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## **TRANSCRIPT OF PROCEEDINGS**

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O/N 9931

### **TASMANIAN INDUSTRIAL COMMISSION**

#### **DEPUTY PRESIDENT R.J. WATLING**

**T No 9925 of 2001**

#### **COMMUNITY SERVICES AWARD**

**Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Australian Municipal, Administrative, Clerical and Services Union to vary the above award re wage rates, work value changes and pay equity**

**HOBART**

**10.30 AM, MONDAY, 24 NOVEMBER 2003**

**Continued from 24.10.03**

**HEARING COMMENCED**

**[10.30am]**

PN137

THE DEPUTY PRESIDENT: No alterations to appearances? No. Mr Paterson?

PN138

MR PATERSON: Thank you, Deputy President. I am not sure how much time we will need to take on these matters today. Most of what I have to present and to talk to is in the form of documents. Firstly, if I may provide to the Commission as we discussed at the last hearing a collation of documents which I will pass up.

PN139

THE DEPUTY PRESIDENT: I will give this an exhibit number?

PN140

MR PATERSON: Yes, please.

PN141

THE DEPUTY PRESIDENT: I will mark this exhibit A8.

**EXHIBIT #A8 COLLATION OF STATUTORY DECLARATIONS**

PN142

MR PATERSON: This collation of documents, I will just quickly flick through them are a collation of statutory declarations which the union has relied on. In particular much of the information in this document has previously been presented in a different format in A1.

PN143

THE DEPUTY PRESIDENT: In exhibit A1?

PN144

MR PATERSON: In exhibit A1 the materials that are in this, statutory declarations were dis-aggregated if you like and grouped under the headings of the relevant areas. I will just quickly take the Commission and the parties through them. The first statutory declaration in this set is from an Eleanor Taylor who is a Refuge Support Worker at Karinya Young Womens Refuge in Launceston. And I think this is important because this goes to the requirements on employees engaged in the service delivery rather than particularly in respect to management. This I think highlights the, in particular, it gives a real context to the question of involuntary clients and the difficulties that employees may have balancing up the rights of the client with their external obligations.

PN145

The second of the statutory declarations has not previously been incorporated into any of the material. It was received shortly - earlier this month 13 November in response to some of the material I had circulated. I had a response from the Co-ordinator Counsellor of Laurel House. Laurel House is a sexual assault support

service, servicing the 63 phone region. They have a number of employees that goes to level six as well as a co-ordinator. And that goes to, in fairly brief form, but I think it reinforces some of the submissions we have made - - -

PN146

THE DEPUTY PRESIDENT: Are all those dot points the - should I take as an increase in the value of the work, or - - -

PN147

MR PATERSON: I would say - - -

PN148

THE DEPUTY PRESIDENT: - - - a statement of what they actually do?

PN149

MR PATERSON: It is a statement of what they actually do which I would put in the context of this is a snapshot of a particular service, how it works at this point in time and my submission to you would be that these are in fact significant increases, again, when they are considered against the backdrop of what I think I broadly would call the work environment, the environment in which work is performed with those issues particularly around mandatory reporting, new legislation and the fact that virtually all employees have to work to a higher level of accountability now compared to when the award was made in 1995.

PN150

The next document is a statutory declaration from Emma Bridge who is currently an Electoral Officer. At the time that this was first prepared and in fact this was I think probably the first evidence that I collected. Emma Bridge was working with the NILS Network which was a low income loan scheme as a Co-ordinator. She had previously been employed as a health worker and acting co-ordinator in the Womens Health Centre and she prepared this in consultation at that time with the then Co-ordinator who was known as Mervyn Johns. So this document does go to the changes and it goes to them particularly under the headings of Changes to the Legislative Regime, The Impact of Litigation, Quality Assurance and Continuous Improvement and Governance.

PN151

The governance here I think is also worth noting that this document makes the point that the impact of governance has a cascading effect down through to service delivery workers not only on the person who has the primary role as manager or executive officer. The relationship with government and the relationship with the corporate sector, I think are, certainly the relationship with government is a characteristic we have highlighted previously. Highlighted in Mr Owen's evidence as well that there is a higher level of participation than sort of what I would think we would probably call networking or dialogue previously; much more formalised and again in that context of a higher level of legal liability and responsibility.

