



RECOMMENDATION

Fair Work Act 2009

s.240 - Application to deal with a bargaining dispute

Sydney Water Corporation

(B2021/13)

COMMISSIONER RIORDAN

SYDNEY, 4 FEBRUARY 2021

Application to deal with a bargaining dispute.

[1] On 12 January 2021, the Sydney Water Corporation filed a dispute with the Commission pursuant to section 240 of the *Fair Work Act 2009*.

[2] I called the matter on for Conference on 2 February 2021. I was advised that the Sydney Water Corporation (**Sydney Water**) has been involved in bargaining with the Australian Services Union, Professionals Australia, and the Electrical Trades Union (**the Unions**) for a new enterprise agreement since 4 February 2020. As a result of the negotiations that took place at the Conference, I recommend the following to resolve the impasse in these negotiations:

1. In support of a high-performance culture, Sydney Water's 'Flexible Working our Way' program will be embedded and adapted based on employee feedback and emerging better practice. Any declined requests for flexibility or RDOs may be submitted for reconsideration by the General Manager People and Culture.
2. From 1 February 2021, all employees are encouraged to work at Sydney Water sites where possible to connect and perform their roles in order to assist with wellbeing, collaboration and productivity, while also contributing to the economic recovery of nearby businesses. Through 'Flexible Working our Way', people can continue to work remotely some of the time on a pattern agreed at a team level to meet the needs of employees, customers and the business, for example 2 days per week.
3. Parental Leave will be paid in addition to Government benefits to those employees on paid parental leave on or after 1 July 2020, to be included in the next Enterprise Agreement. Employees will be invited to discuss other family needs and potential support that could help create a better life for families of employees such as elder and childcare. An employee who is a partner or de facto partner of a birth mother will be provided with up to 8 weeks paid Parental Leave. This benefit will be included in the next Enterprise Agreement.
4. In order to promote positive health and wellbeing, employees will be encouraged to take annual leave as it becomes due. Annual leave requests will be responded to promptly and in line with Sydney Water policies. All leaders will be provided with

support to help their teams regularly plan leave and to apply policies consistently across Sydney Water. Full-time employees who take 20 days annual leave in a calendar year, will be provided with an additional 1 day paid annual leave. Full-time employees who take 40 or more days annual leave in a calendar year, will be provided with an additional 2 days paid annual leave. To ensure that an equivalent benefit is available to part-time employees, the above scheme is to be adjusted pro rata to the circumstances of the part-time employee. For example, if a part time employee who works 70% of the hours of a full-time employee, takes 14 days of annual leave in a calendar year, they will be provided an extra 0.7 days of paid annual leave. The additional annual leave can be taken at any time as agreed by the employee and Sydney Water.

5. Sydney Water encourages learning and professional development of all employees and provides a wide range of support as explained in the Education Assistance Policy, which will be further improved in 2021 with the input of employees, specifically our engineers. Sydney Water will provide each engineer up to \$1000 annually to obtain professional engineering registration in line with the Policy.
6. Sydney Water will begin developing a workforce plan in order to ensure our resourcing levels meet current and future business demands. The objectives are to: understand capacity and capability of the current workforce; define future needs to achieve the strategy; and build the workforce of the future. Sydney Water will share its approach to workforce planning and regularly update employees and Unions of progress.
7. Proposed rosters will be collaboratively implemented in Networks from March 2021 to meet the needs of employees, customers and Sydney Water.
8. Sydney Water will seek to greater utilise its inhouse workforce, in Networks by:
 - a. considering and seeking to allocate work to existing employees who are suitable and/or available to efficiently perform the work;
 - b. considering whether there is an urgent or pressing need to meet business requirements; or if there are specialist skill and/or capability requirements that cannot be met from within Sydney Water.
9. With reference to clause 19 of the Sydney Water Enterprise Agreement 2017, Sydney Water will increase the stand-by allowance for Civil Maintenance Production Employees and Field Supervisors by one (1) hour on Weekends and Public holidays.
10. Sydney Water has no plans to further outsource work that is currently performed in-house. In the unlikely event that this became a consideration, then Unions will be immediately consulted.
11. Sydney Water will review roles performed by contingent labour and where appropriate consider offering direct employment.
12. Sydney Water is committed to assisting and supporting anyone whose position regrettably becomes redundant. The People and Culture team will work closely with

anyone potentially impacted by redundancy to assist them to identify and move into another role and receive training and support to be successful. 'Mix and Match' arrangements will also be considered wherever appropriate.

13. Sydney Water will increase base pay and related allowances by 0.3% to eligible employees, including back pay from 1 July 2020.
14. From 1 July 2021, Sydney Water will increase superannuation guarantee payments to 10% in line with applicable legislation. This amount will be added to Total Remuneration Packages rather than absorbed.
15. Discussions for the next Enterprise Agreement will commence in April 2021 and while the parties may not necessarily agree, discussions will include consideration of increases to base pay, changes to penalties and allowances and annualisation of salaries.
16. All eligible employees will receive future increases and not 'red circled' unless agreed by the impacted employee, going forward as documented in the next Enterprise Agreement.
17. Clause 48 of the Sydney Water Enterprise Agreement 2017 will continue to be utilised in the case of a dispute.
18. The Unions as well as their members will not engage in industrial action prior to 1 July 2021.
19. All the above matters are taken to be part of the Sydney Water Enterprise Agreement 2017.



COMMISSIONER

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