)**

An employee may be classified as a Municipal Employee Grade nine (9) at the discretion of the employer after having demonstrated their ability to competently perform all of the tasks listed for a Municipal Employee Grade 8 together with leadership qualities and effective interpersonal and communication skills.

A Municipal Employee Grade Nine (9) must demonstrate the following level of skills and competencies:

- 11.1.1.1 Supervisory capabilities and a positive attitude towards the goals and objectives of their position;
- 11.1.1.2 Adhere to work schedules with the ability to reorganise activities as required to cater for unforeseen circumstances;
- 11.1.1.3 Ensure that the performance of the employee's gang meets appropriate performance objectives;
- 11.1.1.4 Identify unsatisfactory performance of employees in their work group and take the appropriate responsive action in accordance with the Employer's performance management policy;
- 11.1.1.5 Conduct on the job training and ensure that all employees in their work group are properly inducted on their job requirements, work practices and performance obligations;
- 11.1.1.6 Ensure that all vehicles and equipment used in their work units are maintained in accordance with the Employer's policy; and
- 11.1.1.7 Ensure correct recording for all labour, equipment and materials.

### **11.1.2 Municipal Employee Grade Ten (10)**

An employee may be classified as a Municipal Employee Grade Ten (10) at the discretion of the employer after having demonstrated their ability to competently perform all of the tasks listed for a Municipal Employee Grade Nine (9) together with leadership qualities and effective interpersonal and communication skills.

### **11.1.3 Service Increments**

Grade 9 and 10 employees will be subject to the service increment provisions contained within the Award

## **CLAUSE 12 - SPECIFIC CHANGES**

### **12.1 Flexible Hours - Aggregate Hours Approach**

- 12.1.1 All Employees shall work thirty eight (38) hours per week over a two (2) week cycle with the minimum-working requirement being seventy six (76) hours.
- 12.1.2 This Agreement allows for up to ninety (90) hours to be worked over any two week pay cycle on the basis that the time worked above seventy six (76) hours is accumulated at ordinary time and taken as payment or time off in lieu of payment.

- 12.1.3 For any time worked in excess of ninety (90) hours in any two (2) week cycle the appropriate Award penalty rates shall apply. However, payment may be made at ordinary time with any additional penalty rates accruing and taken as time off in lieu of payment if the Employee concerned agrees.
- 12.1.4 All accredited time off in lieu of payment should be taken before 30 June each year at a time mutually agreed between the Employer and the Employee concerned.
- 12.1.5 The Employer will provide details of credited time on pay slips.
- 12.1.6 This flexible hour's arrangement includes weekends, public holidays and scheduled rostered days off.
- 12.1.7 All Employees are required to be available on weekends on a rotating list basis for emergencies, essential operational requirements (e.g. CWMS, patrol grading, public safety, waste depot) and to cover employees on approved leave.

The rotating list basis will operate as follows:

- a. A list of the employees will be on display on a nominated board in the depot;
  - b. The first name on the list will be nominated to work and if unavailable the next name on the list will be nominated to work and so on until such time as the absence is covered;
  - c. The employee who covers the absence will have their name placed at the bottom of the list;
  - d. When the next absence occurs the above process (a. to c.) will be followed;
  - e. At least 48 hours' written notice will be given when coverage is required, except in emergency cases (including sick leave); and
  - f. It is not the intent of the Employer to use this clause to "man" Council waste facilities on an ongoing basis.
- 12.1.8 Supervisors will make every endeavour that TOIL banked hours do not exceed one (1) week in total at any time during the year.
  - 12.1.9 If the hour's bank has not been cleared by the employee as at the 31st of May of each year and where the employee has been regularly refused the opportunity to take TOIL, the employer will clear the hour's bank and this time will be paid at time and a half. If the employee chooses to clear the hour's bank at any time, this time will be paid at single time.
  - 12.1.10 Nothing in clause 12.1.9 precludes individual employees and the employer from entering into a mutually agreed position of being able to carry hours over into the next twelve month period. This time carried over would be agreed to be utilised before the next twelve month anniversary.
  - 12.1.11 If through no fault of its own the Employer is unable to allow the employee to take the hours agreed to within clause 12.1.10 then the employee will be paid at single time. If through no fault of the employee, they are unable to take the hours agreed to within clause 12.1.10 then the Employer will pay the employee out at time and a half.

12.1.12 The Employer and the Employees are committed to ongoing improvements in productivity that is beneficial to both the Employer and the Employees. All employees covered under this agreement that were employed prior to the 17th of June 2019 will be subject to the 8 day fortnight provisions contained within this agreement unless by mutual agreement the employee consents in writing to alter this arrangement. All those employees employed after this date will be subject to a 9 day fortnight. Employees who are employed as pool attendants and cleaners are not subject to these work patterns. RDOs will be taken as agreed between the Employees and the Director of Works normally on a Monday or Friday. However, both parties agree that flexibility is required to prioritise the operational needs of the community and to also meet the personal/family needs of the Employee. RDO's can be taken by mutual agreement on another day that does not fall on a Monday or Friday. However if an agreement can't be reached, and with reasonable notice (48 hours), the Employer can direct an Employee to take their RDO on a specific day of the week. Employees can also request an RDO on a specific day with reasonable notice (48 hours).

