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Enterprise Bargaining Meeting

Wednesday 1 March 2017
10am – 4pm

Building EB, Boardroom (EB.2.23), Parramatta South campus

In attendance:

Professor Denise Kirkpatrick, DVC & VP (Academic) (Chair)
Professor Gregory Kolt, Dean, School of Science & Health
Professor Kevin Dunn, Dean, School of Social Sciences & Psychology
Susan Hudson, Executive Director, Human Resources
Natasha Maiolo, Senior Employment Lawyer
Clare Bockmann, Senior Workplace Relations Specialist
Dr David Burchell, NTEU Branch President
Tamara Talmacs, NTEU Industrial Officer
Dr Terri Mylett, NTEU Academic Staff Representative
Rohan Giles, NTEU Professional Staff Representative
Leslie Cowles NTEU Professional Staff Representative
Scott Pendlebury, CPSU Branch President
Jen Mitchell, CPSU Industrial Officer
Lorraine Fordham, CPSU Staff Representative
Carmel Votano, CPSU Staff Representative
Peter Pickering (Vice-President, Finance & Resources)
Darren Greentree (Director, Financial Operations)
Sonya O'Shanna, Executive Officer, Major Projects (notes)

Meeting Notes

WELCOME

1. Professor Kirkpatrick welcomed all the parties and thanked them for attending and their commitment to the bargaining process. All parties introduced themselves to the meeting.

STATE OF THE UNIVERSITY

2. The university provided an overview of the position of the university both financial and student load. The university is under significant financial pressures due to a decrease in student load not just in 2017 but over the last five years. The university aims to remain in surplus and avoid moving into a deficit balance. The university is heavily reliant on CGS load with a small income coming from international and fee-paying students. There has been a decrease in demand for higher education across the sector; however Western was hit harder by the decrease in comparison to universities in the sector with the most recent forecast (as at 28th February 2017) showing the university is under EFTSL load by 1000 students which equates to a \$17 million shortfall in funding. The university is looking at partnerships that will expose it to a wider range of students, e.g. Navitas/SIBT and International College.
3. The CPSU acknowledged the external factors affecting student load; what was the university doing internally to address attraction and retention of students? The University responded that they have



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carried a very deep analysis and investigation around retention and have implemented a number of initiatives across the university in 2016.

4. In 2017 it is projected that 71.4% of the university's funding will come from CSG and HECS with just over 15% from fee-pay students and 10% from international students. The university is looking at selling assets to increase cash reserves which will be put aside for future planning as part of its 10 year corpus strategy.
5. The NTEU asked what will happen with the cash from the sale of assets. The University responded that it will be used to diversify the University's portfolio and put money aside over the next 5-15 years. The University noted that converting land to cash provides more flexibility and that currently the University has little cash reserves and is borrowing heavily. The university is looking at opportunities to expand in suburban CBD locations in Western Sydney areas including Liverpool, Parramatta, Bankstown and Penrith that will attract a new cohort of students with locations close to public transport.
6. The University is aiming to reduce borrowings to a reasonable level (under \$100m). Current borrowings for 2016 are being used to keep the University running. To maintain debt, there will be cutbacks to capital programs, no new buildings, and a reduction in maintenance and non-building capital expenses.
7. There is a small operating surplus, but there will be pressure in 2017 due to shortfalls in student loads. The University needs to review its 2017 forecast based on a projected reduction in funding of \$17m.
8. The NTEU asked for clarification about target load vs student load and what was the target load for 2017? The University advised that actual EFTSL is down in terms of real numbers not targeted load and that the census date will be a critical time in determining actual load for the semester. The target load was the load numbers plus the 1000 EFTSL that the university did not reach. The target load is set in relation to the budget. There was no percentage growth in load from previous years as the university did not reach target in previous years. The budget was predicated on no growth, with very flat budget expectations and now a further risk based on current actual EFTSL.
9. The NTEU asked about the significant expenses for 2016. The University responded that there were a lot of capital programs coming to an end in 2016. The University was aware that debt would go up in 2016 but not to the extent it has. The NTEU added to this by asking how the university funded the rebranding. The University advised the rebranding costs were funded from strategic initiatives funding.

