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Our Ref: 2014/33

Mr Michael Fleming  
Australian Maritime Officers' Union  
PO Box 407  
HAYMARKET NSW 1240

Dear Mr Fleming

**RE: REVISED OFFER FOR A NEW DARWIN PORT CORPORATION MARINE PILOTS 2014-2018 ENTERPRISE AGREEMENT**

I am writing to outline the terms of a revised "without prejudice" offer for a new enterprise agreement to replace the Darwin Port Corporation Marine Pilots 2011-2014 Enterprise Agreement, which is due to expire on 30 June 2014.

To address the budget deficit the Northern Territory Government has had to implement a tighter fiscal strategy to bring expenditure under control. This strategy is reflected in the Budget handed down in May this year.

The improvements and concessions set out in this letter have been formulated in response to the issues raised by the Australian Maritime Officers Union (AMOU), and the progress made in bargaining.

As you know we have been bargaining since February 2014 and during these negotiations I have responded to the issues and claims put by the AMOU, taking into account the Northern Territory Government's Wages Policy 2013–2016, the government's fiscal position and prevailing economic conditions.

The following improvements and concessions to my offer of 29 April 2014 are made in a genuine attempt to settle negotiations and finalise bargaining prior to the expiry date of 30 June 2014, to ensure employees receive their next salary increase in a timely manner:

Master Class 1 minimum qualification – Clause 19

I note the minimum qualification requirement was only introduced in the last enterprise agreement, and the retention of it across other jurisdictions appears to be an issue the AMOU wishes to address at a national level. My concern is that such a process - which has not progressed for some 15 years – fails to address the possible needs of this enterprise (DPC) in future. It is further noted that the Master Class 1 qualification is not a minimum requirement in other Ports.

I proposed to remove clause 19 entirely from the agreement (the Master Class 1 qualification requirement), which would have enabled the Harbourmaster to review and prescribe minimum qualification requirements to enable DPC to recruit and attract a wider range of suitable candidates for Marine Pilots.

Although removing the clause from the agreement remains my preferred position, I am prepared to retain wording that provides a Marine Pilot will be required to hold qualifications that meet the prescribed requirements. This is not an uncommon approach.

Further, while existing Marine Pilots hold the Master Class 1 qualification, DPC will continue to facilitate the revalidation of their qualifications during their employment.

As you are aware, the Harbour Master sets the requirements for Marine Pilots to be licenced in the Port of Darwin, and the Master Class 1 qualification remains a requirement of the Pilotage Standard.

a) Time Off In Lieu (TOIL) arrangements – Clause 27.11

The current provision provides that a Marine Pilot required to provide a pilotage service or attend a Port emergency on a rostered day off will be credited with a rostered day off the roster to be used at a later time subject to TOIL provisions.

The banking of excessive TOIL impacts on the DPC's ability to manage roster and requests for leave, and has cost implications. Given the increase of Marine Pilots has doubled over the past two enterprise agreements, it is reasonable to review and revise the TOIL provisions since the time it was introduced to address staff shortages.

I proposed to align this entitlement with clause 27.12 of the current Marine Pilots' agreement, where the entitlement is on an 'hour for hour' basis. I am now prepared to revise this to a minimum of a half day for any attendance of up to four hours work, and a full rostered day off for any work of more than four hours.

Clause 27.14 provides for Marine Pilots to accumulate a maximum of five days credit in TOIL, and these credits must be used within one month or will be paid out. To move to a minimum payment of four hours, I am prepared to extend the accumulation of five days credit in TOIL to be used within two months before being paid out.

In addition to these changes the following revised offer also contains clarification on a number of matters raised in bargaining.

## **Revised Offer**

The terms of the offer below comprise a total package of improvements and changes to terms and conditions of employment.

### **1. Enterprise agreement**

The new agreement to be in the form of an enterprise agreement made under the *Fair Work Act 2009*.

## 2. Duration

The new agreement to have a four year term expiring 12 months after the final salary increase paid under the agreement which will provide employees with stability in terms and conditions for the next four years.

