

PROPOSED

2015 – 2018

POWER AND WATER

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 2010 - 2015 Power and Water Enterprise Agreement Working Together To Meet The Challenge and reference to the 'new Agreement' means the proposed 2015 - 2018 Power and Water 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:
 - a. 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
 - b. 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.

Information on the proposed Agreement

If you would like further information on the new Agreement, please contact the Employee Relations unit in the Office of the Commissioner for Public Employment on telephone **08 8999 4295** or Power and Water Corporation on **8985 8509**.

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ENTERPRISE AGREEMENT		Proposed Changes
ORIGINAL CLAUSE in 2010-2015 Power and Water Enterprise Agreement Working Together to meet the Challenge	NEW CLAUSE in 2015-2018 Power and Water Enterprise Agreement	Comment
PART A – APPLICATION AND OPERATION OF AGREEMENT		
1. Title	1. Title	Amended to reflect the new title of the agreement.
2. Arrangement	2. Arrangement	Updated to reflect changes in arrangement in the new Agreement
3. Definitions	3. Definitions	Updated terminology including: Added the subordinate instruments under the PSEM Act and added the phrase ‘as amended from time to time’ to clarify that the agreement applies taking into account any amendments to this legislation during the life of the new Agreement; moved some definitions to the relevant clauses that it relates to (eg Parental leave, Personal Leave etc for immediate family, medical practitioner etc); included references to the Fair Work Commission and <i>Fair Work Act</i> , Chief Executive Officer and Employer, Executive Leadership Team for Power and Water as well as definitions for fixed period and ongoing employees.
4. Coverage	4. Coverage	No change.
5. Relationship to PSEMA	5. Relationship to PSEM Act and Awards	No substantive change however reworded to align with other NTPS enterprise agreements and included phrase “For the avoidance of doubt, the PSEM Act is not incorporated into the Agreement.” Also included is reference to PSEMA By-Law 14 Defence Service Leave as applying to Power and Water Corporation employees. Inserted sub-clause 5.3 to clarify that the parties acknowledge that awards underpin the terms and conditions in this Agreement (however this does not mean the Award conditions apply in conjunction with the agreement)
6. Modern Award	Omitted	This clause has been omitted. This clause was included in the previous agreement to facilitate the creation of a sector wide modern enterprise award by 31 December 2013. As an application for a modern enterprise award for the NTPS was submitted by 31 December 2013 this clause is no longer necessary.

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7. Objectives of Agreement	7. Objectives of Agreement	Removed sub-clause 7.2(g) of the current Agreement which related to maintaining the triple certification standards of ISO 9001,
8. Code of Conduct	8. Code of Conduct	No substantive change
9. Safety, Health, Welfare, Discrimination and Workloads	9. Safety, Health, Welfare, Discrimination and Workloads	Removal of the reference to ongoing certification in AS408 (Occupational Health, Safety and Management System Standard) . Minor changes to align terminology with Employment Instruction 13 – Appropriate Workplace Behaviour. Updated job title references under sub-clause 9.5(b).
10. Employment Security	10. Employment Security	No substantive change, however clarified that there will be no involuntary redundancies or job losses arising <i>directly</i> from the implementation of the new Agreement.
11. Redeployment and Redundancy	11. Redeployment and Redundancy	Updated for consistency as a common core clause across the NTPS. Amendments reflect FW Act in relation to redundancy situations involving a transfer of business or employment where the employer finds alternative employment for the employee.
12. Period of Operation	12. Period of Operation	Updated to reflect the term of the new Agreement: three year term with a nominal expiry on 15 July 2018. Also amended clause to incorporate flexibility about when the parties can commence negotiations (i.e. sooner or later than the 4 month expiry mark) by agreement into sub-clause 12.2 and consequently sub-clause 12.3 was omitted as unnecessary.
13. No Extra Claims	13. No Extra Claims	No change