BARGAINING SCHEDULE

10. The unions raised objections to the university proceeding with its bargaining schedule without considering their suggestions. The unions claim they are parties to the agreement and prefer to discuss substantial matters that cannot be resolved quickly across the schedule. The University contested the union's assertion they are parties to the agreement. The university acknowledged that the CPSU requested a minor change to the schedule that will accommodate a period of time when the Industrial Officer will be away, the university agreed to review that meeting date and advise if the change can be accommodated. For the remainder of meetings, the bargaining schedule will be



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reviewed at the end of each bargaining meeting to determine the claims for discussion at the next bargaining meeting.

ONE AGREEMENT

11. There was discussion about the issue surrounding one or two enterprise agreements. The university acknowledged the NTEU would like move to one agreement whereas the CPSU would like to maintain the two agreements. The University has carefully considered its position on this issue and formed the view that it would like on a long term basis to move towards one agreement, but that undertaking that level of change in this round is too onerous. Instead, the University has decided to focus on enhancing the current structure such that there are core terms in both agreements that have identical content and identical numbering for efficiency and HR administrative purposes, but that each agreement would have a separate section with clauses unique to academic or professional staff.
12. The university reiterated it is not prepared to engage in two bargaining streams, that the meeting schedule will be adhered to and where a meeting will relate only to either academic or professional staff, it will be made clear in advance that either union has the option to attend or not.
13. The NTEU did not raise any objections in relation to the bargaining for two agreements.

CLUSTERING OF CLAUSES

14. The university acknowledged the union's submission of clauses they believe to have no change, minor changes or substantial changes in relation to item 3 on the agenda.
15. The university received feedback from staff. Based on this feedback, the university recognised there are changes to the Long Service Leave clause at 3(a) (vi) which was an administrative error. It will be moved to the leave discussion on 15 March 2017;
16. On reviewing the clauses in preparation the meeting, the university recognised the following clauses also needed to be moved on the grounds that they more appropriately sat under a theme for discussion:
 - a. Career Development, Planning and Review (3(b) (viii)), moved to 10 May 2017 as part of High Performance Culture/Professional Development.
 - b. Flexible Hours of Work Scheme (item 3(b) (xi)), moved to 15 March as part of High Performance Culture.
 - c. 3(b) (xvi)-(xviii) [Organisational Change, Job Security and Outsourcing, Redeployment and Redundancy], moved to 12th April 2017 as part of Performance/Organisational Change and Retrenchment.
17. The university reviewed the remainder of the clauses under 3(a) and (b) in consultation with the unions and determined the following clauses would be moved to a theme meeting for further discussion as the changes proposed were considered substantial:
 - a. Notice of resignation and termination



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The unions claim the changes to the period of notice for academic staff and fixed term employees as well as the removal of references to protocols around discipline, termination and abandonment without reviewing the misconduct clause constituted a substantial claim and should be moved to the relevant theme meeting.

b. Agreement title

The unions agreed this clause required further discussion as part of a themed meeting.

c. Long Service Leave

It was agreed this clause would be moved to the 15th March bargaining meeting under the 'leave' theme as changes were considered substantial.

d. Sick leave

The University advised of a new sub-clause requiring staff to provide evidence of sick leave within five (5) working days of going on leave. The CPSU felt this was not a minor change and all parties agreed to discuss this clause at the next meeting on 15th March. The unions will provide feedback to the university about the wording of the clause.

e. Personal leave

The University proposes to remove sub-clauses 29.1-3 and 35.1-3 in the relevant agreements as they are motherhood statements. This is purely a simplification measure and does not reduce the rights of staff. The CPSU queries that sub-clause in relation to using sick leave for personal leave and the University advised the new clause imposes no limit on how much sick leave can be taken for personal leave. This was included based on advice received by the Fair Work Commission. It was agreed this clause will be negotiated at the next theme meeting on 15th March.

f. Leave without pay

The clause has been re-ordered with the reason for leave without pay removed from the clause. The Unions expressed concern about the removal of the wording "...or the calculation of the length of an incremental period..." The University agreed to discuss this at the next theme meeting on 15th March.

g. Application of the agreement

The professional staff agreement remains unchanged. Sub-clause 4.1 is common across both agreements and updated to reflect the university name change. The NTEU claimed the changes to sub-clause 4.2 in the academic agreement in relation to who is covered by the agreement constituted a substantial change to be discussed under the appropriate theme meeting.

h. Individual Flexibility Arrangements (IFA)

The University stated the changes to this clause were terms that constrained staff in applying for an IFA. Both unions rejected this statement as the removal of sub-clauses 6.1 a through d and 6.2



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are substantial changes that are confined to certain sets of entitlement and removing them could impact other clauses in the agreement and should be discussed at a themed meeting.

i. Leave including parental leave, annual leave, flextime

It was agreed all forms of leave stated above would be discussed at the 15th March bargaining meeting under the theme of 'leave'.

j. Terms of Engagement

The unions rejected the University's assertion this clause was redundant as it states what is already occurring in the agreement. It was agreed to discuss further under the relevant theme meeting.

