

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 2316 of 1990

IN THE MATTER OF an application by
the Association of Draughting,
Supervisory and Technical
Employees, Tasmania Branch (Metals
and Engineering Workers' Union)
to vary the Surveyors (Private
Industry) Award

re initiation of a program to
restructure the award

T No. 3435 of 1991

IN THE MATTER OF an application by
the Metals and Engineering
Workers' Union to vary the
Surveyors (Private Industry) Award

re persons employed in surveying
duties and other associated duties

COMMISSIONER GOZZI

Hobart, 8 November 1991
Continued from 19/8/91

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: Any changes in appearances in respect of 2316? I don't think so. And appearances in 3435, please.

MR P. BAKER: Sir, I appear on behalf of the MEWU, P. BAKER.

COMMISSIONER GOZZI: Thank you, Mr Baker.

MR T. ABEY: If the commission pleases, I appear for the TCI, ABEY T.J.

COMMISSIONER GOZZI: Thank you, Mr Abey. Is it appropriate to deal with them separately or jointly?

MR BAKER: It may be appropriate I think to deal with them jointly.

COMMISSIONER GOZZI: Jointly?

MR BAKER: Yes, I think so.

COMMISSIONER GOZZI: One is for the restructuring program, and the other one is for persons employed on surveying duties and other associated duties.

MR BAKER: Perhaps at this time it may be appropriate - no - I will rephrase that. I think what should happen is that both matters should be dealt with together.

COMMISSIONER GOZZI: Right.

MR BAKER: As far as the exercise itself is concerned, the restructuring exercise, as I indicated to you by telephone we have all but finalised that. I think there is one major issue that still separates the parties, and there is a couple of little minor things that need, sort of, to be tidied up. And as a consequence of today's hearing what we would suggest to you - what I would suggest to you, is that both matters be finalised at our next hearing, because both in fact are one and the same. They are part of the restructuring of the award.

COMMISSIONER GOZZI: Right. All right, do you agree they can be joined, Mr Abey?

MR ABEY: Yes.

COMMISSIONER GOZZI: All right, well for hearing purposes, we will join both of them. So, where are we then in respect of both matters?

MR BAKER: Right, well I will tender an exhibit.

COMMISSIONER GOZZI: All right. Thank you. We'll mark it Exhibit B.1. Have you got a copy of that, Mr Abey?

MR ABEY: Yes.

COMMISSIONER GOZZI: You have. Right.

MR BAKER: Now if I take you to the exhibit which will bring you up to date on exactly where we're at. There has been some extensive discussions ongoing since the last occasion we were before the commission, and we have in fact prepared a new classification structure which is contained on page - or commences on page 3 of the exhibit, which indeed will be a new 11 tiered structure which ranges from survey hand at 82% of the base rate, through to the business manager at some 210% of the base rate or trades equivalent rate.

Then on page 5 the definitions commence, and you'll see there that we kick it off with 'a survey hand who has no qualifications but is capable of assisting a surveyor or survey technicians', and then there is a range of basic duties that employee is able to perform.

And then, sir, we start the formal part of the structure, which is at 'Level 2 - Technical Assistant - Survey':

- means a person who has completed Year 12 or Year 11 and is eligible to enter a Bridging Course for the purposes of gaining enrolment into a study programme leading to a recognised secondary or tertiary award or has knowledge and is exercising the skill deemed to be the equivalent thereof.

And then it goes on and lists a series of functions which that employee is able to perform, and then it is a 'building block process'.

Level 3 is for somebody:

- who has completed the first year of the Associate Diploma -

And on and on it goes, through to level 7 which is somebody that - I am sorry - level 5 is somebody who is - on page 7 - a graduate from the university, and that's the first rung on the ladder for such a person, and it is also somebody who has started to progress through the associate diploma or some other form of qualification, and each level builds upon the other until you get up to the professional surveying levels at levels 9, 10, and 11, on pages 11 onwards.

And they are quite detailed and encompass a very broad ranging definition which encompasses those people. I might point out

to the commission that in the discussions with the representatives of the industry levels 10 and 11 are unlikely to be filled on any permanent basis as far as Tasmania is concerned but should, for example, the pulp project get off the ground then there would, in fact, be somebody appointed at either 10 or 11 - levels 10 or 11 to oversight the surveying of such a large project.