12.1.13 Pool Attendants, Cleaners and Waste Depot Operators

12.1.13.1 The ordinary hours of work of Cleaners, Swimming Pool Attendants and Waste Depot Operators are from 6:00am to 7:00pm Monday to Sunday. Cleaners, Pool Operators and Waste Depot Operators will be classified in accordance with Schedule 7 of the Award and the applicable rate in Schedule A but shall not receive the loadings prescribed in Clause 6.4 of the Award as the rate is fully inclusive of weekend penalty rates.

12.1.13.2 The minimum engagement of Cleaners, Swimming Pool Attendants and Waste Depot Operators shall be one hour regardless of whether the employee is full-time, part-time or casual or engaged on a fixed term contract.

12.2 Compensation for Penalty Rates

12.2.1 The Employer shall provide three (3) extra paid leave days each year at ordinary time during the intervening days between Christmas Day and New Year's day. Part years of service will attract a pro rata entitlement (calculated on a monthly basis).

12.2.2 Permanent Part Time Employees will attract the above days on a pro rata basis.

12.2.3 Casual employees will not be entitled to the above provisions.

12.2.4 Council may run a skeleton crew during the Christmas/New Year shutdown period. Days worked during this period will be at normal time, with the three (3) days extra paid leave substituted to be taken at a mutually agreed time within three (3) weeks either side of the shutdown period.

12.2.5 The extra leave days will be paid at 9.5 hours per day for a full-time Employee and will not be less than three (3) days leave per annum unless the Employee is only entitled to pro-rata amount due to a part year of service.

12.2.6 Employees who work a nine-day fortnight may, if they have worked the first week of the pay period immediately preceding this extra leave period, be entitled to a portion of an RDO during this three (3) day leave period between Christmas Day and New Year's Day. Where this is the case, the Employee accrues this time as TOIL at ordinary time which can be used at another time in accordance with the TOIL provisions.



### 12.3 Deployment

12.3.1 Deployment of Employees on flexible hours will be by agreement between the Employee and the Employer, for all work undertaken by Council.

12.3.2 Where directed by the Employer, Employees undertake the agreed work. Time spent undertaking agreed work including emergencies shall be included in the flexible hour's agreement. Up to ninety (90) hours per two week cycle shall be paid at ordinary time with time worked in excess of ninety (90) hours paid at the appropriate Award penalty rate.

### 12.4 Personal Leave for Medical Appointments for Work related injury

12.4.1 When an employee has an accepted claim for compensation under the Return to Work Act, 2014 and pursuant to Section 39(3) of that said Act, the employee's entitlement to weekly payments in respect of a work injury has come to an end, then the employee can apply for the use of Personal Leave to attend medical appointments for that work related injury. Such application for Personal Leave shall be for the period of time of the medical appointment (plus reasonable travel time) and council must be notified at least seven (7) calendar days prior to the appointment. The employee must provide a Medical Certificate from the medical practitioner following the appointment.

### 12.5 Out of Districts Work Hours

12.5.1 Out of Districts is defined as the area of South Australia administered by the Outback Community Authority

12.5.2 The maximum hours of work during "Out of Districts Work" will be twelve (12) hours per day (60 hours per week) to be worked Monday to Friday with the appropriate penalty rates payable after consideration of the Flexible Hours - Aggregate Hours Approach clause.

12.5.3 An allowance of \$85.00 a day will be payable to employees who conduct "Out of Districts Work" only when employees are required to remain at the work site overnight and are not able return to their place of residence or Council paid accommodation.

### 12.6 Smoking

12.6.1 Smoking by Employees covered by this Agreement shall only be during scheduled breaks and in designated areas that do not contravene the *Tobacco Products Regulation Act 1997*.

## **CLAUSE 13 – SICK/CARERS LEAVE**

13.1 The Employer acknowledges the relationship of work and family and the importance of the effective combination of both in increasing productivity and reducing absenteeism and staff turnover rates of the Employer.

13.2 Sick/Carer's leave will be applied in accordance with the Award.

#### ***CLAUSE 14 - SECURITY OF EMPLOYMENT***

14.1 As part of its commitment to the intentions of the Agreement, The Employer gives the following undertakings to Employees:

14.1.1. For the life of this Agreement the above commitment shall result in no forced redundancies in the workforce.

14.1.2. Any factors which may affect the staffing levels at The Employer shall be discussed at the earliest possible opportunity with all Employees.

## 14.2 Voluntary Redundancies

Where Council offers a Voluntary Separation Package it will be entirely at the discretion of Council and will consist of:

14.2.1	Less than 1 year	Nil
	1 year and less than 2 years	4 weeks pay
	2 years and less than 3 years	6 weeks pay
	3 years and less than 4 years	7 weeks pay
	4 years and over	20 weeks pay

14.2.2 the above payments will be made upon the employee leaving the employ of The Employer.

