

**PROPOSED
DARWIN PORT CORPORATION
MARINE PILOTS'
2014 – 2018
ENTERPRISE AGREEMENT**

EXPLANATORY NOTES

**THIS DOCUMENT REFLECTS THE CHANGES IN THE PROPOSED
AGREEMENT COMPARED WITH THE CURRENT AGREEMENT**

Please note:

- i. Reference to the 'current Agreement' means the Darwin Port Corporation Marine Pilots' 2011 – 2014 Enterprise Agreement and reference to the 'new Agreement' means the proposed Darwin Port Corporation Marine Pilots' 2014-2018 Enterprise Agreement.
- ii. References to the 'NTPS Agreement' mean the Northern Territory Public Sector 2013-2017 Enterprise Agreement'.
- iii. Technical changes were required throughout the new Agreement in line with amendments introduced: on 1 January 2012 to the *Public Sector Employment and Management Act* (PSEM Act) (eg 'permanent employee' changed to 'ongoing employee; 'temporary employee' to 'fixed period employee'); and to the *Fair Work Act 2009* (FW Act).
- iv. Unless otherwise stated, references to clause and sub-clause numbers in the explanatory notes are referring to the current Agreement clauses.

PART 1 – APPLICATION AND OPERATION OF THE AGREEMENT

1. Title

Amended title to Darwin Port Corporation Marine Pilots' 2014-2018 Enterprise Agreement.

2. Period of Operation and ~~Variation~~

Amended clause title to "Period of Operation" and removed sub-clause 2.2 "The Agreement may only be varied in accordance with the FW Act", and the FW Act applies regardless. Updated clause to reflect the term of the new Agreement to expire 30 June 2018.

3. Table of Contents

Updated the index list to reflect changes in agreement.

4. Definitions

Updated terminology such as 'Fair Work Australia' with 'Fair Work Commission' (FWC), after PSEM Act added the phrase '...as amended from time to time, and includes the Regulations, By-laws, Employment Instructions and Determinations as varied from time to time, made under that Act', to clarify that the agreement applies taking into account any amendments to this legislation during the life of the new Agreement. Included 'as amended from time to time' after references to *Marine Act* (NT) and the *Darwin Port Corporation Act*.

5. ~~Coverage of the Agreement~~ Parties Covered by this Agreement

Title amended to reflect 'Parties Covered by this Agreement'. Sub-clause 5.4 deleted because any new agreement approved by the FWC automatically replaces the current Agreement therefore there is no requirement to include this provision in the agreement.

6. No Extra Claims and Negotiations for Replacement Agreement

The changes made to this clause are to ensure consistency with the NTPS Agreement provisions by updating sub-clause 6.1 to reflect the agreement constitutes a final settlement of the parties' claims, and together with the PSEM Act, is intended to set out, or set out processes for determining, all the terms and conditions of employment of the employees who will be subject to the new Agreement. Sub-clause 6.2 included to provide that the Agreement will be read in conjunction with the PSEM Act and will prevail over the PSEM Act to the extent of any inconsistency; and for the avoidance of doubt, the PSEM Act is not incorporated into the Agreement. Sub-clause 6.4 updated to provide flexibility when negotiations for the next agreement may commence, with agreement of the parties.

7. Objectives of the Agreement

No changes.

8. ~~Anti-Discrimination~~ Omitted

Omitted: The Anti-Discrimination legislation exists externally to the agreement and applies regardless of referencing it in an enterprise agreement. It is not necessary to include it in the agreement.

9. Job Security, Redeployment and Redundancy

Updated sub-clause 9.1 to clearly reflect that there will be no involuntary redundancies arising directly from the implementation of the new Agreement. Amended sub-clause 9.2, and inserted new sub-clause 9.3, referring to redeployment and redundancy entitlements and transfer of business laws consistent with the Darwin Port Corporation (DPC) (NTPS) 2014-2018 Enterprise Agreement and the FW Act. Redeployment and Redundancy entitlements, terms and conditions continue to apply in accordance with the NTPS Agreement and the PSEM Act.

PART 2 – PROCEDURAL MATTERS

10. Dispute Settling Procedures

Updated to reflect new terminology, to be consistent with the NTPS Agreement, and to clarify which provisions of the new Agreement are excluded from the Dispute Settling Procedures (i.e. requests for flexible work arrangements or to extend parental leave refused by the CEO on reasonable business grounds are excluded from Dispute Settling Procedures). New provision added to clarify that an employee who has a grievance about an otherwise excluded matter can utilise section 59 of the PSEM Act to seek a review of a decision.

11. Management of Change and Consultation

This clause has been replaced with the FW Act model consultation term which includes new provisions (i.e. requirement to consult on changes to regular roster or ordinary hours of work) introduced into the FW Act from 1 January 2014.

12. Individual Flexible Working Arrangements

Minor technical changes to terminology and removed requirement to inform the Commissioner for Public Employment when an Individual Flexible Working Arrangement (IFWA) is terminated. Any such requirement to notify the Commissioner for Public Employment is administrative (i.e. not required by any law) and contained in the IFWA template documents issued by the Office of the Commissioner for Public Employment. Changes to the notice period to effect a termination of IFWA to align with NTPS Agreement and consistent with FW Act, however notice periods are to be agreed to prior to an IFWA being approved.

13. Variation to Working Arrangements for Groups of Employees

Removed reference to commuted salaries under sub-clause 13.1(b) as Marine Pilot salary provisions already represent a commuted salary as detailed under sub-clause 21.1.

