Outlined below are the full terms of an overall improved ‘without prejudice’ offer for a new Enterprise Agreement to replace the existing *2017-2021 Jacana Energy Enterprise Agreement*.

The offer is consistent with the NT Public Sector Wages Policy 2021-2024 and the NTPS Bargaining Policy 2021-2024, and the terms comprise a complete package of improvements and changes to terms and conditions of employment.

These additional improvements will see the Agreement as one of the most family supportive public sector agreements in the nation and will provide employees with greater certainty regarding employment conditions during the next 4 years.

1. **Term of Agreement**

It is proposed the new Agreement will have a four-year term that will provide employees with job certainty and secured terms and conditions over this period, including employment security.

The expiry date of the new Agreement will be changed to 10 August to align with the NTPS General Enterprise Agreement.

1. **No involuntary redundancies for term of Agreement**

There will be no involuntary redundancies (notice of redundancy) for the term of the Agreement. This does not apply to an employee declared potentially surplus to requirements under section 41 of the Public Sector Employment and Management Act 1993 (PSEM Act) and listed on the OCPE Redeployment Database for longer than two years.

1. **Lump sum payment**

There would be a $4,000 lump sum payment after the Agreement is voted up and $2,000 lump sum payments payable on the first pay period on or after 1 July in the years 2022, 2023 and 2024. Overall, employees would receive $10,000 over 4 years.

Employer superannuation guarantee is applicable to the lump sum payment. However, due to the rules of the defined benefit schemes, employer superannuation guarantee is not applicable to the lump sum paid to NTGPASS and CSS members.

To be eligible for the lump sum payment, employees must be employed on the date the payment is to be made as set out in the Agreement. The lump sum will be payable to employees who are on unpaid parental leave, unpaid personal leave or other leave without pay that is for a period of less than 4 weeks. Part time employees will be eligible for the full lump sum payment (i.e. not pro-rata)

Casual employees will be eligible for the lump sum payment if, within three months prior to the payment date they have: been paid for work; or performed duty which is due to be paid after the date of the lump sum payment.

Employees on multiple employment contracts (consistent with section 38A of the PSEM Act) will only be eligible for a single lump sum payment on each occasion in relation to the performance of work in classifications in the Agreement under all contracts of employment.

1. **Commitment if there are changes in the wages policy**

Should there be a change to the Wages Policy during the term of the Agreement that provides for additional benefits above those contained in this offer (such as an increase to salaries above the value of the lump sum payment at point 3 of this offer) these will be passed on through a determination.

1. **Continue to increase allowances by Consumer Price Index (CPI)**

The Agreement would continue CPI indexation of existing allowances in Determination Number 1 of 2021 that are adjusted by the September to September Darwin CPI. The allowances will not reduce if the Darwin CPI is negative.

1. **New Christmas closedown leave**

A new entitlement providing paid Christmas Closedown Leave. Employees (excluding casuals), who are required to work during the closedown will be able to bank 22.5 hours of Christmas closedown leave (i.e. 3 days based on the ordinary weekly hours of 37.5 hours per week). This will be paid at the employee’s base salary including any allowance that counts as salary for all purposes and will include, for shift workers, penalties that have been paid for the rostered hours on the day the banked leave is taken.

For clarity, as this is not a typical leave entitlement, the banked leave must be taken within 12 months and doesn't accumulate; is not available to be taken at half pay; will not attract recreation leave loading; and is not paid out on cessation of employment.

Employees who will not be able to accrue enough leave credits to cover the additional closedown period (i.e. outside the time between Christmas to New Year’s Day) may be offered alternate work within Jacana Energy that is relevant to the employees’ skills and capability.

1. **Redesign of the Individual Performance and Personal Development Plan (IPPDP)**

Jacana Energy has redesigned the IPPDP to improve opportunities for employees through a less complex Performance Development Plan (PDP) framework, which is achievement focused. The new framework would improve recognition of solid performance overall (meeting expectations rating), which would be more rewarding and increase employee engagement.

There will be a joint review of the framework completed prior to the next annual assessment after implementation.

1. **New salary structure**

In addition to the redesigned PDP framework which has been provided to the union, bargaining representatives and employees, a new salary structure would be introduced to remove mid-point increments to enable more opportunities for incremental advancement. It would be implemented on 1 July 2022.

There will be a bonus payment for employees who would be eligible to move half a pay point when transitioning to the new structure.