## **CLAUSE 15 - EMPLOYEES PROTECTION**

15.1 This Agreement shall not operate so as to cause any Employee covered by this Agreement to suffer a reduction in remuneration and benefits provided by the Employer applicable at the time of signing of the Agreement.

## **CLAUSE 16 - SHUT DOWN**

16.1 The employer and employees agree to the business operations to be shut down for a two week period over the Christmas / New Year holiday. The employees are to take leave during this shut down period and can be any combination of annual leave, EB days (pursuant to clause 12.2) or time off in lieu (TOIL).

## **CLAUSE 17 - TRAINING**

17.1 The employees agree that in return for receiving skills based training, paid for by the employer, they will maintain their contract of employment with the employer for a further twelve (12) calendar months or twenty four (24) calendar months depending on the level of financial commitment and by agreement with the employee. It is understood by both parties that training benefits both employee (by increasing skill sets and therefore job prospects) and employer (by increasing efficiency and safety of operations) and that Clause 17 is exclusive of legislative training.

17.2 If the employee should leave, for whatever reason, before the end of the twelve (12) or twenty four (24) calendar month period in Clause 17.1, then the employee will have an amount deducted from their final pay being calculated as the total cost of training divided by twelve (12) or twenty four (24) as the case may be multiplied by the remaining period of the twelve (12) or twenty four (24) calendar month period.

## **CLAUSE 18 - WAGE INCREASES**

- 18.1 Employees, with regard to acceptance of the objectives of this Agreement, shall:
- 18.1.1 Receive a wage increase of 3.00%, this increase to apply as from the first full pay period on or after the 1st July 2022.
  - 18.1.2 Receive a wage increase of 3.00%, this increase to apply as from the first full pay period on or after the 1st July 2023.
  - 18.1.3 Receive a wage increase of 2.50%, this increase to apply as from the first full pay period on or after the 1st July 2024.
- 18.2 The increases in 18.1 above are in lieu of any increase in the award and include all allowances payable under the Award.

## **CLAUSE 19 - SUPERANNUATION**

- 19.1 Choice of Fund applied from 1st January 2012 and enabled existing and new Employees to have the option to nominate a superannuation fund of their choice in accordance with applicable legislation. For any Employee that does not provide a Choice of Fund form within the requisite period determined by the Employer, all contributions will be paid to the Stapled Super Fund or in the event of no Stapled Super Fund details exist, it will go through to Council's default fund being AustralianSuper Pty Ltd ABN 94 006 457 987, AFSL 233788, Trustee of AustralianSuper ABN 65 714 394 898 Superannuation Fund Number (SFN): 2683 519 45.
- 19.2 For the purpose of this clause:
- 19.2.1 **"Superannuation Contributions"** means:
    - 19.2.1.1 For each employee who is making "Salarylink Contribution" to Hostplus Super:
      - 19.2.11.1 3% of the employee's salary (or as amended); and
      - 19.2.1.1.2 Any additional contributions which the Employer is required to pay in respect of the employee pursuant to the Trust Deed as advised by Hostplus Super from time to time to finance the Salarylink benefit for the employee; and
      - 19.2.1.1.3 Any additional superannuation contributions which the Employer agrees to pay in respect of the Employee.
- "Salarylink Contribution" has the meaning given to that term under the Trust Deed
- The Hostplus Super Rules in respect to employees making Salarylink contributions ensure that all members under any circumstances are provided with at least a minimum benefit that meets the requirements of the *Superannuation Guarantee (Administration) Act 1992* (CTH).
- 19.2.2.2 For each other Employee:
    - 19.2.2.2.1 Contributions which the Employer must pay to a superannuation fund in respect of the Employee in order to avoid becoming liable for a shortfall in respect of the employee under the *Superannuation Guarantee (Administration) Act 1992* (CTH); and

19.2.2.2.2 Any additional superannuation contributions which the Employer agrees to pay in respect of the Employee.

19.2.3 Salary sacrificing of superannuation contributions shall be available to Employees. An Employee may elect to vary the amount of salary sacrifice paid to an eligible superannuation fund on a prospective basis at any time during the life of this Agreement.

19.2.4 The Employee's salary referred to in this Agreement shall be the pre-sacrificed salary. However, the parties agree that the net salary paid to an employee will be reduced by any amount salary sacrificed to superannuation.

