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TRANSCRIPT OF PROCEEDINGS

O/N 78874

TASMANIAN INDUSTRIAL COMMISSION

PRESIDENT P.L. LEARY

DEPUTY PRESIDENT P.C. SHELLEY

COMMISSIONER J.P. McALPINE

T No 13120 of 2008

T No 13121 of 2008

T No 13122 of 2008

T No 13123 of 2008

T No 13124 of 2008

BUILDING TRADES AWARD

BUILDING AND CONSTRUCTION INDUSTRY AWARD

SHIPBUILDERS AWARD

MONUMENTAL MASONS AWARD

MOBILE CRANES AWARD

**Applications pursuant to section 55 of the Industrial Relations Act 1984
by the Construction, Forestry, Mining and Energy Union to vary the
above awards re supported wage system**

HOBART

10.00 AM, MONDAY, 14 APRIL 2008

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

PRESIDENT LEARY: Good morning. Could we take appearances please?

MR T. BENSON: If the Commission please, Tony Benson. I appear on behalf of the CFMEU, Tasmanian Branch.

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PRESIDENT LEARY: Thank you.

MR MAZENGARB: Good morning, President, Deputy President, Commissioner. If it pleases the Commission, Paul Mazengarb representing the Tasmanian Chamber of Commerce and Industry Limited.

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PRESIDENT LEARY: Thank you. There's no objection to us dealing with all of the matters together is there, in one hit?

15 MR MAZENGARB: Not at all, President.

PRESIDENT LEARY: All right, thank you. So your application, Mr Benson.

MR BENSON: Thank you, President. Good morning, Deputy President. Good morning, Commissioner McAlpine. The application that the CFMEU has put in this morning stem from the Australian Fair Pay Commission wage-setting decision of May 2007. I note that the decision there increased the rate from \$64 to 66. The awards in Tasmania, state awards in Tasmania reflect \$61. We would seek that the awards be increased to \$66, as was the case in the previous application before the State Commission on 20 February by the, in relation to the General Conditions of Employment Award, I think it was. I suppose the most important thing is that we do adjust the Private Sector Awards. Public Sector Awards, as I understand, are a matter that other parties were duelling with. I don't know why it has been left to us to deal with the private sector ones, but we've got no problem. We will go ahead with that.

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As was the case in the decision of the Fair Pay Commission, minimum weekly payment is a minimum weekly wage below which no employee with a disability working under the supported wage system can be paid, regardless of the number of hours worked by an employee per week. Now, we would say that we don't believe that this is inconsistent with the wage-fixing principles of the Commission, nor is it against the public interest for those awards to be varied in that way. In regards to that, we would seek that the operative date be the first full-pay period on or after today's date. I have agreed with my colleague in relation to that. Do you want me to deal with the Mobile Crane Hiring Award at the same time, President?

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PRESIDENT LEARY: The applications are all in identical terms, are they not?

MR BENSON: No, well, the Mobile Crane Hiring Award seeks to insert a new clause.

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PRESIDENT LEARY: Does it?

MR BENSON: Supporting wage assistant. It doesn't have that - - -

PRESIDENT LEARY: Is there no clause in there?

5 MR BENSON: No, there is not at this point in time. I was talking to my colleague
earlier, and we have agreed that, whilst we don't know whether it might ever be
used, there may be someone from within that industry that suffers an injury that
might want to come back, has some benefit to the industry, but can only work under
10 these circumstances. And we think that it would be appropriate to have it included in
that award.

PRESIDENT LEARY: All right. So other than the Mobile Crane Award, the other
applications are all identical.

15 MR BENSON: They are, President, yes.

PRESIDENT LEARY: And in respect to that award, it's an application to insert the
standard clause.

20 MR BENSON: That's right, President, yes.

PRESIDENT LEARY: Effective from today also? Operative from today also?

MR BENSON: First full-pay period on or after today, yes.

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PRESIDENT LEARY: First full-pay period, yes.

MR BENSON: Yes.

30 PRESIDENT LEARY: All right. Thank you. Mr Mazengarb?

MR MAZENGARB: Thank you, President, members of the bench. From the
perspective of the Tasmanian Chamber of Commerce and Industry, I can indicate
that we don't oppose the applications. That's the whole five of the applications. I'll
35 just talk about the Mobile Crane Hire Award separately in a moment. We believe, as
has been indicated by my friend and colleague, they, there's no injury to the wage-
fixing principles, nor is there any offence to the Industrial Relations Act, public
interest component. So we support the applications with effect from the first full-pay
period on or after today's date, or from the date of the decision of the Full Bench.

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With regard to the Mobile Crane Hire Award, the only matter I would bring to the
attention of whoever from the Commission's perspective has carriage of this case, is
it appears as though the application seeks to insert a new clause 8, being supported
wage system clause. As clause 8, and I would think it would be under part 3, if I
45 recall, of the award, as clause 8 is already taken up by another clause, it might be
appropriate

PRESIDENT LEARY: So it's a numbering.

MR MAZENGARB: If it's clause 9. I've had no chance to speak to Mr Benson about that, but it might be easier just to change his – he might just wish to vary his application to reflect that it's clause 9, because I think that clause 8 is already taken up by minimum wage or something similar, if I recall.

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PRESIDENT LEARY: Okay, that will come out - - -

MR MAZENGARB: Yes, minimum wage.

10 PRESIDENT LEARY: Yes. That will come out in formatting anyway.

MR MAZENGARB: Yes.

PRESIDENT LEARY: Yes, so it's possibly happened.

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MR MAZENGARB: That's all I have to indicate to the Full Bench.

PRESIDENT LEARY: Automatically, by the wonders of technology.

20 MR MAZENGARB: Thank you, President.

PRESIDENT LEARY: All right. Questions? Did you want to add anything else, Mr Benson?

25 MR BENSON: Well, just thank the Commission.

PRESIDENT LEARY: All right, thank you.

MR BENSON: And my colleague.

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PRESIDENT LEARY: And your mother and father, and all that sort of stuff. Okay, these are applications by consent, and accordingly the five awards will be varied as requested by the applications. All of the applications will take effect from the first pay period on or after today. Four of the awards will be varied to increase the supported wage to \$66. And the Mobile Crane Hire Award will be varied to insert a

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new clause for supported wage.

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