1. **Customer Care Advisor Allowance**

There would be a new clause introducing a development pathway for JL1 employees in the customer care team who would be able to build supervisory and leadership capability, while undertaking a developmental role.

1. **Improved Excess Travel Time**

Amendments to the existing provisions to provide employees above the salary barrier for Excess Travel Time (i.e. not eligible), but who would otherwise meet the excess travel time provisions, with the ability to accrue time off in lieu (not paid overtime). This will apply to employees in receipt of annual salary up to the maximum salary payable to a Jacana Level 3. The accrued TOIL is to be taken within 3 months or as agreed with the Chief Executive Officer (CEO).

1. **Request to work from home – only CEO may refuse**

Facilitating flexible working arrangements for all employees will be a key objective of the Agreement. To support this objective, only CEOs will have the authority to refuse an employee’s request to work from home. Such requests may only be refused on reasonable business grounds as defined in the Agreement.

1. **Incorporate By-law leave and meal allowance entitlements into the Agreement**

The following By-law entitlements will be incorporated into the Agreement:

* Defence Service Leave (By-law 14)
* Leave Without Pay (By-law 16)
* Leave to Attend Arbitration Business (By-law 17) (already in the Agreement – has been expanded)
* Release for Jury Service (By-law 20) (already in the Agreement – has been expanded)
* Release to Attend as a Witness (By-law 21) (already in the Agreement – has been expanded)
* Miscellaneous Leave (By-law 18)

Miscellaneous leave (By-law 18) entitlements would be set out in two separate clauses, namely ‘blood donation leave’ and ‘leave to engage in voluntary emergency management activities’.

1. **Improved leave for disabilities caused by war service or peace-keeping service (War Service Leave)**

The existing entitlements, referenced in the current personal leave provisions but set out in Determination Number 6 of 2011, would be improved and included in the Agreement to support a comprehensive agreement. To assist veterans and agencies to apply the entitlements, the provisions would make it clear that ‘war service’ includes peace-keeping service and hazardous operational service. The improvement will enable eligible employees to access their accrued war service leave (i.e. leave granted and accrued in relation to their original disability) for a further condition recognised as caused by war sometime after the recognition of the original disability (e.g. PTSD). Leave is currently only available in relation to the original disability.

1. **NEW - NAIDOC March and approved activities**

This is a new entitlement. Paid NAIDOC leave would be available (up to 3 hours) to attend NAIDOC march and NAIDOC week activities. Paid leave will be approved where flextime or time off in lieu are not otherwise available.

1. **New Kinship Obligation Leave – 5 days paid leave for Sorry Business**

The Australian First Nation’s definition of ‘kinship’ will be included in the Agreement for the purpose of providing up to 5 days paid leave per annum to attend ‘Sorry Business’ or related purposes. That definition is:

*Australian First Nations kinship where there is a connection, relationship or obligation under the customs, traditions or cultures of the communities, groups or families to which the employee belongs.*

The definition was developed by an extensive consultation process involving key Aboriginal NTPS representatives.

The 5 days will be in addition to compassionate leave, may be taken in broken periods and at half pay. The 5 days does not accrue and is not cumulative.

1. **NEW - Gender Transition Leave**

Gender transition leave would be available to support employees who wish to transition their gender. Employees (excluding casuals) with at least 12 months service and who have commenced transitioning their gender, would be entitled to up to 12 months leave, inclusive of 4 weeks paid and 48 weeks unpaid. Additional paid leave may be granted by the CEO on a case-by-case basis.

1. **Foster Carer and Kinship Carer leave**

Foster carer and kinship carer leave, set out in Determination Number 7 of 2020, would be included in the Agreement to support a comprehensive agreement and the entitlements improved to provide 2 days paid leave (currently unpaid) to attend permanent care order interviews.

1. **Leave to engage in voluntary emergency management activities – improved Miscellaneous Leave**

This is a new clause that would incorporate miscellaneous leave (By-law 18) in relation to volunteering for emergency management activities into the Agreement. The existing By-law provision will be updated to reflect current legislation and improved to include paid leave for reasonable rest time immediately following the employee’s participation in an emergency management activity.