## **CLAUSE 20 - SALARY SACRIFICE**

- 20.1 Subject to the following conditions, an employee may apply to the Employer to salary sacrifice any part of his/her salary (including Award or Enterprise Agreement based salary/wages) to make additional contributions to any complying fund.
- 20.2 As salary sacrifice is a complex matter, it is the employee's responsibility to seek professional advice and fully understand all implications of salary sacrifice before seeking to enter into this arrangement.
- 20.3 The Employee's substantive gross salary for all purposes, including but not limited to annual leave, annual leave loading and long service leave, shall be the pre-sacrificing salary.
- 20.4 Any such arrangement shall be by mutual agreement between each individual Employee and Employer, provided that approval by the Employer shall not be unreasonably withheld.
- 20.5 The application shall be in writing on the form provided by the Employer and shall detail the percentage of salary to be salary sacrificed together with a statement that the "cash" component is adequate for his/her on-going living expenses.
- 20.6 Each Employee may review and alter the percentage of salary to be salary sacrificed. The arrangements may only apply to future salary arrangements and cannot operate retrospectively.
- 20.7 The individual arrangement to salary sacrifice may be rescinded by the Employee provided three (3) months prior notice in writing is given to the Employer.
- 20.8 The Employee shall bear responsibility and costs associated with taxation and any other matters in respect of the salary sacrifice arrangements. This means that contributions made to any complying fund will be adjusted (at Employee's cost) to take account of taxation payable in relation to those contributions.
- 20.9 Salary sacrifice contributions will be treated as Employer contributions by the Australian Taxation Office for the purposes of calculating the superannuation surcharge (if applicable) and will be preserved.
- 20.10 If the employee agrees to Salary Sacrifice 9.5% or more of their salary, the Council will contribute a further 1% above the Superannuation Guarantee Levy amount into their super fund.

## **CLAUSE 21 - CONTESTABILITY**

- 21.1 The parties agree to consider a contestability process, which will suit the needs of the Employees and the Employer in the best possible manner. The contestability process should be discussed by the Single Bargaining Unit during the lifetime of this Agreement to evaluate all pros and cons before consideration of implementation. The draft reference document is based on the model proposed by the Union.
- 21.2 A copy of a draft reference document is attached as Appendix B.

## **CLAUSE 22 - NO FURTHER CLAIMS**

- 22.1 The Parties undertake that during the period of operation of this Agreement there shall be no further claims sought or granted.
- 22.2 Basic standards of employment and entitlements of the Employee will not be negotiated at the Enterprise level for the life of this agreement, including the following:
  - 22.2.1 Hours of Duty
  - 22.2.2 Rates of Pay and Classifications
  - 22.2.3 Annual Leave, Sick Leave (including Carers Leave), Long Service Leave
  - 22.2.4 Penalty Rates (e.g. overtime rates, TOIL rates)
  - 22.2.5 Average Weekly Working Hours of 38 Hours

## **CLAUSE 23 - SETTLEMENT OF DISPUTES**

- 23.1 In the event of a dispute arising between Employer and an Employee or Employees concerning any aspect of work, the following procedure shall be observed:
  - 23.1.1 Employee(s) shall in the first instance seek to resolve any dispute with the relevant Team Leader/Leading Hand.
  - 23.1.2 Conversely, a Team Leader/Leading Hand should seek to resolve any disputes directly with the Employee(s) concerned, as appropriate.
  - 23.1.3 If matters remain unresolved then assistance should be sought from the Director of Works and the appropriate Workplace Representative who may involve a Union Official.
  - 23.1.4 If, at this stage matters are unresolved, the Director of Works will liaise with the Chief Executive Officer, as appropriate.
- 23.2 If the issues remain unresolved, either party may refer the matter to the South Australian Employment Tribunal for conciliation and if necessary, arbitration. Both parties shall endeavour to have the hearing as early as possible.
- 23.3 While procedures in clause 23.1 and clause 23.2 are being followed, work shall continue normally except in a bona-fide situation where the physical safety of any Employee is endangered. Each step of the procedure shall take a maximum of 5 business days unless otherwise agreed in writing.
- 23.4 The ultimate terms of settlement of a problem shall not be affected in any way, nor shall right of any person involved in or affected be prejudiced by the fact that normal work has continued without interruption.

- 23.5 None of the above precludes an Employee from contacting their Workplace Representative, Union Official or a representative of their choice at any time.

#### **CLAUSE 24 – DISCIPLINARY PROCEDURE**

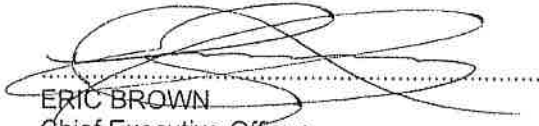
- 24.1 The following steps form the disciplinary procedure, which will be followed in all cases where such action is considered to be necessary and is not covered by the Code of Conduct for Employees;
- 24.1.1 **Reprimand**  
The Leading Hand, Team Leader or Director of Works reprimands the employee for not performing his or her duties satisfactorily. A record will be kept of the date of the reprimand and any further reprimands that take place and if the employee's performance does not improve, the Team Leader will report the matter to the Director of Works.
- 24.1.2 **First Warning**  
After consultation with the Team Leader, the Director of Works will warn the employee. This will be confirmed in writing and a copy handed to the employee. A copy will be put on the employee's personnel file. If, after a suitable length of time, the employee's performance improves, the letter will be disregarded as a first warning.
- 24.1.3 **Final Warning**  
If the employee's performance has not improved after the first warning, after consultation with the Team Leader and in the presence of the Union or Employee's Representative, the employee will be handed a written final warning.
- 24.1.4 **Notice of Termination**  
If there is no improvement after the issue of a final warning, the employee's employment will be terminated.
- 24.2 Where misdemeanours are considered by the Team Leader to be of a more serious nature, then the reprimand or both the reprimand and first warning steps, may be omitted.
- 24.3 Every endeavour is made to avoid using the disciplinary procedure by maintaining good communication between Employees and their Team Leader, but when that communication breaks down, a formal procedure, acceptable to the Employer, Union and Employees, is necessary.