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PART B – CONSULTATION AND DISPUTE RESOLUTION		
14. Disputes Settling Procedures	14. 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 Settlement 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 Settlement Procedures although the new clause also specifically references section 59 of PSEM Act as an avenue of redress in such situations if required); and that that the procedure will apply to both a dispute about a matter arising under the Agreement or the National Employment Standards.
15. Joint Consultative Committee	15. Joint Consultative Committee	Removed sub-clause 15.3 of the current Agreement outlining working parties that operate under the JCC, and included them of example of types of committees that can be formed (under 15.2(d))
16. Maintenance and Safety Committee	Omitted	This clause has been omitted. Maintenance and safety issues can be raised through the JCC under clause 15.
17. Introduction and Management of Change	17. Introduction and Management of Change	Included provisions from the FW Act Model Management of Change clause (i.e. requirement to consult on changes to regular roster or ordinary hours of work) required by the FW Act in all enterprise agreements made from 1 January 2014.
18. Individual Flexible Working Arrangements	18. Individual Flexible Working Arrangements	Minor changes which have removed the need for the Commissioner for Public Employment to be informed where an arrangement has been terminated (this is now considered an unnecessary administrative step) and updated terminology to reflect the FW Act provisions that deal with IFWAs. 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.

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19. Variation to Working Arrangements for Groups of Employees	19. Variation to Working Arrangements for Groups of Employees	No substantive change. Improved readability and provides clarity by identifying the types of matters such arrangements can deal with. Provision requires the employees are better off than the employees would have been if no variation arrangement had been made as well as ensuring there is a mechanism for the work arrangements to be reviewed or terminated by the parties.
20. Work Life Balance Package	20. Work Life Balance Package	Replaced the Extended Leave Scheme with the Advance Notice of Extended Leave Without Pay. In line with amendments to FW Act, included a new sub-clause 20.4 which sets out the formal requirements applicable to a request for flexible working arrangements in certain circumstances, and also what may constitute reasonable business grounds for refusal of requests as set out in the FW Act.
PART C – EMPLOYMENT RELATIONSHIP AND RELATED MATTERS		
21. Recognition of Prior Employment	21. Recognition of Prior Employment	Removed the recognition of prior employment or service with the NTPS clause. Recognition is provided for LSL purposes under the provisions at clause 48.
22. Part-time Employment	22. Part-time Employment	Amended to improve clarity in relation to the span of hours, the exception for shift workers, and to identify that a part-time employee’s entitlement to apply for a pay progression or bonus in accordance with clause 46 (Performance Achievement) is on the basis of having participated in the MyPlan cycle for the same period of time as a full-time employee.
23. Casual Employment	23. Casual Employment	Updated the determination number to the current Power and Water Casual Employment Determination and added the phrase “as varied from time to time”.
24. Apprentices	24. Apprentices	This clause has been amended with a target intake of 10 apprentices each year.
25. Use of Contractors	25. Use of Contractors	This clause has been amended to remove generation activities relevant to Territory Generation. The consultation process has also been expanded to include quarterly reviews of the rolling 12 months forward works program.

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26. Probation	26. Probation	Amended to align probation period (6 months) with PSEM Act
27. Termination	27. Termination	No substantive change
28. Recovery of Relocation costs on Termination of Employment	Omitted	This clause has been omitted and will be covered in an operational procedure.
29. Medicals	29. Medicals	No change.
30. Training and Development	30. Training and Development	No change.
31. Timesheet Recording	31. Timesheet Recording	No change.
32. Corporate Safety Initiative	32. Corporate Safety Initiative	No substantive change.
33. Fitness for Work	33. Fitness for Work	The fitness for work procedure has been developed and implemented and the clause has been amended to ensure any significant changes to the procedures will be undertaken in consultation with employees and their representatives. The principles for the procedure will continue to apply.
34. Work Organisation	34. Work Organisation	No change.
35. Remote Localities	35. Remote Localities	No substantive change to this clause. Determination numbers have been updated to the most recent Determinations issued by the Commissioner for Public Employment.
36. Laundry Facilities	36. Laundry Facilities	No change.