On page 15 we commence the basis of the salary structure and this really is where we've got a fundamental difference between the parties at the present time. And that is - in the middle of that you will note there progression to level 9 - professional surveyor and the graduate entry point is 130%. The parties are fundamentally opposed to that position at the present time. We have however undertaken that we will have some further discussions concerning it and we may, in fact, be able to sort something out as far as that is concerned.

The documentation then goes on to spell out the entry position for employees without any work experience, with some experience, undertaking training, coming in - on page 16 - coming in with the associate diploma or the advanced certificate as it may well be in the future. And that's basically the outline of the new classification structure. It would be our intention to maintain the old structure as an appendix B to the award so that -

COMMISSIONER GOZZI: Till when?

MR BAKER: Well whereas some of the other awards that I've been involved in as far as restructuring is concerned that we've sort of kept them in the back of the award for 2 years, for example, of the Mechanical Engineers and Founders, I think given the nature of the award and the way the industry is structured, it may be appropriate that it be there for perhaps 6 months or something.

COMMISSIONER GOZZI: Why do you want to keep it as an appendix?

MR BAKER: Oh, well -

COMMISSIONER GOZZI: I mean, will there be people classified, employees classified in accordance with that -

MR BAKER: Well there would be employees classified and there would have to be a transition, if you like, from the old structure to the new.

COMMISSIONER GOZZI: So you've got a phasing-in period, have you?

MR BAKER: So we would have a phasing-in period of, as I said, about 6 months. I mean, I don't foresee that it would

be - we would require any further time than that and, in fact, there is -

COMMISSIONER GOZZI: So the old structure would continue to apply to a point in time, 6 months from the date of making -

MR BAKER: Yes.

COMMISSIONER GOZZI: - putting this structure into the award and then that one phase out and this one would apply.

MR BAKER: Yes.

COMMISSIONER GOZZI: So are you asking me for a prospective operative date for this structure?

MR BAKER: Well when we come back to you we will be suggesting that the structure operates on or after the first - on or after 1 January, the first pay period on or after 1 January -

COMMISSIONER GOZZI: '92.

MR BAKER: - '92 and -

COMMISSIONER GOZZI: Well if that operates from then that means the old structure would phase out then.

MR BAKER: It would phase out over the - I mean, I haven't sort of discussed this in any depth with the employers.

COMMISSIONER GOZZI: Yes. Or it phase out between now and 1 January.

MR BAKER: Yes, well, we could do that. That's something which we need to sort of perhaps have some discussion about.

COMMISSIONER GOZZI: Well, okay.

MR BAKER: The other issue is if you turn to the back of the document you will find that -

COMMISSIONER GOZZI: Well just before we do.

MR BAKER: Yes.

COMMISSIONER GOZZI: Clause 8 then, the rates of pay, you'll come to that, will you?

MR BAKER: Yes, I'm going to take you to appendix A first.

COMMISSIONER GOZZI: Okay.

MR BAKER: Appendix A basically is an outline of the salary structure and encompasses the 11 levels which were contained in the definitions and there are four salary adjustments to reflect the minimum rates adjustment principle. There is an exception and that is the survey hand. He actually gets three hits in one because the pre-existing salary is, in fact, higher than the application of the percentage based structure. So, we had to award him three supplementary payments in one hit, if you like, to bring his salary up to where it is now.

COMMISSIONER GOZZI: So, the 735 is three supplementary payments?

MR BAKER: Yes, three supplementary payments.

COMMISSIONER GOZZI: How can you do that? You can't -

MR BAKER: Well, if we don't, if we don't, the guy is going to get less money than what he would have earned under the old structure.

COMMISSIONER GOZZI: But you can't award three supplementary payments in one hit.

MR BAKER: Well -

MR ABEY: You can by agreement.

COMMISSIONER GOZZI: Pardon?

MR ABEY: You can by agreement.