14. Sharing of Information

Updated to reflect confidential or commercially sensitive information is not required to be provided, and removed reference to Joint Consultative Committee as this forum is not utilised by the Marine Pilots to share information.

15. Productivity Improvements

No change.

16. ~~Modern Enterprise Award~~ Omitted

Omitted. Not required as an application for a modern enterprise award has been made.

PART 3 – GENERAL EMPLOYMENT CONDITIONS

Division 1 Classification, Salaries and Related Matters

17. Payment of Salary

No change.

18. ~~Salary Clarification~~ Omitted

Omitted: Provision moved to clause 21 'Salaries'.

19. ~~Qualification Requirements~~ Omitted

Omitted: Agreed that regulatory matters should be separate from the agreement. Provisions detailed in an agreed letter of understanding separate to the new Agreement.

20. ~~Classifications Translation Arrangements and Progression~~

No change to classifications or progression provisions. Updated title and clause to remove references to translation arrangements that were not applicable under the new Agreement.

21. ~~Table of Salaries~~

Updated title to 'Salaries', and included provisions moved from clause 18. Table of salaries updated to reflect salary increases of 3% per annum over the term of the new agreement.

22. Superannuation

No change.

23. Salary Sacrifice

No change.

24. ~~Northern Territory Government Death and Invalidity Scheme Omitted~~

Omitted: Benefits provided under the NTGDIS scheme are covered by the *Superannuation Act* (NT) and are not required in the agreement. Confirmed benefits still apply in an agreed letter of understanding separate to the new Agreement.

Division 2 General Employment Arrangements

25. Duties

Minor change in terminology at sub-clause 25.7, and agreed to remove duties at sub-clauses 25.7, 25.9 and 25.10 of the current Agreement detailing work not typically undertaken by Marine Pilots.

26. Hours of Work and Shift Work

New sub-clause 26.3 included to reflect Marine Pilots are expected to be available to work reasonable additional hours if required by the agency, and the reasons they may refuse to work the additional hours, consistent with the FW Act.

27. Rosters and Hours of Work

Sub-clause 27.2 has been amended to reflect the roster may be varied by agreement between the DPC and Marine Pilots 'in accordance with sub-clause 11.10 of the agreement'. New sub-clause 11.10 introduced requirements to consult on changes to regular rosters or ordinary hours of work, as required under the FW Act from 1 January 2014. Sub-clause 27.11 amended to reflect new provisions for Time-off-in-lieu (TOIL) arrangements specifying when half day and full TOIL accrues. Sub-clause 27.14 amended to reflect TOIL credits must be used within two months (increased from one month).

28. ~~Contract of Employment Omitted~~

Omitted: Current Marine Pilots will continue to have these provisions provided separate to the agreement. Provisions detailed in an agreed letter of understanding separate to the new Agreement.

29. Part-Time Employment

No change.

30. Notice Period and Termination of Employment

Updated sub-clause 30.3 to include termination of employment at the initiative of the DPC is to be in accordance with the FW Act (current agreement only referenced PSEM Act).

31. Recovery of Overpayments and Relocation Costs on Cessation of Employment

Updated title to include 'Relocation Costs' to reflect provisions already contained in sub-clause 31.2. Removed sub-clause 31.4 providing for disputes arising under this clause to be subject to the dispute settling procedures in the agreement, as these apply regardless if stated in this clause or not.

32. Over-carriage

No change.

33. ~~Communications Equipment~~ Omitted

Omitted. Provisions are covered by Information Communication Technology (ICT) policies and not required in enterprise agreements.

34. ~~Darwin Port Corporation Vehicle Use Policy~~ Omitted

Omitted. Vehicle provisions are detailed in an agreed letter of understanding separate to the new Agreement.

35. Training and Professional Development

No change.

36. Marine Pilot Health and Fitness Standard

No change.

37. ~~Employee Health and Well being~~ Omitted

Omitted. Clause dealt with development of procedures under the current Agreement and is not required in the new Agreement.

38. ~~Safety in the Workplace~~ Omitted

Omitted. Provisions are covered by work health and safety legislation and not required in the new Agreement.

Division 3 Leave Entitlements

39. Recreation Leave

Removed sub-clause 39.4 in the current agreement dealing with elections to reduce recreation leave entitlements by one week. Marine Pilots retain the ability to cash up recreation leave under new agreement. Recreation leave entitlements, terms and conditions continue to apply in accordance with the NTPS Agreement, subject to sub-clauses 39.2 and 39.3.

40. ~~Christmas Closedown~~ Omitted

Omitted. DPC Marine Pilots may be required to work during this period.

41. Recreation Leave Loading

Removed transitional provisions at sub-clause 41.2 as they were only applicable to the current agreement.

42. Parental Leave

No change. As with the current Agreement, this clause continues to reflect that Parental Leave entitlements, terms and conditions are as per the NTPS Agreement.

43. Personal Leave

No change. As with the current Agreement, this clause continues to reflect that Personal Leave entitlements, terms and conditions are as per the NTPS Agreement.

44. Compassionate Leave

No change. As with the current Agreement, this clause continues to reflect that Parental Leave entitlements, terms and conditions are as per the NTPS Agreement.

45. Long Service Leave

No change to entitlements, terms and conditions. In line with the NTPS Agreement, updated clause to reference By-law 8 Long Service Leave of the PSEM Act.

Information on the New Agreement

If you would like further information on the agreement, please contact the Employee Relations unit in the Office of the Commissioner for Public Employment on telephone **08 8999 4171**.