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37. Union Related Matters	37. Union Related Matters	No substantive change .
PART D – RATES OF PAY AND RELATED MATTERS		
38. Rates of Pay	38. Rates of Pay	No substantive change to this clause. The references to salary transitions from the restructure in the current Agreement have been removed.
39. Adjustment in Salaries and Allowances	39. Adjustment in Salaries and Allowances	Clause updated to reflect 3% salary increases per annum over the life of the new Agreement. Allowances have been updated to identify any allowances that increase in accordance with the salary increase; those which increase on 1 January each year through the CPE Determination; those which are a percentage of salary; and those that do not increase and are not adjustable.
40. Payment of Salaries and Allowances	40. Payment of Salaries and Allowances	No change.
41. Salary Structure	Omitted	This clause has been omitted as salary restructure has been completed.
42. Annualised Salaries	42. Annualised Salaries	No substantive change The clause relating to the review (now completed) under the current Agreement has been removed.
43. Technical Coordinator Salary Arrangements	43. Technical Coordinator Salary Arrangements	No substantive change.
44. Junior Rates	Omitted	The junior rates of pay clause has been omitted as there are no such rates of pay in the current or new Agreement.
45. Pay Progression	45. Pay Progression	This clause has been updated to require successful completion of the Part A and Part B process for pay progressions, and removed transition provisions that applied under the current Agreement.

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46. Performance Achievement	46. Performance Achievement	This clause has been updated with Part B to include the option for the completion of a competency based training framework or capability framework rather than Job Models. Also notes that the annual pay progressions for Trade Technical, Operators and Operator/Maintainers are competency based and may commence at any time after the competency is achieved. Removed transitional provisions that applied under the current Agreement.
47. Salary Sacrifice for Employer Superannuation	47. Salary Sacrifice for Employer Superannuation	No substantive change. Improved readability and terminology has been updated to align with current Commonwealth Superannuation laws.
48. Salary Sacrifice Packaging	48. Salary Sacrifice Packaging	No substantive change. Removal of salary packaging for power and water bills because of the FBT implications (note: this has not been available for some years now due to changes to ATO legislation on FBT exemptions).
PART E – ALLOWANCES AND SPECIAL RATES		
49. Industry Specific Skills Allowance	49. Industry Specific Skills Allowance	No change.
50. Dual Trade Market Allowance	50. Dual Trade Market Allowance	No change.
51. Availability Allowance	51. Availability Allowance	No substantive change. Clarified the calculations of the weekly and daily rates.
52. Consolidated Disability Allowance	52. Consolidated Disability Allowance	No change.

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53. Extra Duty Allowance	53. Extra Duty Allowance	No substantive change. The categories for the additional hours have been identified to align with Attachment 2.
54. Higher Duties Allowance	54. Higher Duties Allowance	No change.
55. Professional Development Allowance	55. Professional Development Allowance	No substantive change but have aligned the Professional Development Allowance with similar clauses in other NTPS Agreements. This has included, identifying the date when continuous service is identified, that the allowance increases each year in line with CPI and that there can be one claim per year.
56. Pre-eminent Professional Allowance	56. Pre-eminent Professional Allowance	No substantive change.
57. HV Field Operator Allowance	57. HV Field Operator Allowance	No change.
58. Relocation Allowance	58. Relocation Allowance	No substantive change. Terminology updated to align with PSEM Act.
59. Relocation Expenses – Appointment or Transfer	59. Relocation Expenses – Employment or Transfer	No substantive change. Terminology updated to align with PSEM Act.
60. Team Leader Allowance	60. Team Leader Allowance	No substantive change.
61. Travelling Allowance	61. Travelling Allowance	No substantive change.