## 3. Salary Quantum

Subject to the achievement of the efficiency measures in this offer and the approval of the agreement by the Fair Work Commission, if in-principle agreement is reached on all matters before 30 June 2014:

- An initial salary increase of 3% to be paid effective from the first full pay period commencing on or after 1 July 2014; and
- Salary increases of 3% per annum for the following three years after the initial salary increase, to be paid from the first full pay period commencing on or after 1 July of those respective years.

Salary increases under the new agreement will not apply to employees who cease employment with the NTPS prior to approval of the agreement by the Fair Work Commission.

## 4. Superannuation Guarantee

As you would be aware, current Commonwealth legislation provides progressive increases to the Superannuation Guarantee (SG) charge from 1 July 2013, from the current level of 9.25 per cent to 12 per cent by 1 July 2019. SG is the compulsory system of superannuation support for eligible employees, paid for by employers. The increases apply to eligible NTPS employees not already receiving the minimum SG amount through membership of a defined benefit scheme.

Some employers, including public sector employers, have opted to off-set the cost of future superannuation contribution increases against wage increases. The Northern Territory Government has decided not to offset the salary offers against increases in the SG during the term of the agreement. This means that the SG increases will be paid in addition to the annual 3 per cent wage increases, rather than being included as part of the annual wage increases on offer.

The current schedule of increases to Superannuation Guarantee over the proposed period of the Agreement is as follows:

Period	Super guarantee rate (charge percentage)
1 July 2014 – 30 June 2015	9.50%
1 July 2015 – 30 June 2016	10.00%
1 July 2016 – 30 June 2017	10.50%
1 July 2017 – 30 June 2018	11.00%

## **5. Common NTPS conditions of employment**

To retain a common core of NTPS conditions of employment, and in keeping with recent practice where the Darwin Port Corporation Marine Pilots' Enterprise Agreement refers to provisions under the NTPS 'General' Enterprise Agreement, include and update relevant clauses to continue with these arrangements.

## **6. Efficiencies**

### a) Master Class 1 minimum qualification – Clause 19

Although my first position is to remove clause 19 which states the current Master Class 1 as a minimum qualification, I am prepared to consider retaining a clause that verifies that Marine Pilots will be required to hold qualifications that meet the prescribed requirements, and to facilitate re-validation of the Master Class 1 qualification for current Marine Pilots in accordance AMSA standards, during the term of the agreement. This revised position is subject to reaching agreement on other matters.

### b) Contract of Employment (fixed period employment) – Clause 28

To align the provisions with the NTPS General agreement it is proposed to remove clause 28 Contract of Employment provisions which prevent fixed period employees having their services terminated due to insufficient work, as the PSEMA provisions provide for these arrangements. It is further proposed that the remaining provisions of the clause are not required in the agreement.

I would like to clarify similar clauses have been included in other NTPS agreements in the past, and have since been removed. It was not intended to apply to Marine Pilots, particularly as there has never been 'insufficient work' for them. The number of Pilot positions has increased from 2 to 11 which reflects the increasing levels of pilotage work required.

On-going employment is the usual method of employment for Marine Pilots. I note the concern raised by those who are not able to be provided with on-going employment due to the citizenship requirements (or other conditions for on-going employment), and are engaged on fixed period contracts under s457 visa arrangements. The CEO of the DPC has the ability to offer on-going employment to these Marine Pilots once they obtain citizenship, or meet the other conditions for employment, as contained in Employment Instruction 1.

## **7. Union Matters**

With regards to matters raised by the Australian Maritime Officers' Union (AMOU) for salary reviews, increases and the term of the agreement, this offer details the quantum of the salary increases and the term of the agreement in accordance with the NTPS Wages Policy 2013-2016.