#### **CLAUSE 25 - NOT TO BE USED AS A PRECEDENT**

- 25.1 This Agreement shall not be used as a precedent to obtain similar arrangements or benefits in any other Local Government Council.

**CLAUSE 26 - SIGNATORIES**


Signed for and on behalf of **The Flinders Ranges Council** by:

  
ERIC BROWN  
Chief Executive Officer

  
Witness

on this 4 day of August 2022

Signed for and on behalf of the employees by the **Australian Workers Union**:

  
~~PETER LAMPS~~ GARY HENDERSON  
Assistant Secretary to the Amalgamated AWU (SA) State Union

  
Witness

on this 8<sup>th</sup> day of August 2022



# APPENDIX A

## The Flinders Ranges Council Enterprise Agreement No 11 – 2022

Classification				Total Weekly Rate incl. Disability as at 30 June 2021	Hourly	Total Weekly Rate incl. Disability as at 1 July 2022	Total Weekly Rate incl. Disability as at 1 July 2023	Total Weekly Rate incl. Disability as at 1 July 2024
Grade	1	Yr	1	1,008.02	26.5268	1,038.26	1,069.41	1,096.14
Grade	1	Yr	2	1,020.90	26.8658	1,051.53	1,083.07	1,110.15
Grade	1	Yr	3	1,033.65	27.2013	1,064.66	1,096.60	1,124.01
Grade	2	Yr	1	1,036.85	27.2855	1,067.96	1,099.99	1,127.49
Grade	2	Yr	2	1,049.76	27.6253	1,081.25	1,113.69	1,141.53
Grade	2	Yr	3	1,062.50	27.9605	1,094.38	1,127.21	1,155.39
Grade	3	Yr	1	1,066.39	28.0629	1,098.38	1,131.33	1,159.62
Grade	3	Yr	2	1,079.30	28.4026	1,111.68	1,145.03	1,173.66
Grade	3	Yr	3	1,092.01	28.7371	1,124.77	1,158.51	1,187.48
Grade	4	Yr	1	1,102.02	29.0005	1,135.08	1,169.13	1,198.36
Grade	4	Yr	2	1,114.94	29.3405	1,148.39	1,182.84	1,212.41
Grade	4	Yr	3	1,127.67	29.6755	1,161.50	1,196.35	1,226.25
Grade	5	Yr	1	1,129.89	29.7339	1,163.79	1,198.70	1,228.67
Grade	5	Yr	2	1,142.76	30.0726	1,177.04	1,212.35	1,242.66
Grade	5	Yr	3	1,155.50	30.4079	1,190.17	1,225.87	1,256.52
Grade	6	Yr	1	1,150.74	30.2826	1,185.26	1,220.82	1,251.34
Grade	6	Yr	2	1,163.64	30.6221	1,198.55	1,234.51	1,265.37
Grade	6	Yr	3	1,176.39	30.9576	1,211.68	1,248.03	1,279.23
Grade	7	Yr	1	1,171.62	30.8321	1,206.77	1,242.97	1,274.05
Grade	7	Yr	2	1,184.54	31.1721	1,220.08	1,256.68	1,288.10
Grade	7	Yr	3	1,197.24	31.5063	1,233.16	1,270.15	1,301.91
Grade	8	Yr	1	1,190.80	31.3368	1,226.52	1,263.32	1,294.90
Grade	8	Yr	2	1,203.70	31.6763	1,239.81	1,277.01	1,308.93
Grade	8	Yr	3	1,216.44	32.0116	1,252.93	1,290.52	1,322.78
Grade	9	Yr	1	1,211.70	31.8868	1,248.05	1,285.49	1,317.63
Grade	9	Yr	2	1,224.58	32.2258	1,261.32	1,299.16	1,331.64
Grade	9	Yr	3	1,237.30	32.5605	1,274.42	1,312.65	1,345.47
Grade	10	Yr	1	1,239.50	32.6184	1,276.69	1,314.99	1,347.86
Grade	10	Yr	2	1,252.43	32.9587	1,290.00	1,328.70	1,361.92
Grade	10	Yr	3	1,265.15	33.2934	1,303.10	1,342.20	1,375.75

\* Schedule rates include all allowances payable under the Award.

## **APPENDIX B**

### **DRAFT CONTESTABILITY REFERENCE DOCUMENT**

Contestability has a role in ensuring The Flinders Ranges Council provides high quality services to its customers. Contestability at The Flinders Ranges Council (the Council) means testing the services of the Council against the market from time to time to determine the efficiency and effectiveness of the service provided.