1. **Improved Compassionate Leave**

There would be a number of improvements to compassionate leave as follows:

* 1. 3 days increased to 5 days on the death or serious threat to life of the employee’s immediate family or household member, which will now include stillbirths (refers to cl 49.2(a) of the current Agreement and replaces cl 49.4(a) where CEO has discretion to grant an extra 2 days of paid leave);
	2. NEW – 3 days paid compassionate leave on the death of the employee’s (excluding casuals) extended family member. ‘Extended family member’ means:
		+ - a spouse of the employee’s child (e.g. son-in- law)
			- a spouse of the employee’s sibling (e.g. sister-in-law)
			- an aunt, uncle, niece, nephew or first cousin of the employee.
	3. NEW – 3 days paid leave if the employee or their partner experiences a miscarriage. The employee must provide a medical certificate from a medical practitioner stating that the employee’s pregnancy or the partner’s pregnancy has ended. Leave is unpaid for casual employees.
1. **Health Screening Leave – double existing entitlement**

Currently 1 hour paid leave is available every 2 years for cancer screening under miscellaneous leave (By-law 18). The Agreement would replace this entitlement with a new ‘health screening leave’ that enables employees to access up to 1 *hours* of paid leave *per year* for the purpose of undertaking a health screening test associated with a public health screening program. A ‘health screening test’ means a diagnostic procedure or medical appointment undertaken to screen for cancer or mental health conditions. If an employee undertakes screening for cancer and mental health in the same year, the maximum entitlement is 1 hours of paid leave.

1. **Improved - Flexible Lifestyle (Purchased) Leave**

The ‘Purchase of Additional Leave (Purchased Leave)’ in Schedule 5 clause 5.3 of the current Agreement would be re-named ‘Flexible Lifestyle (Purchased) Leave’ and enhanced to allow employees to request up to 8 weeks additional leave (currently maximum 6 weeks) per year and to take the leave in blocks of 2 days (currently 1 week minimum).

This scheme enables employees to purchase more leave, through salary deductions, to be taken in the year it is purchased. Conditions will apply, including the requirement for employees to provide a written plan outlining how they intend to utilise the leave and the purchase must not result in an excess recreation leave balance.

1. **Employer superannuation contributions (SG) paid during Parental Leave**
	* 1. NEW - Recognising the support parents need at the time of the birth / placement of their child, a new provision to pay SG during paid and unpaid Partner Leave during the first 12 months as if the employee had been at work. Employees will be eligible if their spouse is also a NTPS employee. (Note: employees taking Primary Caregiver Leave already have this entitlement).
		2. NEW - Recognising that women’s superannuation earning capacity may reduce when on parental leave, to pay SG at double the legislated rate during a period of paid Primary Caregiver Leave (includes Special Maternity Leave (stillbirth)). Should the employee elect to take any paid parental leave at half pay, the double superannuation contributions will only be paid for a period that is equivalent to utilising the paid parental leave at full pay.
2. **Primary Caregiver Parental Leave**

Parental leave provisions have been updated to clarify that an employee on Partner Leave does not transfer to ‘Primary Caregiver Parental Leave' should they take over the carer responsibilities from their partner during the first 14 or 18 weeks following birth (or day of placement). This is how the clause currently operates and there is no change to these entitlements. The improved offer is providing, for the first time, employees on Partner Leave with employer superannuation payments at the normal legislated rate during their paid and unpaid Partner Leave (conditions apply). Access to combined parental leave is still available where the partner and primary carer are employed within the NTPS.

1. **Expanded definition of ‘continuous service’ under Parental Leave**

To support employment mobility between different agencies within the broader NT Government context, the definition of ‘continuous service’ in the Parental Leave provisions would be expanded to recognise prior service with an agency for the purposes of the Financial Management Act 1995 (e.g. NT Police Force, Aboriginal Areas Protection Authority). This change would enable more employees to access paid parental leave entitlements or provide increased paid parental leave (e.g. with prior service recognised an employee can achieve 5 or more years’ service and be eligible for 18 weeks paid leave). Similar changes would be made to the definition of an ‘NTPS Employee Couple’ to enable NT Government employees to combine their paid parental leave entitlements.

1. **Returning from Parental Leave**

Full-time employees returning from parental leave currently have a right ‘to request’ to convert to part-time employment on a temporary or permanent basis. Where the employee wishes to do so, the Agreement would provide a right to return on a part-time basis for up to 6 months. The provision will provide that the employee can return to the same job/ duties or alternative duties. If ‘alternative duties’ required to accommodate part-time, the employee will be paid their full rate of pay (for position they held before parental leave) for the hours worked whilst on transfer to alternative duties. A longer period may be requested and approved by the CEO.

