

COMMISSIONER WATLING: I'll take appearances please.

MR J.E. SWALLOW: SWALLOW, J.E. AMIEU.

COMMISSIONER WATLING: Thanks, Mr Swallow.

5 **MR A. CAMERON:** If the commission pleases, ANDREW CAMERON, from the Tasmanian Chamber of Commerce & Industry.

MR T. CURTAIN: And TERRY CURTAIN from the Tasmanian Division of the National Meat Association of Australia. Thank you.

10 COMMISSIONER WATLING: Good. Thank you. Before we get started, we might just go off the record and look - tidy up some procedural matters. We'll just go off the record for a moment.

OFF THE RECORD

15 COMMISSIONER WATLING: Mr Swallow, I understand that you're seeking leave to amend your application to delete from the existing award clauses 9, 10, 11, 15, 16, 18, 22, 23, 24, 32, 35, 37, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51,,52, 53, 54, 55, 56, 57, 58 and 59 and you are seeking to amend the following clauses contained in the award, namely clause 3, 4, 5, 7, 8, 12, 14, 21, 26, 27, 30, 33, 34,36, 38 and 39. And all the unmentioned clauses haven't been - haven't been touched by this application. Is that how you wish to amend your application, Mr Swallow?

20 MR SWALLOW: Yes, sir.

COMMISSIONER WATLING: Is there any objection to leave being granted to amend?

MR CAMERON: No, no objection, Mr Commissioner.

COMMISSIONER WATLING: No objection. Right. Mr Curtain?

25 MR CURTAIN: No, sir.

COMMISSIONER WATLING: Right. There being no objection then the leave is granted to amend the application.

30 Now, Mr Swallow, at the start of the hearing you've tendered a document which you believe to be the draft order in relation to this particular application, so I'll give that an exhibit number. I don't think you've tendered formally any other exhibits so therefore we'll mark this exhibit AMIEU.1 which is the draft order you've submitted.

We might just go off the record for a moment again.

OFF THE RECORD

COMMISSIONER WATLING: Thank you. Mr Swallow.

35 MR SWALLOW: In - in line with the union's document, I think - I think the only thing that's got to be argued now is the - is the operative date. The - all of the draft order has been agreed to and that leaves the only thing outstanding the operative date and therefore I would argue that this historical part about all of this is that we've been discussing these MRAs in the meetings now for three years or more and
40 it was to deal with the whole of the industry when we started off and that was

agreed to by - by all of industry that we covered - the industry be covered by one
award to save duplication and a host of other things. And then the reason I could -
it's still only a guess, but the reason why the National Meat Association at the
eleventh hour requested the award - the Meat Retailing Award be split off, there
5 wouldn't be any doubt at all now was - was the submissions that will come forward
that it was a - an obvious delaying tactic by the - by the National Meat Association.

The - the simple matter of facts are that the - the award that they were to be in
commenced on the - on the 11th February this year - the first two MRAs were applied
and in - and indeed there was - as you recall there was a mistake made there on the
10 - on the employer's behalf when - when in fact they - they agreed they all be paid at
that point in time. That was - that was not part of the arrangement and that was
subsequently changed.

Now the - the decision to split off the award - the Meat Retailing Award - was - was
done by agreement. It was -it was - the union agreed to it because I was of the
15 opinion it was - it would continually delay the outcomes of MRAs if it - if it wasn't
hived off and - and that's why - that's why the union agreed to it. If - if I'd have had
any inkling at all that - that this would have been the case, well mostly certainly
wouldn't agree - agree to it being hived off; we would have argued the point that it's
20 ridiculous to have a Meat Retailing Award that in fact has only got two
classifications, and those - those five levels you could - you could cut down to two in
fact because basically all it is, is a retail butcher, an apprentice and - and female
employees. Two - two levels would do it and it's - it just points out to me the - the
attitude of the National Meat Association when it's - it's really a joke when you've got
a whole award with really that two levels are applied. It's the two I mentioned; the
25 shop assistant and the butcher.

So the simple matter of fact is that the union wouldn't have agreed that it be hived
off. We would have argued that it stay in on that basis; that it's ridiculous to have
an award just to cover two classifications when they're already covered in the Meat
Processing Award - those same two classifications. And now they've been confronted
30 with an argument now that's another delaying tactic. I think it's getting a bit beyond
the ridiculous to be truthful and therefore the - for the union's part we - I request
that you take into account the historical aspect of - of this award that was hived off
by agreement and in fact it should have applied from the 18th February and all we're
asking is that two of the adjustments apply from today, the third adjustment apply
35 from the 14th March, '98 and the fourth adjustment from the 14th September '98.

COMMISSIONER WATLING: So the first two?

MR SWALLOW: The first adjustments -

COMMISSIONER WATLING: From today.

MR SWALLOW: - from today.

40 COMMISSIONER WATLING: And the third one?

MR SWALLOW: The third one from the 14th March '98.

COMMISSIONER WATLING: The 14/3/98 - good.

MR SWALLOW: And the fourth from the 14th September '98.

COMMISSIONER WATLING: Good. Thank you.

45 MR SWALLOW: That's all I've got to say. I think -

COMMISSIONER WATLING: Now - now the award itself is - and the document that you've tendered, I take it that your submission is that it satisfies the wage fixing principles in terms of the structural efficiency principle?

MR SWALLOW: Yes, sir, most certainly.

5 COMMISSIONER WATLING: And the award has been restructured in the - as required by the Wage Fixing Principles and established relativities one to another within this industry.