If it is determined that an outside provider is able to provide a more efficient and effective service for the Council's ratepayers and customers, Employees will be given the opportunity to match the service. If this is not possible Council will put the service out to tender.

The following steps will aid Council to introduce contestability, to be based on the principles of fairness and equity to both Council and Employee for the benefit of ratepayers and customers.

#### **1. Organisational and Procedure Review**

##### **1. Organisation Structure**

Council will:

- Clearly identify costs of all overheads
- Clearly identify costs of governance
- Clearly identify costs of all activities
- Clearly identify performance against agreed standards
- Ensure a clear differentiation between the client and provider sides of the service delivery.

##### **2. Activities Specification**

Activity specifications will be developed by Council. These documents will be produced in a format to establish a basis for quality accreditation.

##### **3 Evaluation System**

Evaluation criteria to be used in market testing will be developed for each activity.

##### **4. Costing System**

In developing costing systems for contestability it is recognised that Local Government carries a substantial cost of governance. This will be identified as a separate cost.

Costing systems that are transparent will be developed that ensure that both in-house and external providers are treated fairly and equally and that all costs including overheads are separately identified.

##### **5. Tendering/Benchmarking Processes**

In order to market test Council services against other providers the following steps will be taken:

- Existing tendering processes will be reviewed and amended where necessary to ensure fairness and equality for all parties, including non-performance penalties.
- Benchmarking processes will be established for each activity.
- Tendering processes shall include performance measurement for each contract.

## **6. Staff Training**

Staff will be provided with basic training in all aspects of contestability.

All the above steps will be taken in consultation with all parties to a Contestability Agreement.

## **2. Performance Standards/Indicators**

Agreed performance indicators and agreed performance standards have a key role in contestability. They are a means of measuring what has been achieved and the need for any further improvements.

The primary role of agreed performance indicators is to assist in achieving contestability and the delivery of Business Plan Key Result Areas in the interest of ratepayers and customers, the Council and Employees. Agreed performance indicators will be developed during the life of a Contestability Agreement.

Agreed performance indicators can be developed in response to clearly articulated business plan objectives. These indicators will be developed and implemented through consultation with Single Bargaining Unit and will be subject to regular reviews.

It is recognised that agreed performance indicators are not an end in themselves but are a means of identifying trends and efficiency against agreed Best Practice benchmarks. They enable identification of areas where there is potential for further improvements.

Key benchmarking indicators shall include but not be limited to those defined within each business plan put together with:

- Customer service (internal and external)
- Customer satisfaction (internal and external)
- Wastage and rework
- Workforce participation in productivity and improvements
- Financial performance
- Staff absenteeism
- Increased skills, education and training
- Work organisation and flexibility
- Equipment down time
- Assessment against industry standards
- Timeliness
- Work Health and Safety performance

Performance standards/indicators shall be developed using a participatory approach involving union, Employee representatives and management.

Within twelve (12) months of signing a Contestability Agreement, figures against each performance standards/indicators will be compiled to cover comparable Councils and other relevant public and private sector organisations.

### **3. Quality Management**

To maintain a competitive edge in contestable works it is essential that the documentation and benchmarks be used as the basis of continuous improvement programs. With that in mind the parties agreed that:

- Within the first twelve (12) months of a Contestability Agreement, the parties will undertake documentation of existing procedures and practices to establish a basis for quality accreditation.
- Training in the concepts of Total Quality Management will be provided.
- At the end of a Contestability Agreement the Council aims to be able to be third party accredited in 75% of contestable field operations.

### **4. Training**

The parties recognise that the achievement of increased efficiency, productivity and contestability for Council requires that Employees effectively utilise the training provided to them and that training will be provided on the basis of appropriateness and identified needs.