Further to the bargaining meetings with my representatives and the Darwin Port Corporation to discuss other matters raised by the AMOU, after consideration of the issues I would like to clarify the following:

a) Vehicles

The interpretation of clause 34 'Darwin Port Corporation Vehicle Use Policy' has always been that where a Marine Pilot is provided with a DPC vehicle, the use of the vehicle will be in accordance with DPC Vehicle Use Policy, which is linked to the NTG Vehicle Policy. In line with my offer it is a policy matter and I propose to remove the clause from the new agreement.

While the current clause, and the respective vehicle policies, do not provide an entitlement to a vehicle for Marine Pilots, I would like to confirm a commitment to continue the current 'home garaging' arrangement of vehicles to Marine Pilots currently employed for the term of the new agreement. 'Home garaging' arrangement of vehicles will remain subject to the DPC and NTG Vehicle Policies, which has always been a requirement.

b) Leave Reserved Clause

In response to matters raised in relation to a 'leave reserved' clause to re-negotiate terms and conditions (during the term of the agreement) related to the commencement of Inpex shipping, the NTPS Wages Policy provides that all wages and conditions are to be resolved during the bargaining process.

However, I would like to confirm that I am able to consider a business case from the CEO of the DPC to vary terms and conditions to address significant market issues should they arise. As you are aware the Marine Pilots are an essential part of the DPC operations and it is in DPC's interest to ensure that suitably qualified Pilots are employed.

c) Inpex Training

It has been noted during bargaining that there is an expectation by the AMOU that there may be a significant amount of training required to deal with the commencement of pilotage of Inpex shipping, and that Inpex 'licences', or similar, will be required to pilot these ships.

DPC confirms the usual training requirements and commitments will be provided for Inpex shipping, and that no specific Inpex licences will be required. Training will be provided both in simulation prior to commencement of shipping, and on board once shipping begins. Training is usually for two to three days and takes into consideration of Marine Pilot rosters and commitments to ensure sufficient breaks from work are provided where possible.

The CEO DPC is of the view that requirements for Inpex shipping will not impact on the current structures or conditions, however there may be a requirement to increase the number of Marine Pilots once fully operational.

As previously advised that the following matters have been identified as operational in nature and are being addressed at the agency level:

- Pilotage Services Safety Management System  
DPC will be engaging a consultant and are currently looking at new systems. Due to amount of work required a completion date will need to be determined following a procurement process. It was agreed a Marine Pilot representative will participate in the procurement process.
- Principles of Allocation  
Meetings have been held with Marine Pilot representatives to discuss the principles. Further meetings have been scheduled to continue discussions and progress the matter. A standard operating procedure is being developed with Harbour Control for the process of allocating Pilots to Pilotage movements.

Clarification has also been provided on the following matters:

- Personal Accident and Travel Insurance  
DPC has a corporate travel insurance policy that covers DPC employees when travelling. Pilot boat transfers are covered by workers compensation (noting DPC does not do helicopter transfers). The NTPS also provides a range of entitlements to cover work related accidents, including workers compensation entitlements and the NTG Death and Invalidity Scheme (NTGDIS). The agreement will also continue to provide that the CEO may grant additional personal leave on full pay for sick leave purposes where a Marine Pilot exhausts all of their accrued personal leave entitlements.
- Workers Compensation  
The NTPS workers compensation scheme is administered under the *Workers Rehabilitation and Compensation Act*. NT WorkSafe Bulletin – Workers Guide to Workers Compensation, was provided during negotiations which detailed entitlements and other related provisions.

## **8. Classification Proposal**

In response to issues raised by the AMOU, and to allow a more dynamic approach for Marine Pilots operating in a multi berth Port, DPC would like to propose a restructure of the current Marine Pilots' classification structure.

Attached for your consideration is the proposed structure which would provide for Marine Pilots to achieve progression through a number of additional increments based on the licences issued, providing access to higher remunerations sooner than the current structure provides. Discussions about the progression matrix will continue.

## **9. New Agreement**

The agreement's provisions have generally operated well during the term of the agreement. However, there are some remnants of policy and procedure that could be better placed in PSEMA instruments or general policy which would

provide the parties the ability to address process matters through consultation during the term of the agreement.