18. The university agreed to review the following clauses and provide feedback to the unions via email:

a. Fixed term severance pay

The change in the clause reflects a reorganisation of text but no changes to benefits or conditions for staff. The CPSU rejected this claim stating there are significant changes in the notice required based on years of service. There appears to be missing text which the University agreed to review.

b. Intellectual Freedom

The Unions asked to retain a reference to "or higher education issues generally" on the basis that staff should be able to be involved in debates regarding higher education not just their area of expertise. The University agreed to consider this request.

c. Policy

The university agreed to review this clause based on the union's assertion that moving the clause from application of the agreement to sub-clause B of clause 4.3 in policy is considered a change.

d. Coverage of the agreement

The University asserts coverage is dealt with in section 183 of the Fair Work Act. Unions disagree and believe the removal of sub-clause B in clause 5 of the academic staff agreement and sub-clauses B and C in clause 5 of the professional staff agreement are inflammatory. The University agreed to review this clause and engage in discussion with unions via email.

e. Availability of the agreement

The University's proposal to delete clause 9 in both agreements as the agreements are now accessible on the university website was rejected by the unions as being a substantial change and should be discussed offline via email.



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f. Supervision

The University stated the removal of this clause as the definition of 'supervisor' already existed in clause 4 under 'definitions'. The unions rejected this claim as a substantial change requiring further discussion offline.

g. Salary packaging

The change relates to the removal of the list of what staff could salary sacrifice as it was restrictive given the full list is available for staff on the university website. The NTEU questioned the clause that states the University has the right to terminate a salary package however the university claimed this was included to accommodate any changes to ATO legislation which the university must comply with. The unions agreed to provide their feedback about this clause via email.

h. Flexible Work Provisions

The University proposed to delete this clause as it does not provide any enforceable entitlement as well as being repetitive and does not provide any benefit to staff. The unions rejected this proposal as the change is considered substantial and should be discussed offline.

i. Right to request flexible working arrangements

The University states in sub-clause B in clause 31 of the professional staff agreement and 26 of the academic staff agreement are deleted as it is covered by the Act. The University pointed out the inclusion of a new sub-clause C vii in the professional staff agreement as an enhancement of staff entitlement. The unions expressed concerns that removing statements referencing the Act mean staff need to refer to the Act to understand their rights and keeping the statements in the agreements have merit. As this was flagged as a change to be discussed offline.

19. The following clauses remained unchanged from the current agreements as agreed by all bargaining parties (apart from updating organisational terminology)

- a. Meal allowance
- b. On call allowance
- c. On call allowance IT staff
- d. Jury service and witnesses (Reordering of the clause, without change to content)
- e. Australian Defence Force Reserves Training Leave
- f. Emergency services call out leave
- g. Public holidays (Easter Saturday included)
- h. Clothing and safety equipment
- i. Compensation for loss or damage of personal property



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- j. Leave loading
 - i. The CPSU stated there were amendments to clauses 18.5 and 18.6 of the current professional staff agreement in relation to termination of misconduct cases. The university responded that the amendments were based on Fair Work Commission Requirements.
20. The university confirmed the following clauses will be discussed at the next bargaining meeting on 15th March:
- a. All forms of Leave
 - b. Right to request flexible work
 - c. Domestic violence support
 - d. Long service leave
 - e. Flextime
21. The University will provide the unions with an agenda for the forthcoming meeting (15th March) no later than **Friday 10th March** with unions to provide their response to the claim themes no later than midday **Monday 13th March**.
22. The university will send a word document with the proposed clauses with no changes or minor changes to the unions by close of business **Tuesday 7th March**. The Unions are to submit their responses to these clauses to the university by **Monday 13th March** which will be aggregated and distributed to the relevant thematic areas before the next bargaining meeting on 15th March.
23. The NTEU requested the opportunity to move organisational change, redundancy and redeployment and job security and outsourcing themes from 12th April to 29th March. The university will review this request and advise if this request can be accommodated.
24. The CPU requested that another column be added to the bargaining schedule that outlined the clauses the university proposes to discuss at each bargaining meeting. The university will review this request and advise if it can be accommodated.

The meeting closed at 3.40pm