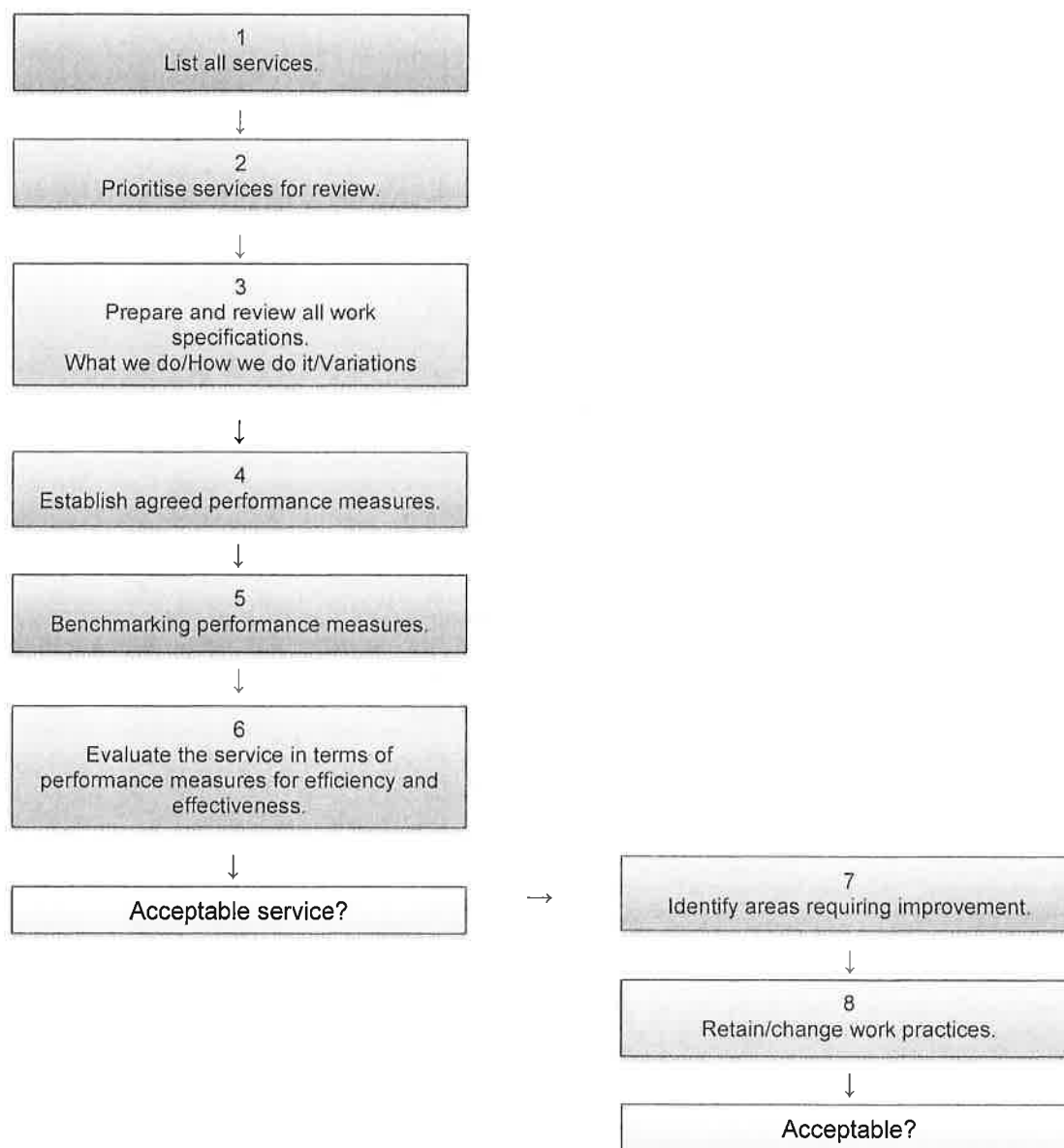
Council has a commitment to the on-going training of its Employees and the development of a multi-skilled workforce, to ensure contestability.

The parties to a Contestability Agreement recognise that commitment to training and skill development is essential to increase the productivity and efficiency of the Council and to enhance career development of the Employees. The parties agree to consider and/or adopt applicable Standards in the development of training and skills' programs for the Employees.

Training will be organised and approved in accordance with the Council's Training and Development Policy.

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## **CONTESTABILITY PROCESS MODEL**



## **PROCESS STEPS**

### **1. List All Services**

- 1.1. List all of the functions/sections covering the workforce covered by Enterprise Agreement 11-2022 including areas overlapping with other employees not covered by Enterprise Agreement 11 - 2022.
- 1.2. List all the services provided as identified in the Business Plan.
- 1.3. Identify any services currently not provided but which are being considered for provision or are opportunities.

## **2. Prioritise Services for Review**

- 2.1. Identify/select services for review in conjunction with Business Plan, Council, Customer and legislative requirements.
- 2.2. List the services for review in order of priority using established criteria such as current contract due for renewal, service costs increasing, quality not meeting customer expectations etc.

## **3. Prepare and Review All Work Specifications i.e. What We Do/How We Do It/Variations**

- 3.1. Train teams/identified Employees in task analysis and specification preparation and review.
- 3.2. Identify and define all key tasks undertaken, i.e. What are we actually providing the customer?
- 3.3. Identify and record how the tasks/processes are undertaken. i.e. Flow-chart and document the current processes.
- 3.4. Identify any key process variable, which impact on the provision of the service.
- 3.5. Identify any non-value adding activities within the system, which can be eliminated from the service provision.
- 3.6. Prepare or review specifications to ensure they are accurate, relevant and in line with customer expectations.

## **4. Establish Agreed Performance Measures**

- 4.1. Train Employees in performance measurement and statistical methods relevant for contestability, ensuring consistency of approach throughout the organisation.
- 4.2. Train identified Employees in the use of statistical methods relevant to the management and reduction of variation.
- 4.3. Establish agreed performance measures which can be reported on and which are important in reducing variation in tasks within the services provided.
- 4.4. Ensure performance measures are relevant, able to be benchmarked, easily reported on and are relevant to the Business Plan.