PN152

Sandra Kent, the next statutory declaration, Co-ordinator of the Tenants' Union at a level six. This again I think goes quite significantly in this case to particularly at co-ordinator and manager. The point that I would make in referring to this is

that there are organisations where on account of how the classifications currently stand, there are co-ordinators and managers employed at every level from four through to seven. Now, not all of those characteristics would necessarily be changed by the outcome of these proceedings, some of them may do. It is not only at the highest level of manager where the input into government policy, the role in strategic liaison not only with government departments but with whole of government has an impact. So I am making - relying on this evidence in part to argue that it would be wrong to confine the increase in skills responsibility and environment as it relates to co-ordinators and management solely to level seven, it does have an effect at other levels.

PN153

The next statutory declaration is from Glynis Flower. Glynis Flower is the Executive Officer of the Tasmanian Association of Community Houses. That is a peak body for some 32 and growing neighbourhood houses. And again this document relates to the evidence we have presented I believe in the strategic framework for neighbourhood houses which is A2, provides the wider context to the nature of these particularly changes. When you look at the Community Services Award there is clearly a provision in level four, virtually the last paragraph I think, in the descriptor, second last and refers to a person who may be a co-ordinator or manager single program service or a small local community service.

PN154

That provision in the responsibility paragraph of the descriptors for Community Services Award employee level four is by and large being relied on to classify neighbourhood house co-ordinators at level four. Some of those co-ordinators with the implementation of the strategic framework have had their positions reclassified to five, but across the board there aren't the - I won't say across the board, there would be only one or two I would think co-ordinators at any level higher than five and they would be in situations where the organisations have grown beyond a single local community service.

PN155

My point in making these observations is to put to you that the evidence that is contained in Glynis Flower's statutory declaration reinforces the impact of all these changes that we have been talking about, clearly under the headings there in her statutory declaration, and supports my submission to you that those changes have an effect on co-ordinators and managers who may in fact be employed at Community Services Award levels four or five. The last document in the set of statutory declarations in this folder A8 is from Mark Redmond who is the Human Resource and Quality Manager for Colony 47, headquartered next door, virtually next all but one.

PN156

That goes to - that particular statutory declaration in fact has two components in it. It has the first component which starts, "Colony 47 Inc. Working Party Contribution." As indicated there Colony 47 established an internal working party to generate this evidence for us. And this has had input from the staff in the organisation who are employed in the Outreach Support Service, Mara House

which was a medium term residential facility and Community Central which is where they centre most of their other community services programs.

PN157

So those first two pages of that document go to the impact of those critical issues on those employees engaged in service delivery and in the case of this organisation the majority of those employees would be at levels four and five. The second component of Mr Redmond's evidence goes to the impact of skills and responsibility, legislative change, governance models, QA systems, management of critical incidents and the like as they affect the managers employed in that organisation. And as I think I mentioned on our previous appearance here, Colony 47 I think employs around six employees at level 6 in management roles and currently has an executive officer at level seven in addition to that.

PN158

And again I think this reinforces the submissions that we make to you, particularly if you look at the third paragraph down, New Trends and Development in Governance Models, reinforces the cascading down of the higher degree of responsibility and higher, more sophisticated skills required and again reinforcing that these changes aren't just centred in the higher or the highest level or classification. I won't say anything more to those, I believe we have covered those to some considerable extent.

PN159

THE DEPUTY PRESIDENT: For the sake of the record you might just clarify some of the acronyms whilst I am familiar with most of them, a lot of these documents - - -

PN160

MR PATERSON: If I can just quickly scan through. SAAP, I think is probably used extensively, it is the Commonwealth State Funding Program that supports accommodation and other services for homeless people, it is the Supported Assistance Accommodation Program. GST, ATO I think are fairly clear. CYFS is Child Youth and Family Services, an acronym for a department or a section of the department of what is now Health and Human Services. Where the reference is to the Department of Child and Family Services, that is now Health and Human Services. NDCA, National Data Collection Agency. Flicking through - - -

PN161

THE DEPUTY PRESIDENT: I take it in the first one there is a typo, it is not NCDA is it, it is NDCA?

