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**AUSCRIPT**

## TRANSCRIPT OF PROCEEDINGS

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O/N 79150

### **TASMANIAN INDUSTRIAL COMMISSION**

### **COMMISSIONER J.P. McALPINE**

**T No 13113 of 2008**

### **TIMBER MERCHANTS AWARD**

**Application pursuant to section 23(2)(b) of the Industrial Relations Act 1984 by the Tasmanian Chamber of Commerce and Industry Limited and the Tasmanian Sawmillers Industrial Association to vary the above award re restructure of award – wage fixing principles – principle 13 – award review process**

### **HOBART**

**11.00 AM, FRIDAY, 18 APRIL 2008**

**This transcript was produced from tapes recorded by the Tasmanian Industrial Commission**

MR S. CORNISH: There has been considerable discussion and drafting and again for the record, I wish to commend your associate for her efforts in this matter, Commissioner, because her efforts have been admirable and have certainly saved a lot of anxiety for all parties.

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THE COMMISSIONER: It gave her something to do.

MR CORNISH: Exactly, exactly. What we have – in effect what we have done is in one of the hearings we had, because of the Timber Merchants Award had been lying unloved and unwanted, moribund for so long we thought it was an ideal opportunity to update the award and also to bring it into line with the Federal Award, because a lot of the classifications were out of date and they were just not being used. And also there was a position when notion was representing the state awards fall over and also in the transitional instruments for otherwise non-constitutional corporations or fall out of the federal system in just under twelve months time, they will revert to the Timber Merchants Award.

And it would make – it was much more convenient and much more palatable for the industry to come back to something which they knew and that was I guess the underlying principle as you had been doing it that way and also it conforms with the principle 13 of the wage fixing principles. What I've done, Commissioner, is for convenience is summarised the changes in an explanatory memorandum and my friend's had one already, so I tender the explanatory memorandum and that re-

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THE COMMISSIONER: We will call this A1.

### **EXHIBIT #A1 EXPLANATORY MEMORANDUM**

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MR CORNISH: Also I had too the other – well, the union that is most affected by this award is the CFMEU and I've spoken to Mr McLean yesterday and he also has a copy of this explanatory memorandum.

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THE COMMISSIONER: Yes. And we have his approval for you to speak on his behalf?

MR CORNISH: Thank you, Commissioner. So in essence, rather than going through the whole thing, you can see what we have done in accordance with principle 13 is to up base, upgrade the award. We have called up the – or brought in the award appendices, the Federal award appendices and put those into clause 8. We've brought up to date the wages from the old award – from the previous award to represent the state wage decision of 2007 and also they have requested that my friend, Mr Flanagan, because of the grossly widening of the number of classifications and industry sectors in the award we want to be certain that the silver culture and afforestation laws are going to be infringed upon and that's an area which the overview has coverage.

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And also the other – there’s one other minor change, was in the final draft or the penultimate draft and I discovered to my horror that I’ve had two superannuation clauses, that was an agreed recent change. So Commissioner, what I’ve – the explanatory memorandum summarises the change that we have done and what we  
5 have done in summary is brought the award up to date, brought the wages up to what the State Wage Case 2007 and I submit that the Commission approves the second point of the variation of the award.

10 THE COMMISSIONER: Thank you.

MR R. FLANAGAN: If it pleases the Commission, the AWU does not oppose the application on the variation as proposed. If it pleases the Commission.

15 THE COMMISSIONER: Thank you.

MR S. KELLY: Commissioner, we support the recommendations and look forward to the modernisation of the award.

20 THE COMMISSIONER: Okay, thank you. Now, can I just confirm that – for your understanding – sorry?

MR KELLY: Can I go off the record at some stage, please?

25 THE COMMISSIONER: Yes, do you want to go off now?

MR KELLY: Yes.

30 **ADJOURNED** [11.06 am]

**RESUMED** [11.08 am]

35 MR CORNISH: Commissioner, there’s one matter which I omitted to mention. In the definitions clause of the new award and it was an oversight of mine I must confess. There were two parts in the previous award covering the timber classifications and also – specifically timber A, the classifications and the clerical ones, and what I propose is that the definition of “union” be withdrawn or be  
40 removed from the thing because it was unnoticed on mine because the – it is quite clear that the union in an ordinary sense means that at the end of the part of the agreement – of the award, I beg your pardon, and also those of the Employees Union is that obviously in which he is a member and it has coverage with that enterprise, so I propose that, with my friend’s agreement, that the definition of “union” be removed  
45 to remedy any possible confusion.

THE COMMISSIONER: Okay. Thank you.

MR FLANAGAN: We support that decision, Commissioner.

MR KELLY: And the agency supports the position too.

5 THE COMMISSIONER: Okay, thank you. And if I could just confirm that the award as it is intended, will this award impact on any constitution corporations?

MR CORNISH: No, not at all. As you know we discussed that before, there was no jurisdiction, Commissioner.

10 THE COMMISSIONER: Yes. And as far as NAPSAS go - - -

MR CORNISH: Again, the NAPSA will be frozen in time. If this – the timber merchant will just be off the face of the earth the NAPSA would remain in place because it was as of 26 March 2006 - - -

THE COMMISSIONER: Yes.

MR CORNISH: - - - and it's frozen in time effectively.

20 THE COMMISSIONER: So you are comfortable that - - -

MR CORNISH: It has no impact whatsoever on the federal jurisdiction.

25 THE COMMISSIONER: Excellent. Thank you very much. Well, as I explained to you earlier and I will explain to these two gentlemen, I'm going to reserve my decision and hand down a decision forthwith, okay. Now, we can go off record.

30 **MATTER ADJOURNED at 11.12 am INDEFINITELY**

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