MR SWALLOW: Yes, sir, most certainly.

COMMISSIONER WATLING: Have you any further submissions to put to me?

10 MR SWALLOW: No, sir.

COMMISSIONER WATLING: Mr Cameron.

MR CAMERON: Thank you, commissioner. A couple of points to clarify: we've had the opportunity to have discussions with Mr Swallow in relation to this award since the date of our last appearance in the commission and the conferences that ensued.

15 We have at those meetings further discussed various aspects of the proposed award and come to an agreement in most regards, in particular, the classifications and the number of levels. This followed an appraisal of occupations that still exist within the retailing area, and included acknowledgments by both parties of comparative occupations which are covered under other awards within the commission's
20 jurisdiction.

To say that there are only two levels within this industry now, may be sort of taking that to the extreme in that the proposals under the new levels as in the draft order take into account an entry level plus two levels for shop assistants and cashiers so that there is some form of career path to some extent that if someone stays within
25 the industry for a while as a shop assistant or cashier after a certain period, they do progress to a higher level than if any of those particular people do have extra duties in terms of the security of cash, locking and closing the premises, then there is a separate level for people of that - of those skills or doing those duties in - at any particular time.

30 There is of course the tradesmen - the butchers - and the fifth or Level 5 takes into account a butcher who may be in charge of a retail butcher's shop or outlet. So it's not possible just to simplify this award to two levels, and therefore claim that it could be absorbed into the existing meat processing industry award which may have occupations of similar ilk, but are not particularised towards the retailing industry
35 itself.

And that said, we do on behalf of our members and the National Meat Association of Australia, Tasmanian Division, indicate that we do not consent to the draft order in the form submitted by the applicant in relation to clause 8 - Wage Rates, and the implementation of the MRA process as put forward by Mr Swallow.

40 We also point out at this time that we - we reserve our rights to file our own application in relation to the following clauses: Hours - which is clause 16; Holidays with Pay - clause 15; Leave - which is clause 17 in the draft order, and in particular, Sick Leave and Annual Leave Loading; and clause 27 - Sunday Work - Sunday and Holiday Work.

Commissioner, as Mr Swallow pointed out and everyone is aware, the negotiations in relation to this award have taken some time and some years to reach this final stage. However, it should not be the case that because of that time frame matters should now be rushed through to catch up, as to do so would put undue pressure on the employers in the industry.

In particular, it should further be noted that a lot of the past negotiations resolved around the making of a single award to replace both the then Abattoirs Award and the Meat Trades Award as they then existed.

The stumbling blocks in that regard were met because of a reluctance to change, and in particular there were two aspects that where the parties could not come to agreement and to enable some aspects of the meat industry to progress with a new award, it was agreed that there be two new awards, being the Meat Processing Industry Award which came into operation earlier this year and that then a further award, being the Meat Retailing Award would continue to be negotiated.

Commissioner, as we've already submitted, that delay should not cause a fluster at the end and a mad rush to catch up. And in this regard it is our submission that the implementation of the minimum rates adjustment process should follow the wage - Principle 5 of the Wage Fixing Principles of 1997. That states at Principle 5.1:

the appropriate adjustments in any award will be applied in no less than four instalments which will become payable at six monthly intervals provided in appropriate cases longer or shorter phasing-in arrangements may be approved or awarded and/or parties may agree that part of a supplementary payment should be based on service;

Commissioner, there's no agreement between the parties as to an implementation of that process and it is our submission that the principle be followed to the letter in that there be four MRA instalments over a two year period.

Now reasons for this are many fold. Firstly, there has been a -

COMMISSIONER WATLING: Well, just -

MR CAMERON: Sorry.

COMMISSIONER WATLING: - to see that I'm getting you right, the - it talks about - in the principles about the intervals doesn't it and that the - they become payable six month - at six monthly intervals.

MR CAMERON: Yes.

COMMISSIONER WATLING: Right. It only talks about the intervals; it doesn't talk about when they shall start from - the operative date.

MR CAMERON: Yes.

COMMISSIONER WATLING: Presumably the operative date will be the operative date of this new award.

MR CAMERON: Yes.

COMMISSIONER WATLING: So you'll be addressing me in relation to the operative date of the new award.

MR CAMERON: Yes. Yes.

COMMISSIONER WATLING: But apart from that you're saying that the intervals should be six months apart.

5 MR CAMERON: Yes. Well, our submission would be that the first MRA instalment would become six month - would become payable six months from the date of the award and we will tender a - our form of draft order for clause 8, Part 1, of the adult wages showing at this stage that -

COMMISSIONER WATLING: Yes, that's your submission, it's -

MR CAMERON: Yes.

COMMISSIONER WATLING: - not the Wage Fixing Principles.

10 MR CAMERON: No, that's our submission to - that is within the scope of the Wage Fixing Principles.

COMMISSIONER WATLING: Yes. So are you - are you going to be arguing then that the operative date of this new award not be for six months?

15 MR CAMERON: No, we would be - we would argue that there can be an operative date now, taking into account the wage relativities and a wage structure, including the safety net adjustments but that based on the relativities of the base rate, but then any MRA instalment, the first one would be due in six months time.

COMMISSIONER WATLING: So that's your submission. It's not the Wage Fixing Principles.

20 MR CAMERON: No, that's our submission to fall within the scope of the principles. And I don't know if the principles are clear to say that the first one would become payable at the operative date either.