MR BAKER: Well, I don't sort of see that - I mean, why it is sort of an exceptional move, all I am saying is if we don't the individual concerned is going to earn less money than what he -

COMMISSIONER GOZZI: Well, how does that sit with the wage fixing principles?

MR BAKER: Well, fairness and equity, I would suggest.

MR ABEY: If I may assist? I mean, I would have to foreshadow by saying this is not yet agreed, but the wage fixing principles do provide that the MRA is to be phased in in four instalments 6 months apart, but it goes on to say that by agreement they may be longer or shorter. In fact, there has been a number of awards - specifically the Transport Workers Award - where the last two MRAs have been put in in one bite. I think it is open by agreement.

COMMISSIONER GOZZI: All right. Thank you, Mr Abey. So you are going to propose to do three MRAs in one hit?

MR BAKER: Yes. Just for the survey hand.

COMMISSIONER GOZZI: All right.

MR BAKER: All the others will just sort of -

COMMISSIONER GOZZI: But hasn't the award already got some MRAs in it?

MR BAKER: No.

COMMISSIONER GOZZI: It hasn't? Not this one?

MR BAKER: No.

COMMISSIONER GOZZI: Okay.

MR BAKER: So, we -

COMMISSIONER GOZZI: It was the drafting one that we -

MR BAKER: Yes.

COMMISSIONER GOZZI: Yes.

MR BAKER: And I think that one's on its third now.

COMMISSIONER GOZZI: Yes, that's right.

MR BAKER: And we would envisage that this Appendix A would sit in the back of the award so that the employer could actually have a look and see exactly where the wage rate for a certain classification is going to go over the life of the 2 years for the phasing-in period of the minimum rate adjustments. And that documentation -

COMMISSIONER GOZZI: Why do you need to put that in an appendix? I mean, wouldn't you just make application for the minimum rate adjustment at the appropriate times?

MR BAKER: Oh, obviously, but -

COMMISSIONER GOZZI: Yes. But this is just to give an indication, is it?

MR BAKER: Just an indication.

COMMISSIONER GOZZI: Which, if anything else happens, though, it would be irrelevant; if anything else happens in the award.

MR BAKER: Well, there already has. You see, I thought, well, perhaps it may be an idea just to sort of put it in the award

as an appendix, and then an employer can have a look at that, and obviously the title of it would need to be adjusted accordingly, but it would provide for him an opportunity to sort of have a look and just sort of see where all the salaries were going over the 2-year period.

COMMISSIONER GOZZI: Yes, but if anything happened by way of a state wage case and the base was varied, of course the end result would be different, wouldn't it?

MR BAKER: Well, that's right. That's why I am taking you to Appendix A first and then we'll go to clause 8 - Salaries.

COMMISSIONER GOZZI: So you want to put an appendix in as an indication of what it would finish up as at the end of 2 years?

MR BAKER: Yes. I would suggest to you that the salaries are reasonably correct, although I understand Mr Abey hasn't had an opportunity of verifying the figures yet.

COMMISSIONER GOZZI: So the existing salaries are the ones in the award presently, are they?

MR BAKER: Yes.

COMMISSIONER GOZZI: Right. Okay.

MR BAKER: I now, sir, will turn you to clause 8 - Salaries, and this is what I mean about things have already changed, because the salaries as they would go in the award with the new structure encompass the 2.5% national wage case decision.

COMMISSIONER GOZZI: Right.

MR BAKER: The various figures have been adjusted by 2.5%, that is the base rate and the supplementary payment, to give the new salaries; and you'll see that -

COMMISSIONER GOZZI: So the award hasn't been varied to reflect the 2.5%?

MR BAKER: The award has been varied to reflect the 2.5%.

COMMISSIONER GOZZI: Right.

MR BAKER: The - but we've had to sort of - with the minimum rate adjustment we've had to go back one step to calculate out the base rate, and the appropriate adjustments, and then we have applied the 2.5% to the base rate and the supplementary payment.

COMMISSIONER GOZZI: Why would you have done that?

MR BAKER: To get the -

COMMISSIONER GOZZI: I mean, if the award has a rate in it and it hasn't been varied for the supplementary payment, why would you go back behind the award rate to put on the supplementary - what have you actually done?

