

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No 3111 of 1991

IN THE MATTER OF an application by
the Australian Workers Union,
Tasmania Branch for the making of
the Plant Nurseries Award

COMMISSIONER WATLING

Hobart, 8 August 1991

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: That leaves us now with application 3111 of 1991. Mr Targett?

MR TARGETT: Are we on or off -

COMMISSIONER WATLING: We're on the record.

MR TARGETT: On the subject of T.3111 of 1991, Mr Commissioner, I would seek to put forward a proposed title and scope for this particular award.

COMMISSIONER WATLING: Right. We'll mark this TCI.1.

MR TARGETT: Thank you, Mr Commissioner. TCI.1 is in two parts. Firstly, the proposed title for the award, as indicated in the application from the AWU, states: This award shall be known as the Plant Nurseries Award. And, I think, that is all that needs to be said on there. The most important part, obviously, is item 2 which goes to the scope of the award.

And, a proposal that we have put to the Australian Workers' Union some time ago is that the scope be worded as follows: This award is established in respect of the plant nursery industry which, without limiting the generality of the foregoing, shall include the growing of instant turf.

Mr Commissioner, the purpose of establishing this particular award in this form stems from the Horticulturists Award and changes that have been foreshadowed for a number of years in the Horticulturists Award and also involving a number of other - the making of a number of other awards as well. And, it's all interrelated from our position.

The plant nurseries have historically been covered under the Horticulturists Award and, in our view, in a very inadequate way. The award does not accurately reflect the industry which it is supposed to cover in the plant nurseries area. And, it is our intention in establishing the award for plant nurseries to more accurately reflect that which is going on in the industry.

The scope which we are putting forward to you today is a fairly general wording of the scope but it is sufficient, in our view, by the nature of the industry to clearly demonstrate what the award is intended to cover. We have specifically mentioned the growing of instant turf for the reason that there are turf growers in the state and they don't necessarily perceive themselves to be in the plant nursery industry and they are also involved in the laying of instant turf in other areas.

So, we wanted to ensure that it was quite clear from the scope that the growing of instant turf was, in fact, included in

this particular award and we didn't believe it necessary to become any more definitive in the other operations of the plant nurseries because they are generally considered to be a stand alone operation and fairly specific as to what a plant nursery is.

COMMISSIONER WATLING: The people in the industry itself, the employers, do they see themselves as being in the plant industry, the plant nursery industry?

MR TARGETT: The plant nursery industry, yes, as opposed to, for example, flower growing. There are areas of flower - the flowers are involved in plant nurseries but as an example the growing of flowers as a farm-type operation is not intended to be included in this particular award. It is the plant nurseries.

COMMISSIONER WATLING: How do we ascertain that?

MR TARGETT: Sorry?

COMMISSIONER WATLING: How would we ascertain that or how would the people out in - sort of for the want of a better word - the field ascertain that they are not covered by this if we refer to plant nurseries. Should we put an exclusion to make sure that it doesn't cover those growing flowers?

MR TARGETT: There is another award being established which specifically does cover that particular area, the area of the growing of cut flowers which is a farming function, in fact. And, there is another award which will specifically be covering that particular area.

COMMISSIONER WATLING: But, should this particular award say: but excludes those growing cut flowers, flowers for sale.

MR TARGETT: If it's believed by the commission that be more appropriate. I, sort of, hadn't looked at it in that context in looking at drafting the words.

COMMISSIONER WATLING: We might just go off the record and have a look at that particular question.

OFF THE RECORD

MR TARGETT: Thank you, Mr Commissioner. On the question of the scope I would seek to add the following words to that which is on document TCI.1, and those words being: but excludes floriculturist as defined.

We would then, at a later stage, in making the body of the award, we would include a definition for floriculturist and

without giving you the exact final wording of that definition, the intention would be that a floriculturist is a person who grows flowers from plant through to bloom and then cuts and markets the bloom; they do not market the plant. And, the definition that we put into this particular award would clearly illustrate that.

COMMISSIONER WATLING: Good, thank you.

MR TARGETT: In addition to that, Mr Commissioner, I would advise that I believe it is appropriate, based on advice that is being given to employers by the Department of Labour and Industry, that as well as making the award and including the title and the scope, that there should also be another clause put in at this stage, a proviso clause to ensure that it is clear that even though this award has been made and there is nothing other than title and scope, that anyone who would be covered by the scope of this award, until such time as the body of the award is finalised, should observe the wages and conditions of the Horticulturists Award.

There has been advice given in the field by the department which suggests that they believe that it is possible they're award free. And, I think, it is appropriate to ensure that it is very clear that that is not the case. They are covered by the Horticulturists Award until such time as this Plant Nurseries Award is finalised. I don't have specific wording to put to you other than I believe that it's something for the consideration of the commission.

COMMISSIONER WATLING: Right, thank you.

MR TARGETT: If the commission pleases.

COMMISSIONER WATLING: Right. Further submissions? Mr Hayes?

MR HAYES: Thank you, Mr Commissioner, I'd endorse those remarks from the TCI. I have no problems with them at all.

COMMISSIONER WATLING: So you're supporting the making of the new award in terms of the title and the scope as outlined by Mr Targett?

MR HAYES: Yes, sir.

COMMISSIONER WATLING: And the proviso that he's suggesting?

MR HAYES: Yes, that anyone covered - that will be covered by this award at this point in time is the Horticulturists Award until the Plant Nurseries Award is finalised.

COMMISSIONER WATLING: Right. Thank you. Any further submissions?

MR TARGETT: I have nothing further, Mr Commissioner.

COMMISSIONER WATLING: Right. No further submissions. Well, I can indicate to the part - or the people participating in this hearing that I will hand down a written decision in due course. It will be in favour of the application and it will include a proviso as suggested by the TCI. I thank you for your participation. This matter is now closed.

MR TARGETT: Thank you.

HEARING CONCLUDED