COMMISSIONER WATLING: No. No, that's left to the commission to determine when it will be -

25 MR CAMERON: Yes.

COMMISSIONER WATLING: - operative. I just don't want you to misunderstand the principles. The principles talk about the intervals.

MR CAMERON: Yes.

30 COMMISSIONER WATLING: They don't talk about the first one when it's operative from.

MR CAMERON: No.

COMMISSIONER WATLING: And the first one could be operative from the 14th September -

MR CAMERON: Yes.

35 COMMISSIONER WATLING: - under the wage -

MR CAMERON: And then six monthly - the other three six months apart after that.

COMMISSIONER WATLING: Under the Wage Fixing Principles.

MR CAMERON: Yes.

COMMISSIONER WATLING: Yes. So - but you're arguing that it should - this shouldn't be implemented for six months.

5 MR CAMERON: The first - the first one wouldn't be - the other draft - the other draft clauses would come into operation.

COMMISSIONER WATLING: Why?

MR CAMERON: Why would we argue against the wages or in the other clauses?

10 COMMISSIONER WATLING: Why would I have two operative dates for the new award and one for the MRAs? Why should the employer have the benefit of the restructured award -

MR CAMERON: Yes?

COMMISSIONER WATLING: - if the employees not have the benefit of the money that goes with the MRA process?

15 MR CAMERON: There is a benefit to various levels within the draft award that would flow through immediately with the base rate change in relativities, and in particular -

COMMISSIONER WATLING: Right. Well, I might explore that with you in a moment though.

20 MR CAMERON: Yes, well I was going to go through that and say what would happen -

COMMISSIONER WATLING: Righto.

MR CAMERON: - in terms of wage rises.

COMMISSIONER WATLING: Righto. Anyway, I was really just trying to -

MR CAMERON: Yes, I understand.

25 COMMISSIONER WATLING: - clarify in my own mind that as far as I'm concerned the Wage Fixing Principles talk about the intervals -

MR CAMERON: Yes.

COMMISSIONER WATLING: - not necessarily the operative date -

MR CAMERON: No.

30 COMMISSIONER WATLING: - of the first one.

MR CAMERON: No.

COMMISSIONER WATLING: Righto. Righto.

35 MR CAMERON: Our reason for the delay in the implementation of the MRA process is firstly that there's been a recent Safety Net Adjustment of \$10 per week which the employers have had to make - pay to their employees. Under the Wage Fixing Principles at Principle 9.3 -

COMMISSIONER WATLING: Now which ones are you quoting from now?

MR CAMERON: Principle 9.3.

COMMISSIONER WATLING: But which principles?

MR CAMERON: The '97 State Wage Fixing Principles.

5 COMMISSIONER WATLING: Righto.

MR CAMERON: Sorry.

COMMISSIONER WATLING: Because you were discussing the earlier principles weren't you before?

MR CAMERON: Yes, I was referring to Principle 5 of the '97 -

10 COMMISSIONER WATLING: Good. Yes.

MR CAMERON: - ones.

COMMISSIONER WATLING: Thank you.

MR CAMERON: And in Principle 9.3:

15 *Where the minimum rates adjustment has not been completed, the safety net adjustment may be taken into account in determining the size and phasing in of a minimum rates adjustment.*

Now the - it could be argued the minimum rates adjustment process hasn't been started at this stage, but notwithstanding that the two should be looked at together by the commission in the implementation of the MRA process. And that follows on from the recent decision of the commission for the \$10 per week safety net adjustment.

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Secondly, other changes to the award have resulted in increased cost to the employer. To start with, there has been a reduction in the hours of work to a 38 hour week from the existing award which provides for a 48 hour week. Therefore, there's additional cost to the employer to maintain his existing staffing levels for the additional two hours which would be paid at overtime rates and that equates to an eight per cent pay - eight per cent increase in labour costs to the employer.

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COMMISSIONER WATLING: If they worked overtime.

MR CAMERON: If they maintained the existing work load of 40 hours per week to maintain their existing roster.

30

COMMISSIONER WATLING: But we're not - the principle of reducing hours is not to increase overtime, surely.

MR CAMERON: No, that's right.

COMMISSIONER WATLING: It's to reduce hours of work.

35 MR CAMERON: Yes. And I've referred to the decision of Commissioner Gozzi when this matter was before the commission once before in T.617 of 1986, and at that stage he referred that the most likely result in this - in looking to reduce to a 38 hour week in the application by the union at that time, the likely result in the other

two hours being paid for at overtime rates with no shorter working hours for the employees concerned. And we argued that that would still be the case; that currently the retail butcher shops are -do have the services of their employees for 40 hours per week. The reduction in 38 hours per week would mean that there's a two hour change and that they would need to be covered if they are to maintain their existing trading hours with the same level of staff and therefore that would then need to be paid at overtime rates and that's and eight per cent increase in wages for - in labour costs for the employer.

COMMISSIONER WATLING: Well what's the evidence to suggest that that would happen other than a submission made from the bar table? What sort of work have you done to gather these figures?

MR CAMERON: Mr - discussions with the National Meat Association and their discussions with their members.

COMMISSIONER WATLING: So, I put it to you it's nothing more than a hunch. You've got nothing to back it up.

MR CAMERON: No - well, it's part of the submissions to say that these are the costs that could flow through and that there are -

COMMISSIONER WATLING: So they could flow through now.

MR CAMERON: Yes.

COMMISSIONER WATLING: But we don't know.

MR CAMERON: Well, each butcher shop would be different unless we spoke to every butcher shop within the state.