MR BAKER: Well the -

COMMISSIONER GOZZI: The award has been varied to reflect the 2.5%.

MR BAKER: Yes.

COMMISSIONER GOZZI: Right.

MR BAKER: That's right.

COMMISSIONER GOZZI: Yes. So what have you done from there?

MR BAKER: Well to calculate the base one has to use the rate, as I understand, of \$407.00 per week.

MR ABEY: \$417.20.

COMMISSIONER GOZZI: \$417.20.

MR BAKER: So we're going to use \$417.20 now, are we? Right.

COMMISSIONER GOZZI: Well the \$407.00 to \$417.20.

MR BAKER: Well in that case then my appendix A needs a slight adjustment.

COMMISSIONER GOZZI: Yes, that's what I'm saying. Your award has already been adjusted by 2.5%.

MR BAKER: Yes.

COMMISSIONER GOZZI: Right. So you've got a base in the award 'X' minimum rates. You're now proposing to embark on the minimum rates adjustment.

MR BAKER: Yes.

COMMISSIONER GOZZI: Why isn't it just a simple case of putting the first MRA in the award leaving the base as it is?

MR BAKER: Well I stand corrected by Mr Abey so I'll recalculate the - I'll recalculate the rates.

COMMISSIONER GOZZI: Yes.

MR BAKER: Yes.

COMMISSIONER GOZZI: Do you agree with that, Mr Abey?

MR ABEY: Yes, I do.

COMMISSIONER GOZZI: Yes. Right. So you'll recalculate that.

MR BAKER: Recalculate the rates.

COMMISSIONER GOZZI: And when would the first MRA apply from?

MR BAKER: 1 January.

COMMISSIONER GOZZI: 1 January. And that would then simply be the existing rate in the award and as a consequence of this matter here, you'd include the first MRA all to operate from - and in this structure all to operate from 1 January.

MR BAKER: Yes.

COMMISSIONER GOZZI: Right.

MR BAKER: And, in fact, there is - if you turn to page 20 there is - 20 and 21 - there is, in fact, a transitional arrangement which is the stock standard transitional arrangement clause that I've inserted into other awards of the commission to which I've been involved.

COMMISSIONER GOZZI: Right.

MR BAKER: And we haven't - I mean, the dates haven't been firmed up on it but we'll insert that in the next time we're before you.

COMMISSIONER GOZZI: Yes, that would be 1 January 1992.

MR BAKER: 1 January 1991 and would run through to 1 July '92.

COMMISSIONER GOZZI: So if you do that what's that then mean with regard to the applicability of the rates in clause 8?

MR BAKER: The rates in clause 8 will apply. Well let me say this, that is one of the minor issues that we need to sort of resolve between us as to exactly when they commence and so on.

COMMISSIONER GOZZI: Right.

MR BAKER: But that's as I see as a minor issue that we can sort out; it's not really an issue.

COMMISSIONER GOZZI: All right.

MR BAKER: And as far as the rest of the award is concerned, we have been through it and as far as I'm aware it is now gender neutral with the exception, of course, of the maternity leave provisions.

COMMISSIONER GOZZI: Right.

MR BAKER: And it would be our intention at this point to finalise our submission on that basis and simply request that if we could have a hearing date early in December, we should be able to be in a position to give you a completed document for the new award.

COMMISSIONER GOZZI: Well what's this application, the latest one you've put in?

MR BAKER: Well that's simply to vary the scope of the award and I intend to have some further discussions with the industry concerning that. And we will process that matter on the same day.

COMMISSIONER GOZZI: Right. The variation of the scope of the award, what do you envisage there?

MR BAKER: Well, depending upon - I have had some preliminary discussions - but it is our intention simply to extend the scope to include the class of persons as outlined in the application. One could argue that they are already covered by the existing scope provision, but we thought that it may be prudent that that classification of a person be spelled out so that it is quite clear that the scope of the existing Surveying Award does in fact cover photogrammetrists.

COMMISSIONER GOZZI: Well, what does that mean in respect of any other award? You've got some exclusions here.