PN162

MR PATERSON: It should be NDCA, National Data Collection Authority. GST, CSA, HWHC Hobart Womens Health Centre, GPs doctors, GLBT Gay Lesbian Bisexual Transgender, I think, a group set up to deal with some of those issues that come out of the diversity of sexual preference that may exhibit and often, I think, in fact in the Karinya evidence it is an issue where a service has been set up to deal with women in their case study 4 raises a lot of issues in terms of how does a service deal with a transgender person. Clearly, it is not a high profile issue in the set, but it is something that employees need to have the

personal skill and resources to be able to deal with things that happen at the extreme of the continuums or at the edges of continuums of social characteristics and behaviours.

PN163

NILS, No Interest Loan Service, I believe is that acronym. Scheme, No Interest Loan Scheme is a service that actually got a well done from the Premier's - Prime Minister's reports I saw recently in the paper. It basically assists people on low incomes to do things like buy white goods etcetera that they otherwise wouldn't be able to afford. NGOs are Non Government Organisations. DHHS, Department of Health and Human Services. TAFE, Technical and Further Education. ITAB no longer exists, Industry Training Advisory Board. The Tenants' Union, Sandra Kent seems to have only used their own organisation's acronym TU and GST, Tenants' Union.

PN164

Glynis Flower's evidence OC and HS I think is meant to be Occupational Health and Safety, the C is probably an ampersand gone silly. And in Mark Redmond's evidence CSA, Mental Health CATT refer to, I think it is the Mental Health CATT it is the Action Team or something I think within the Department of Mental Health. It has the responsibility of responding to emergency situations. It is an Assessment Team, so that - I am not specifically sure of that one. RHH, Royal Hobart Hospital; RDH, Royal Derwent Hospital; PPT is Pro-activity Plus Training which is an organisation funded through the State Department to provide a range of training related facilities to the community sector and of organisations.

PN165

QA, Quality Assurance. I think that - WHS on the last page of Mark Redmond's statutory dec would be Workplace Health and Safety changes; HR, Human Resource management aspects devolved to PMs, that would be Program Managers. I think that has probably covered off most of them.

PN166

THE DEPUTY PRESIDENT: Thank you.

PN167

MR PATERSON: Any further clarification I am happy to provide or if more is needed. So I contend that that constitutes in the form that the parties have agreed in terms of how we have - or how the parties have agreed to progress this matter, A8 constitutes the substantive documentary evidence for this case along with the evidence provided by Mr Owen. There is one other document of a like form, but I haven't included in that folder on two counts: Firstly, it only arrived this morning; and secondly, it is not in the form of a statutory declaration. I will pass this up.

PN168

THE DEPUTY PRESIDENT: So it is an unsworn submission is it?

PN169

MR PATERSON: Well, I will tender it as documentary evidence and should it be desirable for it to be put in a statutory declaration form I am happy to - - -

PN170

THE DEPUTY PRESIDENT: I will take it at this stage, it is an unsworn submission from the Gagebrook Community Centre.

PN171

MR PATERSON: That is right.

PN172

THE DEPUTY PRESIDENT: And this will be exhibit A9.

### **EXHIBIT #A9 UNSWORN SUBMISSION FROM GAGEBROOK COMMUNITY CENTRE**

PN173

MR PATERSON: I would just like to just briefly mention some aspects from the covering letter that came to me. Wendy Stott refers to - and I think this is probably a fair summary of the document: increased complexability, new reporting demands, legislative changes, state wide and the bigger picture, the development of state wide data collection, ethics and protocol developments with the department as being key components of the increase in the changes in this particular workplace. I have again incorporated I believe some of this document into A1 I believe - at least in passing, if not explicitly - maybe it is not. But let me just say that this organisation, Family Support - FS, Family Support workers probably have been at the cutting edge of the change that comes with mandatory reporting.

PN174

Prior to the impact of that legislation, child, young people and their families legislation, the Family Support Association provided in the main supportive education and training to parents and small community groups. It was a very difficult change that came to this organisation and to the employees who previously had been really - pretty much free to do what they thought was in the best interests of their clients, not in an uninformed way. The Family Support Association and some of the people in it were probably at the leading edge of the development and application of a theoretical approach which recognises the real importance of the first three years of a child's existence in a formative way, not only in the way that the old saying, "Give me a child of 7 and I will give you a man or a woman of 70," but also in terms of breaking cycles of perpetuation of poverty and aggression and all sorts of other aspects.