COMMISSIONER WATLING: So why should I - why should I take it that there's going to be an eight per cent increase because of this, when, if people observe the award they'll be working a 38 hour week.

MR CAMERON: Yes.

COMMISSIONER WATLING: It seems to me that your submission is that they're not going to observe the award and they're going to work overtime.

MR CAMERON: The submission is that to maintain the existing hours that retail butcher shops are providing staff and their employees would require them to pay overtime and there could be the eight per cent labour cost increase.

COMMISSIONER WATLING: Well, I put it to you there's a hell of a difference between the trading hours of the employer and the working hours of employees.

MR CAMERON: Yes.

COMMISSIONER WATLING: Right. Now, what are you talking about? Trading hours?

MR CAMERON: Both.

COMMISSIONER WATLING: Or are you talking about working hours?

MR CAMERON: To have the trading hours available and the - and have staff available to work through those trading hours is going to be a change in the cost to

the employer of providing staff to match the hours that he's currently providing staff.

COMMISSIONER WATLING: That depends on how they roster the staff, surely.

MR CAMERON: Yes, that would be true.

5 COMMISSIONER WATLING: And it would depend on what form of labour was employed during what hours.

MR CAMERON: Yes.

COMMISSIONER WATLING: And it would also depend on whether the employer decided to trade certain hours -

10 MR CAMERON: Yes.

COMMISSIONER WATLING: - outside the span of hours in the award.

MR CAMERON: That's correct.

COMMISSIONER WATLING: Right. So given all those variables -

MR CAMERON: Yes.

15 COMMISSIONER WATLING: How does your submission line up? What are the facts?

MR CAMERON: I'm saying in a pure - if you look at the pure mathematics of what the hours at the moment -

20 COMMISSIONER WATLING: Oh, yes, but we need to be dealing with facts; you're making a fairly -

MR CAMERON: Well there's a five - we would argue and submit that there is a five per cent reduction in the numbers of hours per week. Now in terms of the trade-off that the employees as suggested by the bench that what is there in return for the delay of the MRA process, straight away there is a five per cent reduction of the hours that an employee has to work each week.

COMMISSIONER WATLING: Right. I can understand that argument -

MR CAMERON: Yes.

30 COMMISSIONER WATLING: - but the other argument about increased costs pre supposes that everyone is going to continue to work 40 hours or more when the employer has the right to re-arrange, roster the staff, do whatever.

MR CAMERON: Yes. Oh, there's no denying that any employee can organise his staff and he may only have part time staff working to begin with that they do not work 40 hours and don't work 38 hours at the moment.

COMMISSIONER WATLING: Yes.

35 MR CAMERON: But there - in terms of the award basis, there is a five per cent reduction in the number of hours that an employee has to work as a full time employee, and if an employer decided to retain a 40-hour week for employers - for employees - that is an eight per cent increase in wage costs for the employer.

Now that may or may not happen and as indicated we would have to talk every butcher shop in the state to see what are you going to do which would take the commissioner's time and would be unreasonable.

5 COMMISSIONER WATLING: Well, how much weight should I put on that sort of submission as opposed to the submission that says the hourly rate of employees will increase by the reduction of hours?

MR CAMERON: The hourly rate will increase by the reduction of hours.

COMMISSIONER WATLING: I agree with submission.

MR CAMERON: And that increase -

10 COMMISSIONER WATLING: How much weight should I put on the other submission?

MR CAMERON: The appropriate weight, bearing in mind that in terms of the mathematical possibilities, it is a possibility that an employer may be paying an eight per cent more per week to maintain existing 40 hour week.

15 COMMISSIONER WATLING: If the employer chooses to?

MR CAMERON: That's right.

COMMISSIONER WATLING: Not if the employee chooses to, it's if the employer chooses.

MR CAMERON: Yes.

20 COMMISSIONER WATLING: So it's in the hands of the employer.

MR CAMERON: Yes.

COMMISSIONER WATLING: Do you think that's fair and reasonable that the employer has the right to choose?

MR CAMERON: Yes.

25 COMMISSIONER WATLING: Righto. Well, if the employer has the right to choose, why should I discount it, because it's at the employer's choice?

MR CAMERON: Yes, that's correct. But coupled with that is the five per cent reduction in the available hours for a full time employee that an employer has to work with.

30 COMMISSIONER WATLING: Yes, I can understand the argument that the says the hourly rate for employees will increase.

MR CAMERON: I was extrapolating to the other extreme whereby -

35 COMMISSIONER WATLING: You were going to the other end of the scale without giving me solid evidence. It presupposes that all employers out there are going to continue to work 40 hours a week or make their employees work 40 hours a week, but they're not going to be rostered in such a way to be - to the - to advantage the employer's business and it presupposes also that all employees covered by this award will work 40 hours a week. There's a lot of things I've got to - drawing a long bow in some, I think.

MR CAMERON: But that's - I suppose - what I'm putting forward is that there are situations that may arise in the industry that will mean increase cost for an employer.

COMMISSIONER WATLING: Well, certainly increase the immediate hourly rate -

5 MR CAMERON: Yes.

COMMISSIONER WATLING: - of all employees.

MR CAMERON: The immediate hourly rate for a trades person goes up by 5.24 per cent in terms of an hourly rate.

COMMISSIONER WATLING: Mm.

10 MR CAMERON: And that's based upon the reduction from 40 hours to 38 hours per week.

COMMISSIONER WATLING: Right. Well, I can understand that argument.

MR CAMERON: Yes.