1. **Pre-natal Leave**

An employee, whose partner is pregnant, or a pregnant employee will be able to access up to 8 hours paid leave to attend pre-natal appointments. Casuals will have access to unpaid leave. Currently employees use personal or other leave or flextime to accommodate these appointments.

1. **Pre-adoption Leave**

The Agreement would improve the existing entitlement for employees to enable up to 2 days paid leave (currently unpaid) to attend interviews or examinations required in order to obtain approval for the employee’s adoption of a child. Casual employees will be eligible for up to 2 days unpaid leave as per the current provisions.

1. **Defence Service Leave**

An entitlement to paid leave for undertaking defence service (e.g. army reserve) would be included in the Agreement. Entitlements would the same as those in By-law 14 (defence service leave).

**Responses to CPSU Claims**

I have also agreed to a number of the unions claims that have been discussed during negotiation meetings and propose to incorporate into this offer as set out below.

1. **No reduction in current or future rights and entitlements**

The Agreement would include a clause that there will be no reduction in current or future employee rights and entitlements as provided in the By-laws and Determination, including provision of allowances and leave arrangements for the term of the Agreement.

A new sub-clause will also be included providing that the Commissioner undertakes that for the term of this Agreement, general employment conditions specified in the PSEMA. By-laws and Determinations will not be varied without consultation and agreement with the affected parties prior to the formalisation of an amendment.

1. **Improved Dispute Settling Procedures**

The Agreement would retain the existing Dispute Settling Procedures (i.e. no reduction) in relation to disputes that may be referred to arbitration. In addition, the current provisions would be amended to allow all disputes regarding refusals for flexible work or to extend parental leave to be referred to arbitration by a party following unsuccessful attempts at internal resolution and conciliation. This change removes the current exemptions and expands disputes that can be taken to arbitration, if required.

1. **Improved Union delegate training leave – remove service requirements**

The existing 12 month service requirement to be eligible for paid union delegate training leave would be removed. All other requirements will be retained (e.g. evidence employee has been nominated by the union to attend and of attendance at the course).

1. **The Agreement would include a new clause in relation to a safe and healthy work environment that provides:**
	* 1. A commitment to supporting sector-wide guidelines to ensure work health and safety of employees, including remote employees and where travelling for work is required
		2. For all employees to be granted reasonable unscheduled short rest breaks (other than meal breaks) during work hours to refresh to **ensure safe systems of work.**
2. **Aboriginal recruitment, training and career progression**

The Agreement would include a new clause that the parties acknowledge the NTPS Aboriginal Employment and Career Development Strategy for 2021 – 2025 and Employment Instruction Number 15 (Special Measures) as a key policy initiative and legislation respectively supporting Aboriginal recruitment, training and career progression.

1. **Domestic, Family and Sexual Violence Provisions**

The existing domestic and family violence provisions in clause 61 of the current Agreement would be expanded to include circumstances where employees have experienced sexual violence (i.e. sexual violence in non-domestic or family situations). The paid leave entitlements, currently provided in miscellaneous leave (By-law 18), would be included in the Agreement to support a comprehensive agreement. The CEO would retain the ability to approve uncapped paid leave for these purposes.

1. **Provision for Casuals right to request / Employer obligation to offer conversion to ongoing employment**

To assist casual employees and agencies to be aware of the **casual conversion** rights and obligations under the *Fair Work Act 2009*/National Employment Standards (and also the underlying NTPS Enterprise Award 2016), the Agreement would contain a signpost clause to the relevant legislation under the ‘Casual Employment’ clause.

1. **Personal or Carers Leave**

The Agreement would enhance personal or carer’s leave entitlements by allowing employees up to 5 days personal or carer’s leave without a medical certificate. The current Agreement is limited to 3 days.

1. **Infectious Disease**

The unions sought provisions dealing with pandemic situations e.g. COVID-19, and other changes to the infectious diseases provisions in the current Agreement. As discussed in bargaining, pandemic events are rare and COVID-19 has shown that I am able to quickly and appropriately respond to rapidly changing circumstances to support employees with a range of entitlements using my powers under the *Public Sector Employment and Management Act 1993*. The claim to include pandemic leave conditions in the Agreement is not agreed. Employees who are sick or suffering from a notifiable disease will be required to utilise personal leave. Where an employee has exhausted their leave entitlements, the CEO may grant additional sick leave at half pay, as is currently the case. However, the clause has been amended in response to unions’ claims where employees are required to quarantine but are not sick. Employees will be required to take recreation leave only where working from home or another location is not possible.