PN175

So when I say they are old, their previous way of working was less structured and less formal, certainly no less informed. The changes that have come out of that in this Family Support Services Association - evidence I think are fairly strong. The increase in complexity of demand requires them to exercise new and higher level skills compared to what they have done previously. Changes in legislation, as I said, are really on the sharp edge of that particular issue and the changes in the requirements of the department again reinforce for this sector the matters that we have referred to previously.

PN176

I won't be placing much reliance on the changes in technology, I think that is - to give weight in these proceedings to that as a work value issue would require probably a lot more extensive examination and consideration than we have done in this context and I think it is practicable for us to say we note that, we believe it is relevant but we don't place any particular reliance or weight on that. Obviously, if we were to do so then that matter would need much more consideration because of its potential implications of a finding to industries well beyond what we are seeking to cover. So I will note it because it is in the evidence of other people, it is not my creation in that context.

PN177

THE DEPUTY PRESIDENT: But in any case you are not relying on it for the  
- - -

PN178

MR PATERSON: I am not seeking to rely on that in this particular case because I recognise the issue and - - -

PN179

THE DEPUTY PRESIDENT: And that goes for all those people that are mentioned?

PN180

MR PATERSON: That is my submission in respect to how the Commission should view the comments in the relevant evidence that go to the issue of technological change. I think - yes, well I know it is a huge area in terms of how you differentiate work value from productivity and there would clearly also be issues as to whether in terms of some of the skills and responsibilities it is already overtaken by the levels that we are talking about and may not have a significant nett addition at higher levels where for somebody who is a level 7, grade 7, clerical employee under the Clerical and Admin Award, the same change could have a much greater impact on their work value. So no, we are not seeking to place any reliance on that or to ask you to place any weight on it in terms of the making of the decision.

PN181

I do wish to make some further submissions that relate to the evidence that we had before us at the last hearing. As it is part of the record already I don't intend to labour this document other than to say I will speak to it briefly - but I think it is - Mr Owen has spoken already and it is in transcript. This is - - -

PN182

THE DEPUTY PRESIDENT: We can mark this exhibit A10 and this is - - -

PN183

MR PATERSON: This is a submission from the union - - -

PN184

THE DEPUTY PRESIDENT: Yes.

PN185

MR PATERSON: - - - in terms of my attempt, in consultation with Mr Owen, to extract from his transcript the relevant paragraphs and remarks and to - if you like, my translation of those into skill and responsibility and work environment criteria.

**EXHIBIT #A10 DOCUMENT ENTITLED KEY SKILLS IDENTIFIED IN THE EVIDENCE OF DAVID OWEN**

PN186

MR PATERSON: The first two pages really are an overview of what I think the evidence is saying and the subsequent pages in effect annotate various paragraphs from the transcript. The paragraph number and the text, I think it is times new roman, is extracted from the transcript - not full quotes as the transcript is clearly there to be referred to and the indented paragraphs are what I believe are the touchstones, if you like, that relate to the skills, responsibility and work environment issues - and I don't intend to say anything more to that particular matter. And the final document that I would like to put to the Commission is a summary - if you like it is the form of a final submission to the Commission.

PN187

THE DEPUTY PRESIDENT: Right. We will mark this A11 and that is the document entitled Work Value Indicators.

**EXHIBIT #A11 DOCUMENT TITLED WORK VALUE INDICATORS**

PN188

MR PATERSON: What I sought to do in this document and I will in effect make this my final submission because I believe that we have done as much as we are able to and let me just preface my remarks in this respect by saying that if the Commission is of the view that the evidence presented hasn't been extensive enough, then those who have provided statutory declarations are available to give witness evidence and be cross-examined or questioned by the Commission if necessary. So to the extent that it is anything of that order that may limit or may mean that you, Deputy President, are not in a position to make the finding that we have sought then we are open to presenting further evidence.