COMMISSIONER WATLING: That's a factual sort of thing.

15 MR CAMERON: And further, Principle 15 of the 1997 Wage Fixing Principles sets out in relation to standard hours that:

In approving any application to reduce standard hours to 38 per week, the Commission should satisfy itself that the cost impact is minimised.

20 Looking at that 5.24 per cent increase in the hourly charge, coupled with the recent \$10 safety net adjustment, it would prescribe upon employers a hefty cost increase initially that should otherwise be spread out over a longer period.

Other cost impacts upon the employer by the immediate increase to wages that must be taken into account include the oncost of flow through in terms of workers' compensation premiums, superannuation and payroll tax where applicable.

25 Some authors put these costs as high as 40 per cent but that's obviously open to argument, but there immediate increase in costs in terms of superannuation contributions and workers' compensation premiums which are directly tied to the level of wages paid by an employer.

30 COMMISSIONER WATLING: How many - have you done a survey to find out how many employers covered by this award are paying payroll tax?

MR CAMERON: No, his submission was 'where applicable'. I haven't got any figures to suggest -

COMMISSIONER WATLING: So, if I'm going to weigh that particular point up -

MR CAMERON: Yes.

35 COMMISSIONER WATLING: - and put any weight on it, is it applicable?

MR CAMERON: It would be applicable within the supermarkets which are covered by this award.

COMMISSIONER WATLING: How are many of those are covered by the award now?

MR CAMERON: It would be Roelf Vos, Purity and Coles. It was just - it's just another aspect.

5 COMMISSIONER WATLING: Yes, but I - you're making the submission -

MR CAMERON: Yes.

COMMISSIONER WATLING: - I'm just testing the veracity of it.

MR CAMERON: Yes.

10 COMMISSIONER WATLING: I don't want to go away thinking, oh, payroll tax is a very significant area when in fact there may be no-one paying payroll tax.

MR CAMERON: It's where applicable and there would be a submission there was only Purity and Roelf Vos and Coles that would be in that - within that category.

COMMISSIONER WATLING: Well, Coles wouldn't be in the category.

MR SWALLOW: They're all covered by agreement.

15 MR CAMERON: But whether they're covered by agreements or not, we're still talking about the award and the implications of the award. They're not worried by the MRA process either, but -

COMMISSIONER WATLING: So -

20 MR CAMERON: - because they're paying more than what would be paid at the end of the MRA process.

COMMISSIONER WATLING: So are Coles affected by this now?

MR CAMERON: Not if - not pursuant to their federal agreement.

COMMISSIONER WATLING: No. So we can count them out.

25 MR CAMERON: But then they are - they are respondent to this award; the fact that they've got a current agreement does not mean that at some stage in the future that agreement will come to an end and may not enter into a further agreement, or, that any time any of the parties are free to withdraw from an industrial agreement or a federal agreement.

30 COMMISSIONER WATLING: I put it to you that Coles and Woolworths (Victoria) trading as Purity and Roelf Vos Supermarkets are well in excess of these rates.

MR CAMERON: Yes. We're not denying that.

COMMISSIONER WATLING: So where's the cost impact on them?

MR CAMERON: There may not be a cost impact on them.

COMMISSIONER WATLING: No. Righto. That's fair enough.

35 MR CAMERON: It's workers' compensation, superannuation, they will effect even the smallest retailer that has an employee subject to this award.

COMMISSIONER WATLING: Righto. I can understand super.

MR CAMERON: Yes.

COMMISSIONER WATLING: I can understand workers' compensation.

MR CAMERON: Yes.

5 COMMISSIONER WATLING: What else?

MR CAMERON: That was all. My words were, 'Payroll tax where applicable.'

COMMISSIONER WATLING: Righto.

MR CAMERON: And there are immediate costs to the employer of the new
10 classification structures without any MRA payments. A sales assistant, with six
months experience, will receive an automatic increase of \$13.70 per week, which is
a 3.74 per cent increase upon the existing wage under the current Meat Retailing
Award. A cashier does slightly better but marginally so, and that's a 3.91 per cent
15 increase immediately without any MRA implementation to that classification. So
there are immediate costs. Without an MRA process there are those immediate wage
rises to those employees. At the end of the MRA process they will \$51.60 per week
better off, which is a 14.1 per cent increase in their wage as compared to the
existing rates under the Meat Retailing Award and that's taking into account the
recent -

COMMISSIONER WATLING: What percentage increase, sorry?

20 MR CAMERON: Fourteen point one per cent -

COMMISSIONER WATLING: Fourteen point one. Righto.

MR CAMERON: - which already takes into account the \$10 Safety Net Adjustment.
To implement two MRAs up front as suggested by Mr Swallow, will mean a pay rise
of \$26.80 for these classifications and that would not be in line with the intentions
25 of Principle 15 in that the cost impact at this stage would not be minimised

Commissioner, it is our submission that the MRA process follow Principle 16 of the
Wage Fixing Principles with the first MRA payable six months from the date of the
order. And in that regard I hand up our calculations in relation to clause 8, Part 1,
Wages for Adults.

30 COMMISSIONER WATLING: We'll mark this exhibit TCCI.1.

MR CAMERON: The initial order as indicated would not have any provision for a
supplementary payment at all, as shown on page 1. Page 2, it shows -

COMMISSIONER WATLING: Let's get this right. You're suggesting that this
particular clause, on the first page of your document -

35 MR CAMERON: Yes.

COMMISSIONER WATLING: - be operative in six months time?