A draft working copy of a proposed new agreement developed to assist in bargaining was provided to the unions on 20 May 2014. In line with my initial offer of 29 April 2014, the draft copy incorporates:

- retention of current relevant provisions;
- the NTPS Wages Policy 2013-2016;
- compliance with the Fair Work Act 2009 (the Act), and recent amendments that became effective from 1 January 2014;
- consistency in common provisions across NTPS Agreements for core conditions (for example, parental leave, personal leave);
- removal of policy and procedure where appropriate (e.g. the Employee Health and Well Being, Communications Equipment and Vehicle Use, as these do not provide an entitlement to the provision; however changes to them will continue to be made in consultation with employees); and
- removal of references to other legislation where appropriate.

It was noted during negotiations that these changes have been considered by the unions, and generally accepted, however, the parties need to continue to work through the drafting which is subject to in-principle agreement.

I believe that in the circumstances, this is a fair package that provides an appropriate balance of maintaining wages and introducing efficiencies for the NTPS and that the bargaining process is an opportunity to discuss issues important to employees and the unions.

I look forward to reaching agreement so we can implement the new terms and conditions of employment and provide salary increases in a timely manner.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C. Allen', with a horizontal line extending to the right.

CRAIG ALLEN  
Commissioner for Public Employment

17 June 2014

## NORTHERN TERRITORY PUBLIC SECTOR

### WAGES POLICY 2013 - 2016

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#### Background

This Policy establishes the Northern Territory Government's bargaining framework for enterprise agreements in the Northern Territory Public Sector<sup>1</sup> (NTPS) and consent agreements under the *Part III of the Police Administration Act*. The objectives of the Policy are to:

- To ensure costs are kept within the Government's fiscal parameters;
- To deliver increased efficiency, effectiveness, savings, service outcomes and workplace reform across agencies ("efficiency measures"); and
- To support collective bargaining wherever possible.

#### Bargaining Principles

1. Bargaining will be conducted in "good faith" and wherever possible will be a collective agreement negotiated with the relevant union(s).
2. Agreement outcomes:
  - i. will have a total overall cost of up to 3 per cent per annum (total overall cost means the cost of salary and allowance increases, salary restructuring, changes to conditions etc) dependent on the efficiency measures achieved;
  - ii. are not to contain restrictive work practices;
  - iii. are not to include provisions restricting the Government's capacity to allocate financial, capital or human resources according to its policy priorities;
  - iv. are not to contain provisions that restrict the powers and functions of the CPE and CEOs under the *Public Sector Employment and Management Act* and the *Police Administration Act* (eg. the use of involuntary redundancies);
  - v. are not to contain matters of policy or procedure;
  - vi. are to retain a common core of NTPS conditions of employment (eg. leave, superannuation, hours of work, remote locality provisions) across the service (as varied from time to time through bargaining efficiency measures); and

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<sup>1</sup> For the purposes of this Policy, the NT Public Sector includes Territory Discoveries and Power and Water Corporation.

- vii. are to emphasise flexibility in employment arrangements that benefit both the employer and, within the limits of these principles, the employee.
3. Efficiency measures will be assessed against:
    - i. the degree to which concessions have been made around working arrangements by employees and their representatives;
    - ii. opportunities for immediate and/or future reform; and
    - iii. quantitative and qualitative measures.
  4. The earliest the first salary increase and conditions under a new agreement will apply is the date of the first pay period commencing on or after the parties reach final agreement on all matters, or the expiry date of the previous agreement, whichever is the latter.
  5. Salary increases or conditions improvements will not be provided to employees who cease employment prior to an agreement being approved or certified by the relevant authority.
  6. Wherever possible, offers for new agreements are to be made three months prior to the agreement's nominal expiry date.
  7. All wages, conditions and efficiency measures are to be resolved in the bargaining process and, where appropriate, reflected in the enterprise agreement.