A new clause would be included to acknowledge that if an employee suffers an injury or disease in the course of employment they may be eligible for workers compensation entitlements in accordance with the *Return to Work Act 1986*.

1. **Definitions for Ongoing, Fixed Period and Casual employment**

Proposed new clause to provide definitions of types of employment in the Agreement to be modelled on NTPS Enterprise Award 2016 and current NTPS 2017-2021 Enterprise Agreement, as well as the Determinations Numbered 9 of 2012 (Part-time employment) and 3 of 2012 (Casual employment).

This clause would incorporate my proposed signpost clause to the *Fair Work Act 2009* / National Employment Standards for casual conversion.

In relation to casual employment the Agreement would:

1. increase the casual loading from 20% to 25%. Casual loading is paid in lieu of paid leave (excluding long service leave) and public holidays not worked; and
2. introduce a daily minimum engagement period of 3 hours.
3. **Consultation**

Significant improvements in the Management of Change clause to include consultation with CPSU and affected employees prior to a decision being made to introduce major change.

1. **Superannuation**

The unions’ initial claim sought increases to the employer contribution by 0.5% per annum until the rate reached 12%, irrespective of any Commonwealth legislation. I acknowledge the claim was varied with unions seeking to include just a commitment in the Agreement to increase to 0.5%. I was unable to agree to this part of the unions’ claim as it is outside the Wages Policy.

Employer superannuation guarantee (SG) will be paid in accordance with federal legislation. This means legislated SG increases during the term of the Agreement will apply and that superannuation will only be paid up to the maximum contribution base even if an employee’s ordinary time earnings (including allowances which count for purposes of superannuation) exceed this amount. For employees in defined benefit schemes (e.g. NTGPASS and CSS), superannuation will continue to apply in accordance with the rules of the relevant fund.

1. **Jacana Consultative Committee**

The Agreement would improve the clause dealing with the Jacana Consultative Committee. It would commit to biannual meetings to discuss general employment related matters relevant to Jacana Energy.

1. **Reasonable workload provisions**

The workloads clause would be enhanced to ensure employees achieve an appropriate work life balance with a list of objectives ensuring that management monitors employee workloads and that employees have sufficient and appropriate resources to undertake their duties. It would require the implementation of strategies to ensure workloads remain reasonable and an undertaking to consult with employees and their nominated representatives over workload issues.

1. **Workplace Support for Breastfeeding Employees**

This would be a new entitlement. Jacana Energy would support breastfeeding employees by providing suitable facilities for employees returning from parental leave for the purposes of breastfeeding, expressing milk or any other associated activities as necessary.

A new provision for breaks for breastfeeding mothers would be included.

1. **Security of employment**

The Agreement would include a statement to the effect that Jacana Energy is committed to employment on an ongoing basis as the primary method of employment.

1. **Performance Planning, Review and Improvement**

There would be a new clause ‘performance planning, review and improvement’ that would set out the processes and the roles and responsibilities in the management of employee performance.

1. **No Reduction in Leave provisions**

There would be no reduction in existing leave entitlements. The Agreement would enhance leave conditions through the inclusion of new leave entitlements and improvements to existing conditions.

1. **Work Life Balance and Family Friendly Provisions**

Employees would continue to have access to the work life balance options provided under the current Agreement (e.g. recreation leave at half pay, part-time employment, and flextime). The offer contains a number of enhancements to existing entitlements that facilitate employees working flexibly.

For consistency and to ensure employee requests are considered in a timely manner, all requests for flexible work, regardless of the circumstances, will require a response from the CEO (or delegate) within 21 days and may only be refused on reasonable business grounds. ‘Reasonable business grounds’ would be as defined in clause 51.21(b) of the current Agreement. Note: only the CEO can refuse a request to work from home.

The Agreement would also contain a commitment to supporting a sector-wide working from home policy with standard and clear guidelines.

1. **Safe Workplace**

Employees would have the right to a healthy and safe work environment, including a workplace free from discrimination, harassment, or bullying. The provisions in the Agreement would reflect these objectives.