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62. Hardship Accommodation Allowance	62. Hardship Accommodation Allowance	No change.
63. Tool Allowance	63. Tool Allowance	No change.
64. Allowance for Damaged Clothes and Tools	64. Allowance for Damaged Clothes and Tools	No change.
65. Motor Vehicle Allowance	65. Motor Vehicle Allowance	No change.
66. First Aid Allowance	66. First Aid Allowance	No substantive change to this clause. Amended to ensure the qualification aligns with the national standard for Apply First Aid qualification or its equivalent to maintain currency for the term of the new Agreement.
PART F – HOURS OF WORK, SHIFT WORK, MEAL BREAKS AND OVERTIME		
67. Hours of Work (Non-shift workers)	67. Hours of Work (Non-shift workers)	No substantive change, however a new clause inserted to clarify 'Additional Hours' and 'Overtime' provisions, and matters to be considered when considering whether additional hours of work or overtime are reasonable or unreasonable in line with the National Employment Standard. Removed reference to proposing changes to the span of hours (6am to 6pm) through the JCC.
68. Rostered Days Off	68. Rostered Days Off	This clause has been amended to enable the accrual of and RDO while on recreation or sick leave provided that the leave balance has been reduced by 8.33 hours (RDO rate) rather than 7.21 hours (non-RDO rate).
69. Flexible Working Hours (Flexitime)	69. Flexible Working Hours (Flexitime)	No substantive change

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70. Work at Public Forums	70. Work at Public Forums	No change.
71. Overtime	71. Overtime	No substantive change.
72. Call Out Arrangements	72. Call Out Arrangements	No change.
73. Relief for Regional Centres	73. Relief for Regional Centres	No change.
74. Meal Breaks and Overtime Meal Allowances	74. Meal Breaks and Overtime Meal Allowances	No change.
75. Shift Work	75. Shift Work	No substantive change. Included a clause about reasonable additional hours to comply with National Employment Standards as provided under new sub-clauses 67.6 and 67.7 (Hours of Work).
PART G – TYPE OF LEAVE AND PUBLIC HOLIDAYS		
76. Public Holidays	76. Public Holidays	Technical change to clause but no change to intent. Identified that the National Employment Standards apply to public holidays, and updated to reflect Public Holiday clauses in all new NTPS Enterprise Agreements. Amended clause provides Public Holiday entitlements will be provided in accordance with the <i>Public Holidays Act (NT)</i> , and that payment for work on a Public Holiday is specified in clause 71 (Overtime) of the new Agreement. Removed specific days from the current clause as these are in the <i>Public Holidays Act (NT)</i> .

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ORIGINAL CLAUSE in 2010-2015 Power and Water Enterprise Agreement Working Together to meet the Challenge	NEW CLAUSE in 2015-2018 Power and Water Enterprise Agreement	Comment
77. Compassionate Leave	77. Compassionate Leave	No substantive change. Definitions contained in current Agreement's definitions clause 3 have been included and aligned with the National Employment Standards. Addition of new sub-clause 77.5 regarding notice requirements consistent with other leave provisions and FW Act.
78. Long Service Leave	78. Long Service Leave	No substantive change to the clause. Have updated to recognise an NTPS apprentice employer for Long Service Leave purposes.
79. Parental Leave	79. Parental Leave	<p>Clause has been updated to align with NTPS Agreement / common NTPS parental leave clauses.</p> <p>Clause 79 of the new agreement incorporates amendments to FW Act and National Employment Standards (NES) which enhance existing NTPS parental leave entitlements. Changes which reflect the FW Act amendments relate to enhancing entitlements for casuals with regards to transfer to a safe job, partner/concurrent leave, adoption leave, 'Keeping in Touch Days', and reasonable business grounds parameters if the employer refuses requests for extension of parental leave or returning to work on a part-time basis. An employee is also able to return to work within 6 weeks after giving birth provided they have a medical certificate stating they are fit for work.</p> <p>In line with the NTPS Agreement and one of the few efficiencies being sought, is the removal of the provision that provides an employee on the first 52 weeks of unpaid parental leave access to personal leave (as per sub-clause 79.9(b) of current PWC Agreement. Refer sub-clause 49.10 of the new Agreement for proposed entitlement). This ensures consistency with the principle that there is no access to personal leave during any periods of unpaid leave that do not count as service. Employees will have access to their accrued recreation leave and long service leave entitlements anytime during unpaid parental leave, an improvement on the current provision (see sub-clause 79.9(a) of the current Agreement) which restricts access to such leave to the first 24 months from time of birth or date of placement of the child (adoption).</p>