MR CAMERON: No, would be operative from now.

COMMISSIONER WATLING: The first page should be operative from now?

MR CAMERON: Yes, yes.

COMMISSIONER WATLING: Righto.

MR CAMERON: No supplementary payments whatsoever, but take into account
5 new classification levels and adjusted relativities in accordance with the requirements.

COMMISSIONER WATLING: Good. Righto.

MR CAMERON: Page 1, allows for the -

COMMISSIONER WATLING: Have you worked out what sort of increases they
would get on the existing award if I was to -

10 MR CAMERON: Yes, that was those figures just quoted in relation to the cashiers and sales assistants.

COMMISSIONER WATLING: What about all the levels?

MR CAMERON: No, the butchers - the tradesmen for instance, it is a lower rate
15 than is currently paid under the award, so therefore the current award payment would prevail.

COMMISSIONER WATLING: So he gets a reduction?

MR CAMERON: The award provides for a reduction, but the reality is that there
would be no reduction.

COMMISSIONER WATLING: Well, let's look at entry Level 1.

20 MR CAMERON: Yes.

COMMISSIONER WATLING: What's the percentage - on the first page of your
document, what would be the percentage increase - or the amount of increase on
the existing award?

MR CAMERON: The existing award doesn't have a similar classification level, and I
25 don't think in our discussions and in conference we could find anything -

COMMISSIONER WATLING: Right. So that's not applicable?

MR CAMERON: Not applicable at the moment.

COMMISSIONER WATLING: Yes. Righto.

MR CAMERON: But that is a level that may be applicable as an entry level for new
30 employees in this industry.

COMMISSIONER WATLING: Righto. What about Level 1, what does that give them
in terms of an increase?

MR CAMERON: Level 1, according to the translation document, would be cashiers
and shop assistants for the first six months of service -

35 COMMISSIONER WATLING: Mm.

MR CAMERON: - and that is the 3.74 per cent increase for a sales assistant.

COMMISSIONER WATLING: Does that include the \$10?

MR CAMERON: That includes the - \$10 is already -

COMMISSIONER WATLING: But that's already there.

MR CAMERON: Yes.

5 COMMISSIONER WATLING: What would the increase be?

MR CAMERON: No, 3.74 above what's currently payable under that award which has the \$10 in it.

COMMISSIONER WATLING: Right. Righto.

MR CAMERON: It's \$380 as compared to \$366.70. Sorry -

10 COMMISSIONER WATLING: No -

MR CAMERON: - no, I'm looking at the wrong one.

COMMISSIONER WATLING: No.

MR CAMERON: No, sorry.

COMMISSIONER WATLING: The award rate now?

15 MR CAMERON: I'm sorry, commissioner. I was looking - those figures I quoted before were as indicated the sales assistant or cashier with six months service, the existing cashier -

COMMISSIONER WATLING: Won't they get a reduction?

MR SWALLOW: I'm sure they will.

20 COMMISSIONER WATLING: It's 366.10 now, isn't it? And you want to give them 344.40.

MR CAMERON: The general assistant - sales assistant at the moment is on \$366 -

COMMISSIONER WATLING: Ten.

MR CAMERON: - seventy - 366.70, isn't it, currently?

25 COMMISSIONER WATLING: Oh, sales assistant -

MR CAMERON: Yes.

COMMISSIONER WATLING: - not the cashier. Right.

MR CAMERON: Yes.

COMMISSIONER WATLING: Righto. So -

30 MR CAMERON: But there is no provision in the existing award for the structure as proposed, in that that is for an employee for the first six months of service. Everyone under the new award gets that higher rate, no matter for the first six months or after six months of service.

COMMISSIONER WATLING: Righto. So - given that that's not applicable then -

MR CAMERON: Yes.

COMMISSIONER WATLING: - we then go to Level 2.

5 MR CAMERON: Yes, Level 2. Now that is aimed at the - that classification is aimed at sales assistants and cashiers -

COMMISSIONER WATLING: Mm.

MR CAMERON: - with more than six months of service.

COMMISSIONER WATLING: Yes.

10 MR CAMERON: And compared to the current award that is the 3.74 per cent increase.

COMMISSIONER WATLING: So at Level 2 it's the -

MR CAMERON: At Level 2.

COMMISSIONER WATLING: - 3.74. Righto. Now at Level 3?

15 MR CAMERON: Three. The class - translation there was in relation to a sales assistant with higher skills, and there's no provision there - and I'm not sure if that would be applicable either, it's a new classification aimed at shop cashiers that are responsible for the security of cash or the sales assistants that are responsible for locking up the premises, and they would still - there's no provision for that so therefore it would be a sales assistant at \$366.70.

20 COMMISSIONER WATLING: So it's not applicable?

MR CAMERON: Well it could be applicable, commissioner, in that the people doing those jobs at moment are as sales assistant, they're only paid \$366.70. That new level was introduced to take into account when those sales assistants have added responsibilities under the current award; there is no remuneration for those added
25 responsibilities.

COMMISSIONER WATLING: But we're really doing what the principles say, and that's establishing -

MR CAMERON: Yes.

COMMISSIONER WATLING: - appropriate relativities -

30 MR CAMERON: That's right.

COMMISSIONER WATLING: - in classification standards.

MR CAMERON: So if there's an existing person at that level they would be getting \$366.70, so it's - I don't know the percentage increase but it's a \$23 per week increase in wages. If someone who is currently employed in the industry falls within
35 that classification they would get a \$23 per week increase in wages.