## **5. Benchmarking Performance Measures**

- 5.1. Train identified Employees in benchmarking.
- 5.2. Identify benchmarking partners from organisations with a similar service/function.
- 5.3. Select benchmarking partners after discussions with the relevant organisations.
- 5.4. Agree on benchmarking Code of Conduct.
- 5.5. Benchmark performance against benchmarking partners using key performance measures.
- 5.6. Report on benchmark findings.

## **6. Evaluate the Service In Terms Of Performance Measures for Efficiency and Effectiveness**

- 6.1. Using benchmarking results, evaluate the service in terms of quality and performance measures.
- 6.2. Identify any significant variation to benchmarking partners and areas requiring improvements.
- 6.3. Investigate with benchmarking partners areas of apparent best practice not evident within the service results.

## **7. Identify Areas Requiring Improvement**

- 7.1. Identify what changes can be made to the service, if necessary and consult with the relevant parties.
- 7.2. Document agreed changes to the specification.

## **8. Retrain/Change Work Practices**

- 8.1. Retrain Employees in changing work practices.
- 8.2. Implement agreed changes.
- 8.3. Review the agreed changes in terms of benchmarking the key performance indicators.

## **CONTESTABILITY TERMS AND DEFINITIONS**

### **Benchmarking**

Benchmarking involves the use of indicators to measure performance against others. The whole purpose of benchmarking is to provide information, which can be used to either identify improvements to be made or to monitor progress in making improvements. Benchmarking:

- compares how you do something to how others do it;
- reveals the performance gaps you need to close;
- helps you find the best practices in your industry; and
- will help you become more competitive.

### **Business Plan**

A Business Plan is a Management Plan of the Council. It should establish the aims and objectives, review strengths and weaknesses, outline marketing and operational strategies of the unit.

### **Client**

The Client (Purchaser) part of the organisation is responsible for identifying and monitoring community needs and for the financial and service performance of the organisation, but not necessarily the technical or practical delivery of services.

## **Competitive Tendering**

Competitive Tendering is a process whereby costs of providing products or services of a set quality are compared with internal and external providers. This involves exposing in-house terms to competition through an open tender process. In-house bids are submitted and assisted by the provider part of the organisation whilst the tender procedures are managed by the client part. Competitive Tendering involves the following key steps:

- document and review current service (including cost and quality);
- prepare a service specification and tender documentation;
- call for tenders (including a bid from in-house team);
- evaluate tenders in accordance with stated criteria and award the contract to the preferred (internal or external) contractor;
- manage the performance of the successful tender.

This is also called Market Testing.

## **Compulsory Competitive Tendering**

Compulsory Competitive Tendering is when competitive tendering is made compulsory by legislation or when it is made compulsory to tender specific services.

## **Contestability**

Contestability shall mean testing the services of the Council against the open market at set intervals to determine the efficiency and effectiveness of the service provided. If it is determined that an outside provider is able to provide a more efficient and effective service for Council's customers, Employees will be given the opportunity to match the service. If this is not possible Council may put the service out to tender.

## **Contracting Out/Outsourcing**

Contracting Out is the process whereby Council invites tenders for the operation of a particular service in Council's operations, where the service is provided by an external party and Council oversees and retains overall control of the direction of the service. Council has the option at some future time to revert back to full operational responsibility.

## **Governance**

Governance of democracy costs may be a part of the statutory obligations or a key aspect of 'Community Government' and would not be expected to be a part of the private sector contractor's role. Such costs may include:

- election of representatives of the community to Council;
- meeting costs of the Council, its Committees and Councillor representation at public functions conferences and meetings;
- Council strategic planning and policy making responsibilities, but not management meetings of specific services;
- any salaries and expenses of elected members;
- the Chief Executive Officer of the Council on matters associated with supporting Elected Members, planning, policy making and the representation role, but not management of services;
- Corporate Management may also provide advice and support to the governance role including some aspects of accounting, budgeting and annual reports;
- general information and publicity on the Council, but not its services;
- costs associated with employing staff, accommodation and administration required to



service the operation of Council as described above.

### **Internal Service Agreement**

An agreement between the in-house team and the Council to provide a defined service (annual cost and performance criteria) for a defined period.

### **Overheads**

Costs which are not directly linked to the activity (project) but which are shared across all activities/projects to reflect the total cost of the provision of the service excluding the cost of governance.

### **Performance Measures**

The criteria used to assess the efficiency and effectiveness of a service.

### **Service Specifications**

A document which identifies the services to be provided, and which reflects the outcome desired from a service. The specification will describe the service that has to be provided and the standards that have to be met. It may cover outputs, time scales, processes, or inputs of resource. It sets out the roles and responsibilities of the contractor to the client, and also to service users. The purpose of the specification is to:

- provide a basis for a fair and competitive tendering process for the service;
- describe the required service;
- nominate the required performance levels; and
- provide a basis for negotiating a manageable performance contract with the successful tender

### **Transparency**

Transparency means clear and fair processes, reporting lines and costing principles are used in Council's Contestability Process and that staff and all potential tenderers feel that they operate on a level playing field.