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		<p>Compared to the current Agreement provisions, the NTPS Agreement parental leave provisions included in the new Agreement have been written to improve readability and simplify many of the provisions for better understanding of the entitlements and conditions.</p> <p>Some terminology changed to reflect terms used in the FW Act (e.g. “evidence” replaced “documents” under notice and documentation requirements).</p>
80. Recreation Leave	80. Recreation Leave	Clarified payment of public holidays that fall during a period of recreation leave to reflect National Employment Standards. A note added after clause 80.10 to clarify that where recreation leave has been granted at half pay then personal leave granted in lieu will also be at half pay.
81. Christmas Close Down	81. Christmas Close Down	No substantive change, however have allowed for a lesser period than 3 months’ notice for Christmas Shutdown if the parties agree. Also that nominated period now covers Christmas and New Year’s Day rather than only between those dates.
82. Recreation Leave Loading	82. Recreation Leave Loading	No substantive change. Updated sub-clause 82.1(a)(ii) to reflect a change to ABS reporting periods which is now the ‘June’ quarter. Removed sub-clause 82.3(iii) from the current Agreement as employees are not able to accrue more than two recreation leave loadings.
83. Recreation Leave Airfares	83. Recreation Leave Airfares	No change.
84. Personal Leave	84. Personal Leave	Updated terminology to reflect wording used in FW Act and National Employment Standards. Improved readability of personal leave entitlements on commencement as an ongoing or fixed period employee. Included documentary requirements in relation to carer’s leave to reflect the specific nature of carer’s leave. This change is intended to clarify the evidence that is provided to the CEO to allow the CEO to determine if the leave is for the purposes of sick leave or carer’s leave. Included clarification that where recreation leave or long service leave at half pay is being re-credited to allow a period of personal leave to be taken, the period of personal leave granted will

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		also be at half pay. Removal of sub-clauses 84.9 (d) and (e) in relation to seeking the opinion of the NT Medical Advisor as both these provisions are mirrored in Employment Instruction No. 5 Medical Examinations and not required in the Agreement.
85. Leave to Attend Industrial Relations Business	85. Leave to Attend Industrial Relations Business	No substantive change. Clarified that leave will count as service for all purposes.
86. Release to Attend as a Witness	86. Release to Attend as a Witness	No substantive change. Clarified that leave will count as service for all purposes.
87. Release for Jury Service	87. Release for Jury Service	No substantive change. Have included National Employment Standards where employee on paid recreation leave is required to perform jury service, they may have the time served recredited to their recreation leave balance.
88. Study Assistance and Leave	88. Study Assistance and Leave	No substantive change. Have improved readability for approval and reimbursement of HELP debt.
	89. Miscellaneous Leave – Domestic Family and Sexual Violence	New clause to highlight the availability of miscellaneous leave for employees who are affected by Domestic, Family and Sexual Violence.
SCHEDULES		
Attachment 1. Salary Structures	Attachment 1. Salary Structures	Amended tables with new salary rates.
Attachment 2. Allowances	Attachment 2. Allowances	Amended tables with new allowance rates.