COMMISSIONER WATLING: Righto.

MR CAMERON: And the tradesman's rate of a hundred per cent is obviously less. But with respect the proposal put forward by Mr Swallow with the two minimum rates adjustments up front, is also less than what's currently paid to a tradesman under the existing award. Similarly Level 5, which is a -

5 COMMISSIONER WATLING: So, we agree that the current level for general butcher is -

MR CAMERON: Less at Level 4.

COMMISSIONER WATLING: - less than \$446.60, and you're wanting me to give them 399.20?

10 MR CAMERON: Their current level for a general butcher is \$427.40.

COMMISSIONER WATLING: Oh - sorry, general - yes, 427.40, I beg your pardon. And you want me to give them 399.20?

MR CAMERON: That would be the relativity at this stage. It's not to say that there would be an immediate wage reduction.

15 COMMISSIONER WATLING: Well, it would be for newcomers.

MR CAMERON: Yes. Well the newcomers would be - enter at this new level. And similarly under the proposal put forward by -

COMMISSIONER WATLING: So the newcomer - a newcomer tradesperson -

MR CAMERON: Yes.

20 COMMISSIONER WATLING: - would get some \$30 odd dollars less than what's already in the award?

MR CAMERON: Yes. I think -

COMMISSIONER WATLING: What's the logic behind that?

25 MR CAMERON: In relation to that that's always - can always be a possibility when you look at introducing new levels and relativities.

COMMISSIONER WATLING: But we are talking about the tradesperson's level in the existing award.

MR CAMERON: Yes.

30 COMMISSIONER WATLING: They're not even getting the state standard in the existing award, so you're -

MR CAMERON: No. Under the proposal put forward -

COMMISSIONER WATLING: - that's why we are having minimum rates adjustments.

MR CAMERON: Yes. Under the proposal put forward in the draft order -

35 COMMISSIONER WATLING: Mm.

MR CAMERON: - they're also receiving less than they would currently receive. It's not until the third MRA comes into account that they receive more than they are currently receiving under the existing award.

5 COMMISSIONER WATLING: Well there might be an argument to say that those figures should be reworked.

MR CAMERON: Maybe, yes, in relation to that level.

COMMISSIONER WATLING: So they're already getting it?

10 MR CAMERON: Yes. But that was covered in the earlier principles I think whereby it was indicated that if the existing award payment was more than what was proposed under the adjustments then the existing award payment would prevail.

COMMISSIONER WATLING: Only for existing employees.

MR CAMERON: Existing employees, yes.

COMMISSIONER WATLING: But if a new employee came into the industry tomorrow they'd get the 427.

15 MR CAMERON: Yes.

COMMISSIONER WATLING: Under your proposal they come in and get 399.20.

MR CAMERON: Yes. Under Mr Swallow's proposal they also receive less than the 427.

20 COMMISSIONER WATLING: Well I'm not saying that I accept Mr Swallow's proposal.

MR CAMERON: No. I'm just saying that the mathematics of doing this process can often lead to these anomalies whereby by trying to create relativities variations can happen.

25 COMMISSIONER WATLING: Yes, but you've also got to have regard for the existing award provision, especially at the tradesperson's level.

MR CAMERON: Yes. That is maybe something that we would need to look at in terms of that Level 4.

COMMISSIONER WATLING: Do you think we should go off the record and have a look at it now?

30 MR CAMERON: Probably appropriate.

COMMISSIONER WATLING: Mm. We'll turn the record off.

OFF THE RECORD

35 COMMISSIONER WATLING: Thanks, Mr Cameron. Let the record show that we've been talking about the figures previously mentioned and Mr Cameron and the parties, including the commission, were talking about - off the record - why there should be a reduction in the current tradesperson's rates and above in relation to his proposal.

MR CAMERON: Commissioner, we undertake to amend those figures and provide that at Level 4 and Level 5 there be no reduction in wages from the - immediate reduction in wages at those two levels and that we would then look to adjust those figures accordingly to show, in our case, the MRA process with the increase in wages divided between the four MRAs.

COMMISSIONER WATLING: Good, thank you.

MR CAMERON: Notwithstanding, commissioner, in relation to the lower levels there is an immediate increase where applicable where there are existing staff for those wages and they were the figures that I quoted prior to the adjournment.

COMMISSIONER WATLING: Good. Thank you.

MR CAMERON: Commissioner, in summation we do not consent to the clause part 1 of the draft AMIEU.1, and submit that our exhibit TCCI.1 should be inserted and set into the draft orders and coupled with the other parts of that clause. In that regard we haven't gone through and shown the apprenticeship percentages or the junior percentage rates as a proportion of any of those figures, but the relative percentages of juniors and apprentices would apply to the appropriate level at each step.

Commissioner, in summary our are that the commission should look at the combination of the principles set out at Principle 5: 9.3 and 15, they reflect by the recent \$10 Safety Net Adjustment a reduction in the number of hours to 38 hours per week, on costs that will affect the employer in terms of superannuation and workers' compensation and the immediate increase in wages at particular levels, particularly for sales assistants and cashiers.

Commissioner, in making any order we further submit that any order made in relation to the wages includes all past work value considerations at this stage.

Commissioner, it would be our submission now that we adjourn -

COMMISSIONER WATLING: Yes. And do you -

MR CAMERON: - to allow us to review those figures.

COMMISSIONER WATLING: - want to address me on the principles -

MR CAMERON: Pardon?

COMMISSIONER WATLING: - the principles and the principles that you're dealing with this matter under?