MR BAKER: Yes, it does exclude -

COMMISSIONER GOZZI: Does it provide an inclusion currently subject to another award?

MR BAKER: No, it doesn't.

COMMISSIONER GOZZI: If we have a variation to the scope clause, does that mean that the matter should be advertised wider - notification given wider - for anybody that might want to put a point of view in respect of that scope?

MR BAKER: Well, the only people that currently are employed in that occupation are covered by this award, or if they do not perceive themselves as covered by this award they work in the surveying industry. So, I would think that, you know, the calling itself is limited to the pre-existing award.

COMMISSIONER GOZZI: But, as you are aware, normally if you make an award and you put a scope clause in it, the next thing should be a determination of interest proceeding in respect of that extended scope.

MR BAKER: Yes, well I don't see that we are actually extending the scope, I see that we are refining the scope.

COMMISSIONER GOZZI: So you simply want to put these words in here 'applies to the whole of Tasmania'. What does it say currently?

MR BAKER: Well, what it says is exactly that: 'This award applies to the whole of Tasmania -

COMMISSIONER GOZZI: Yes, but what does the award say currently, the existing -

MR BAKER: That's what it says now - 'The award applies to the whole of Tasmania, to any person or persons or class of persons employed in surveying duties, and/or other associated duties as herein after defined', and then it goes on and lists the exemptions -

COMMISSIONER GOZZI: 'but not including' -

MR BAKER: But not including those employed -

COMMISSIONER GOZZI: So you included the words 'including photogrammetry?

MR BAKER: Yes.

COMMISSIONER GOZZI: That's the only variation?

MR BAKER: That's the only variation.

COMMISSIONER GOZZI: Yes, I don't see any problem with that. I was thinking of the Media Centre but that doesn't apply there anyway; this award doesn't apply there.

MR BAKER: No.

COMMISSIONER GOZZI: Fair enough.

MR BAKER: You see, the only real areas where I mean the large concentrations of photogrammetrists are in the State Government, and in the HEC, for example.

COMMISSIONER GOZZI: Yes.

MR BAKER: Now there are people who actually contract their services to those departments who actually work under this award.

COMMISSIONER GOZZI: And you've excluded, or the award excludes those areas of state government departments, anyway.

MR BAKER: Yes.

COMMISSIONER GOZZI: All right, so you'll encompass that in the scope of the -

MR BAKER: Yes. When we come back, as I said, we'll have the whole thing, hopefully, all wrapped up, including the disagreement we have at the 131% level mark, and we hope to bring in a broader compromise position to you. If not, we would sort of foreshadow that it may rest with you to determine the issue.

COMMISSIONER GOZZI: All right. That's fine. Thank you, Mr Baker. Mr Abey, anything you want to add?

MR ABEY: Thank you, Mr Commissioner. I confirm that we have had extensive discussions. I guess we've been saying that for some time, but it is a very complex matter, and it seeks to totally change the existing structure. And our major area of disagreement at this stage relates to the graduate entry point, and as an indication the claim being pursued by Mr Baker seeks effectively to increase the existing rate by in the order of \$6,000, so it is no small beer, so we have got some work to do to try and come up with accommodation in that particular area. But I think if we can satisfy that, hopefully the rest of it will fall into place.

So, insofar as the operative date is concerned I think we should work from an objective of having the new structure in place on the 1st of January. Whether it actually takes effect from that day or there's a phasing-in period I think is a matter we can negotiate. But if we can set a timetable, we're working to an objective of having the award changes take effect from 1 January would be appropriate. And we too would seek a date in early December.

COMMISSIONER GOZZI: All right, thank you, Mr Abey. Yes, I'm aware, you know, that the matter is involved. The last decision I issued was back in December, I think, 1990 where I think the question of structure was canvassed and if it comes together in this form and it meets the requirements of the wage fixing principles which it appears to be doing because we're looking at existing rates, then there should be no problem as far as 1 January is concerned. We'll just see what we can do about a date. We'll just go off the record for a minute, if you like.

OFF THE RECORD

COMMISSIONER GOZZI: These proceedings are adjourned till 9
o'clock on 11 December. Thank you, gentlemen.

HEARING ADJOURNED