PN189

Further evidence I don't believe would go to any matters other than those that we have already raised. I think we have put before you, either in evidence or in submission, the principal issues that we would seek to be relying on. Should there be a need for other evidence in the Commission I think it would be further rather than better but we remain open to that. Just quickly, to talk to this document because again I think it is - no need for me to explain every word and every aspect that is there but all I have done here is to attempt to put an argument and a submission to the Commission that identifies in the first instance work value indicators that impact on those employees engaged in the service delivery.

PN190

Again, referring back to the award and the award classifications, I contend that the service delivery employees in this industry can be engaged at any level from 4 to 7. Certainly counsellors and the like as we have seen in the evidence from Laurel House are employed at level 6. I suspect that there are not many direct service delivery workers at level 7 but clearly the award comprehends high level professional service delivery at all of those levels. These indicators that I have identified in respect of the client oriented component on page 1 if you like are provided again as touchstones to be read in the context of the other evidence already presented and to say that the evidence in A8 and in the evidence of Mr Owen in particular, these are the things to bear in mind when reading that evidence.

PN191

Organisationally we submit - the union is submitting that there are new and higher level skills required to effectively participate in a whole range of forums outside of the service in which the individual is employed and I have identified what I believe to be the broad brush of those skills. Through all of this I think the difficulty that this sort of industry and this sort of work presents is that it is conceptual work and it is, if you like, human services work and much of it is about the knowledge and the understanding and the ability to apply knowledge and understanding which means it is very difficult to - not very difficult, it is difficult to relate that back to what we would call a skill.

PN192

So rather than name a particular - or give particular things a definition of a skill, I have tended to refer to the broad skills needed to do particular functions and to do them in a regime that requires a greater degree of responsibility, complexity or in a different legislative context to that which previously operated when the award was made. Under the heading, Award Level, I have attempted to apply some of those criteria to both levels 4 and 5 and then provided a broad list at the end of where employees need to have high level skills. And then I have similarly - and this refers to the evidence from Laurel House; it reinforces, I think, particularly the application to level 6 professional employees in complex counselling and support services - and much of what is there is in fact extracted from that document in A8.

PN193

The second half of the document I have attempted to identify the particular work value indicators or the areas in which the increase in skill and responsibility primarily lies and I think the surprise for me in how this particular matter has panned out is that the higher level skills and responsibilities I would suggest are evident in these management responsibilities in a way - from a personal point of view I didn't expect to be as demonstrable as when we started out this process. When we started out this process my view was that it would be the service delivery positions that would be easier to find the relevant evidence and I have been I guess not so much surprised but - I think it is - let me just say I think it is illuminating that we have allowed in this sector these responsibilities to expand without due recognition - and sometimes because we haven't really looked at what the work is and taken it apart and put it back together again.

PN194

Certainly the complexity of managing organisations and the skills required, the change in the Government's model and the change in relationships between the Department and the organisations it funds are dramatic and evident. Again, more in the nature of a submission than anything which I intend to lead evidence on, I have also in the course of doing this looked at some old files of the union and I think that we do underestimate how - we have a tendency to underestimate just how far a lot of community organisations have come in the last eight years. The work in a lot of organisations was previously fairly poorly defined. The relationships and the demands that were put by funding bodies on organisations were often almost undefined.

PN195

Until the framework for neighbourhood houses, A2, there was virtually no specifications as to what the department was seeking in terms of funding and what it was seeking for the money it provided to the organisations. In other areas such as the Supported Accommodation Assistance Program, at the time of the making of the award there were significant developments towards establishing service standards. Half way through the time frame that we are talking about in about '98, '99, there were major projects developing strategies, protocols and processes for case management of clients in the Supported Accommodation Assistance Program - and again, should that be required there is documentary evidence available but in one sense it doesn't answer the questions.

PN196

If you look at that evidence it talks about what services are required to do; it actually doesn't talk about what that service requires of employees to be able to deliver that service. So I haven't put that to the Commission because I think it is the backdrop against which organisations structure design and build their employment relationships. But there is no question in my mind that the changes we have mentioned and are mentioned in evidence about the relationships with government and what that means for the employees in those organisations supports the submissions that we have made to you.

PN197

I don't have anything further to add at this stage. We have, as we have discussed previously with the other parties to this matter, we have constructed this as a two staged process. What we are seeking at this time and on the basis of the material and evidence that we have put before the Commission, there is a finding of significant work value increase at levels: the professional - specialised, professional and managerial levels in the Community Services Award.