MR CAMERON: Sorry, what was that again, sir?

COMMISSIONER WATLING: Do you want to address me in relation to the principles in relation to amending the award as per the agreed items?

MR CAMERON: Yes.

COMMISSIONER WATLING: I take it it's under the structural efficiency principle, is it?

MR CAMERON: Yes, we would submit that the other amendments to the draft award meet the structural efficiency principles as set out and that they're not against the public interest. And in all other regard, apart from clause 8 and bearing

in mind our earlier observation that we would be seeking to make our own application in relation to hours, holidays with pay, leave and Sunday and holiday work, we otherwise consent to the draft order.

5 COMMISSIONER WATLING: Good. Thank you. Now do you want to address me in relation to the operative date because I may be led to the conclusion after your submission that nothing under this is going to be operative until the first MRA?

10 MR CAMERON: It would be our submission in that regard that the operative date be the date of the order by the commission be today, or within the next couple of days, and that the first page of our exhibit TCCI.1 would form clause 8 at that time and that the first MRA instalment would become payable six months from the date of the order, subject to application in - at that stage in accordance with - or, subject to an application at that time.

COMMISSIONER WATLING: Right. Mr Curtain, have you any submissions?

MR CURTAIN: Sir, my comments would support those of Mr Cameron. Thank you.

15 COMMISSIONER WATLING: Now, I understand the parties wanted to do just a bit more work on the figures and therefore before I ask Mr Swallow to give his right of reply in relation to this matter, I think it's appropriate that we adjourn.

We'll just go off the record for a moment please.

OFF THE RECORD

20 COMMISSIONER WATLING: Let the record show that the parties adjourned earlier to go away and prepare some amendments to the wage rates contained in their proposed variations to the award and the commission has been given a few new pages relating to the wage rates to be included in exhibit AMIEU.1. The parties, I understand, during the break have also agreed now in relation to the phase-in of
25 the minimum rates adjustment and it's not a matter for the commission to arbitrate as the parties have agreed on the phase-in period.

30 I'm going to accept the new pages that have been given to me by Mr Swallow as just a continuation of exhibit AMIEU.1 and I've taken out the old pages and torn them up and I've substituted the new pages. Are the parties happy with that arrangement?

MR CAMERON: Yes, commissioner.

MR SWALLOW: Yes, commissioner.

35 COMMISSIONER WATLING: Righto. Now, Mr Swallow, earlier you put a submission to me in relation to the disputed matter relating to phasing-in of the MRAs and it's my understanding it's now no longer an issue. Is that the case?

MR SWALLOW: Yes, that's the case, commissioner.

COMMISSIONER WATLING: So you have agreement on the phase-in arrangements. Mr Cameron?

40 MR CAMERON: Yes, commissioner. It's the agreement that took place during the adjournment. The pages that you have in the documentation reflect an amendment of some figures, particularly the Levels 4 and 5 of the original AMIEU.1. The parties have conferred and agreed that the draft order, as shown in exhibit AMIEU.1 is now a consent document on the basis that it has an operative date of the first full pay

period commencing on or after today and that incorporates the first phase of the MRA process.

5 It's indicated by the additional pages. The second, third and fourth MRA increments are foreshadowed for March 1998, September, 1998 and March 1999, which will at that time complete the MRA process. However, it should be noted that pursuant to the principles of the State Wage Fixing Principles 1997, that each of those subsequent MRAs are subject to separate application in each instance.

10 Commissioner, though the document now stands as a consent document, we reiterate that we would still be looking to reserve our rights and foreshadow making application in relation to this award concerning clauses dealing with hours, holidays with pay, leave and Sunday work, and that will - is still the case.

Further, commissioner, that with the operative date of the new award being the first full pay period on or after today's date, that it takes into - this order will take into account wages and includes all past work value considerations up until today.

15 COMMISSIONER WATLING: Good, thank you. So I should disregard your earlier submissions in relation to -

MR CAMERON: Yes, we consent -

COMMISSIONER WATLING: - any phase-in arrangements.

20 MR CAMERON: Yes, our exhibit, TCCI.1, we withdraw from that - those submissions and we endorse the AMIEU.1 and the proposed introduction of the MRA process.

COMMISSIONER WATLING: Good. Thank you. Any further submissions, Mr Swallow?

MR SWALLOW: No thanks, Mr Commissioner.

25 COMMISSIONER WATLING: Well, I can indicate to the parties that I'll hand down a written decision in due course which will be in favour of the agreed position of the parties. It will be operative from the first full pay period to commence on or after today. I'll try and get the orders out as soon as I can in relation to this matter but you take it that I will be endorsing it and I have noted and I will note in the decision
30 that the subject matters relating to hours of work, holidays with pay and Sunday work and sick leave have not been the subject of review in this particular exercise and may or may not be the subject of a separate application at some later date.

35 MR CAMERON: And I think just for clarification, commissioner, that in relation to those replacement pages there were the second lot of replacement pages dealing with juniors and apprentices which have had some minor alteration as well.

COMMISSIONER WATLING: Yes, I'll accept those as being the proposal. However, I'd have to say that the - the consolidated version that comes out arising out of this hearing will only have the first MRA contained therein. The other pages are for reference only.

40 MR CAMERON: Yes.

MR SWALLOW: Yes.

COMMISSIONER WATLING: Good. Thank you. That concludes this matter and it's taken since 1994 I understand, but we're finally - finally there. Righto. Thank you.

HEARING CONCLUDED