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ORIGINAL CLAUSE in 2010-2015 Power and Water Enterprise Agreement Working Together to meet the Challenge	NEW CLAUSE in 2015-2018 Power and Water Enterprise Agreement	Comment
Attachment 3. Classification Stream Descriptors and Stream Specific Progression Principles	Attachment 3. Classification Stream Descriptors and Stream Specific Progression Principles	Clarified that pay progressions will be payable from date of pay progression assessment (i.e. in line with the revised myplan system on successful completion of Parts A and B). Provisions for pay parity updated to recognise the development of a new wholesale electricity market, and included parity provisions to the Interim Service Coordinator roles that applied under the current agreement (and inserted salary table for this purpose).
Attachment 4. Redeployment and Redundancy	Attachment 4. Northern Territory Public Sector Redeployment and Redundancy Entitlements	Attachment has been updated so that procedural matters are covered under Employment Instruction No. 14: Redeployment and Redundancy Procedures and entitlements are in Attachment 4 of the new Agreement. Summary of key changes are noted below*
Attachment 5. Safety Bonus Table	Attachment 5. Safety Bonus Table	The Safety Bonus Table has been updated to reflect the current myPlan system, and minor changes to Corporate Lead Indicators to improve/clarify systems to measure KPIs.
Attachment 6. Work Life Balance Initiatives	Attachment 6. Work Life Balance Initiatives	Omitted the extended leave scheme which has been replaced with the option to request extended leave without pay under clause 20 Work Life Balance Package. Procedural matters relating to purchase of additional leave are now contained in guidelines.

*Attachment 4 Northern Territory Public Sector Redeployment and Redundancy Entitlements – Summary of Key Changes

Key changes

1. Voluntary retrenchment entitlements and notice of redundancy periods remain unchanged. Some minor amendments were made to ensure compliance with minimum NES requirements. Provision included clarifying that the notice periods under sub-clause 5.2 are offset by the redundancy payment provisions of the NES.

The NTPS redundancy entitlement remains generous compared to the NES.

2. The income maintenance provisions following termination due to redundancy have been removed. The existing provisions allow an employee to elect to be terminated (subject to Commissioner approval) during the notice period, rather than serving the whole period. However, the provisions contain an anomaly in that they require an employee to be paid the unexpired portion of the notice period in lieu on termination, and also provide for income maintenance post termination until the notice period has expired. From a practical perspective, the removal of the income maintenance following termination provision has no effect as it is not considered appropriate that rights and obligations arising from an employment relationship continue beyond the termination of that relationship and the Commissioner would not allow such a situation to occur in any case.

3. The income maintenance provisions that apply on the transfer of an employee to a lower level designation and salary, including provisions relating to the impact of personal leave in extending the income maintenance period, were retained and clarified.

4. Definitions have been updated to more closely align with the revised PSEM Act provisions. Consistent with the PSEM Act the Schedule also clarifies that employees cannot be transferred to a lower level designation and salary without their consent.

5. New, practical union consultation provisions have been included and replace the convoluted, historical provisions.

6. Former Part A provisions of a procedural nature have been moved from the Schedule and are covered under Employment Instruction 14 (subordinate legislation under the PSEM Act) setting out procedures for Redeployment and Redundancy situations.

7. In addition, the proposed procedures include the following new concepts:

- Where a redeployee is placed in a longer term fixed period vacancy (i.e. 18 months or over) the employee may elect, subject to CEO's approval, to have his or her redeployee status removed.

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- As part of suitability assessment, an agency may offer to place an employee redeployee in a position for a trial period of up to six months, with the employee or the agency having the ability to terminate the arrangement by mutual agreement. If the employee is serving out a period notice of redundancy at the time that the trial takes place, the notice period will be extended by the period of the trial to ensure that the employee does not lose the opportunity to actively seek other suitable employment options if they are not ultimately suitable for the trial position. Trials are available in some other jurisdictions and are considered a useful training mechanism, likely to facilitate positive suitability outcomes.

It should be noted there have been:

- no changes to the requirement to offer an employee voluntary retrenchment before a notification of redundancy;
- no reductions in voluntary retrenchment entitlements;
- no change to the focus on finding suitable employment for redeployees; and
- minor amendments to bring clauses in line with the FW Act.

Information on the proposed 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 4295 or Power and Water Corporation on **8985 8509**.