PN198

We have agreed with the TCCI and discussed in conference and elsewhere the fact that giving effect to that finding requires a separate process which would look at the current descriptors in the award, would look at how the work value indicators should be incorporated into any re-working of the award classifications and of course ultimately to develop proposals for reflecting that in wage or other increases in the award. In that context and in the material, if you like the promotional material of the union's that gets circulated to endeavour to make people aware of this case and to get them to engage in the issues. We have also been open to considering a phasing in of any increases in wages that may apply.

PN199

I am sure Mr O'Neill will talk to you on the concerns that employers may have and we clearly work in the same funding environment. Everyone works in the same funding environment to a greater or lesser degree and we appreciate the need for the process to be effectively managed at a service and organisational and sector-wide level. So unless there is any further issues of clarification or further matters that you wish me to respond to or to provide you with further information I will conclude my submissions to you at that point.

PN200

THE DEPUTY PRESIDENT: Good, thank you. Mr Aiken, have you anything further?

PN201

MR AIKEN: No, nothing further, Deputy President, other than support for Mr Paterson's submissions, thank you.

PN202

THE DEPUTY PRESIDENT: Right. Mr O'Neill?

PN203

MR O'NEILL: Yes, thank you, Deputy President. TCCI has consulted extensively with its members in relation to this claim. Many of our member organisations have participated in the investigation phase of the claim and have committed themselves fully to the investigation process and analysis of evidence that has been put to us by the unions party to this matter. TCCI has also engaged in many discussions with the union that is party to this claim and has circulated to members information and evidence as provided to us by the ASU.

PN204

Sir, on a full and thorough - a full and thorough analysis of the evidence that has been provided to our members we do not have any evidence to put to the Commission to refute the claim or challenge the evidence presented. From the evidence provided to us prior to hearing and upon hearing evidence on 24 October and again today, obviously subject to your own findings, there appears to have been no material change in work value since the award was created back in 1995. Deputy President, whilst the next points I go to are, as Mr Paterson alluded to, are the second phase I would just like to put on the record now the issues that employers have in relation to the second phase should you find there has been a change in work value.

PN205

The issues that I wish to speak to you in relation to are implementation and public interest considerations should you find that there has been a change in work value. The first issue in relation to the impact of work value changes and its applicability to all employees in the sector. We may argue at the appropriate time that there may be some employees who have not experienced the extent of change that others may have and therefore would not automatically receive wage increases resulting from a positive finding by you. The second stage, or the second issue, sorry, relates to the issue of funding.

PN206

THE DEPUTY PRESIDENT: Just on that point, is that an argument against the changes not being indicative from four to seven?

PN207

MR O'NEILL: Well, it is an argument, sir, that there may be pockets within the industry that haven't experienced the same extent of change that others have. And we won't know that until implementation phase. At this stage people are making the point, but until we actually get down to the nitty gritty and we have, as Mr Paterson indicated, a new set of classification descriptors whereby a service will then look at their people and then assess them against that new descriptor, one can't know at this point. We are alluding to the fact that that may be an issue, but it is clearly an issue for the second phase of this claim.

PN208

Sir, the second issue relates to funding and both verbal and written advice that we have received from the Department of Health and Human Services that no allocation has been made within the budget estimates for 2004/2005 in relation to the claim. Should you find that there has been a change in work value and either the parties agree on the quantum or you arbitrate the quantum, organisations may be required to fund increases from the level of funding currently received within their service agreements.

PN209

In many cases should this occur it will be open to organisations to come to the Commission under the incapacity to pay principle and those cases will be dealt with on their merit. Conversely, there may also be an impact on employment levels which we are concerned about. I make these submissions, sir, to if you like engage the political process at this stage in relation to funding. It is an issue that we are very concerned about and is an issue that we felt appropriate to put on the record at this point. Sir, I have no further submissions, save and accept any questions you wish to ask of me. If it pleases.

PN210

THE DEPUTY PRESIDENT: Just in terms of the evidence relating to the change in work value, the exhibit A1 is an overview, exhibit A8 is specific to those people giving the evidence and exhibit A11 is really a pulling together of all the evidence in relation to the work value indicators. I take it from your submission that the employers have nothing further to add, nor do they oppose that which has been put forward?

PN211

MR O'NEILL: That is correct, Deputy President. They have thoroughly looked at the evidence, they have analysed it, they have nothing to put to you to refute the claim.

PN212

THE DEPUTY PRESIDENT: Right. Good, thank you. Further submissions?

PN213

MR PATERSON: If I can just very briefly reply. I did on that last point you raised, the documents that you have, particularly in A10 and A11, this is the final draft tabled today and they will vary in very slight detail mainly in terms of

format from the documents that were provided. But knowing that Mr O'Neill was having a meeting with employers early last week most of the substantive content of these documents was provided to him in a timely way so that he could present that. I just make the point that the final documents tabled here today the parties haven't seen previously because they were being refined in the process.

PN214

On the question of the funding issue and particularly the impact on employment levels and the public interest test, I concur with Mr O'Neill that they are really matters for a subsequent stage in this process and I just trust that that doesn't take as long as it took from application to get to here, to get to that outcome. In respect of there being nothing in the budget estimates for 2004 - - -

PN215

THE DEPUTY PRESIDENT: You are not saying that we delayed it are you?

PN216

MR PATERSON: I beg your pardon?

PN217

THE DEPUTY PRESIDENT: You are not saying the Commission delayed it?

PN218

MR PATERSON: No, no, just saying it took us two years, the best part, a month short of two years to get to this point. No, no certainly no reflection in any respect on the role of the Commission in that process. The difficulty has been, I guess we lost probably a year out of that process considering whether it was a matter that should be pursued as a pay equity or a work value claim. And a year is not a reasonable time to progress the subsequent matters. No adverse inference on any party and in that context I think the Chamber of Commerce and Industry, I do commend them on this occasion on two counts. They have sought to engage sector and it is a difficult sector to engage, and they as Mr O'Neill has also mentioned, they have also sought to engage the political process.

PN219

Had that happened back in 1992 we may have had the original Community Services Award made at a lot earlier time. The public interest - the budget issue, that budget is currently being formulated so in fact there is no final estimates. We are talking about a budget that will come down on 1 April/May next year and there is a process currently, I think probably last week and this week the process is in train of budget subcommittees meeting and formulating budgets. Fundamentally I say that that is - shouldn't be seen as any more than a public interest consideration and I think there is equally a counterweight public interest consideration. And whilst a work value case is not about market rates of pay, I think there is a public interest issue when we have a sector that by and large accept that executive levels doesn't pay over award salaries, it pays to the award.

PN220

If those award rates fall behind what is paid or are substantially behind the market rates that are paid in the public sector or the private for profit sector, this industry has difficulty in recruiting and holding in the long term skilled staff. And I acknowledge that that is not a work value criteria, but I believe that there is a

public interest issue that is an equal counter to the concerns around funding. I have had it put to me by a number of members employed in management positions and people from management committee saying we just can't hold the staff if we can't pay rates that we need to pay.

PN221

Again I think that is a matter for negotiation of subsequent processes rather than a matter before you here and now. The other observation I would make that I am sure I have made in conference, if not on the record previously, is that the historical overview not only in this State but across the country of the outcome of making awards for the first time and significant changes to awards over time, is that the funding continues to increase. I think we mentioned that the estimate when the translations to the award were made in '96 - '95, '96/'97, it was of the order of \$50 million worth of State Government money going into this sector.

PN222

The current financial year has commitments over \$100 million and I think that an analysis of employment will also show that it is a sector that continues to grow. Particular events cause glitches and hiccoughs and reversals of trends and changes in government policy and changes of Federal Government and the involvement of the Federal Government in funding and flow on GST and all those things, wash out over time to see a sector where the historical pattern shows increased funding and increased employment, and probably more relevantly to this matter increasing skills and responsibility and complexity and sophistication of work done in the community sector. And that ultimately is what we are seeking a recognition of in this matter and we hope to be able to progress the second stage of this in the New Year.

PN223

THE DEPUTY PRESIDENT: Good, thank you. Nothing further? I can indicate to the parties I am going to reserve my decision on this aspect of the application and I will hand down a written decision in due course. Thank you.

**ADJOURNED INDEFINITELY**

**[11.25am]**

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