

HEARING COMMENCED 10.33am

COMMISSIONER: I'll take appearances in this matter, please.

MR M. WATSON: May it please the commission, MARK WATSON. I appear on behalf of the Chamber of Commerce and Industry.

5 COMMISSIONER: Thank you.

MR R. FLANAGAN: If it pleases the commission, FLANAGAN, R., for the Australian Workers Union, Tasmania Branch.

COMMISSIONER: Thanks, Mr Flanagan. Mr Watson?

10 MR WATSON: Thanks, commissioner. Before I commence the submission, if I could just table a bunch of documents, please.

COMMISSIONER: **EXHIBIT TCCI.1.**

15 MR WATSON: Commissioner, the application to vary the National Training Wage Award as per the application that we've lodged, the catalyst for this was that we were contacted by the Community and Health Services ITAB advising that there'd been some new vocational pathways declared for industries covered by the Cleaning and Property Services Award and the Security Industry Award.

20 The documents that I've tabled this morning, if I can just take you through them. The first page is in fact a letter from the chairperson of the Community, Property and Health Services ITAB, just basically advising that the pathways are supported by the ITAB and they are in fact for certificates 2, 3 and 4 in the areas of cleaning operations and pest management.

25 As far as the certificates for 3 and 4 are concerned, that does go past the normal provisions through the National Training Wage Award, however, as we'll go through in these documents they did in fact receive consent from the Miscellaneous Workers Union and therefore the matter has proceeded on that basis.

30 The second page is in fact simply the application for approval of the vocational pathway and that just details the industry, property services, cleaning and pest management sector. The qualification - the national code I don't think is necessarily relevant, but down the bottom, industrial relations arrangements, you've got there, Cleaning and Property Services Award and at the moment we believe that pest management is in fact award free and it also states there, that an application was in fact made to the commission to vary the National Training Wage Award.

35 COMMISSIONER: The application though will only be in relation to levels 1 and 2 and there's no 1.

MR WATSON: As I understand the National Training Wage Award, commissioner, it can in fact extend past that level by agreement between the parties.

COMMISSIONER: But where does the award say that this one will?

5 MR WATSON: If we go to clause 9.5 subclause (iii), it says there:

By agreement of the parties, the achievement of competencies required for successful participation in an industry or enterprise (where there are endorsed national standards these will define these competencies) as are proposed to be included in the
10 *Australian Vocational Certificate at a level above level 2.*

COMMISSIONER: Yes, but agreement between the parties, presumably the parties to the award?

MR WATSON: Well, I would have assumed that it would be the parties in the industry relating to the traineeship.

15 COMMISSIONER: Well, does it say that?

MR WATSON: I guess it doesn't say it in those words.

COMMISSIONER: No. And we only have one other party to the award, the Australian Workers Union, apart from the Labor Council and yourself.

20 MR WATSON: Yes. Well, the Labor Council aren't represented so I suppose it's the AWU, but I guess we'll have to hear their submission about consent or otherwise. As far as I'm aware, through discussions with ITAB the Miscellaneous Workers Union, and there are letters in this bunch of documents, have in fact consented to these
25 arrangements.

COMMISSIONER: The question will be whether they're a party.

MR WATSON: To the award, yes. Well, I guess that the answer to that is that, no, they're not a party to the award.

30 COMMISSIONER: No. Do you think at some stage of the game the parties to the award might have to look at the word, parties?

MR WATSON: Well, I think it's probably relevant because with all these national training pathways being declared, it's obviously, in this industry, an issue that the ALHMWU have got a specific interest in and with all due respect, I don't think the AWU's necessarily got an
35 interest in these particular traineeships that we're talking about today. So, I guess we might have to look at that particular part of the award, yes.

COMMISSIONER: There may be another need to look at it, on the basis that it's not possible for a lot of registered employee organisations or employer organisations to become a party to this award.

5 MR WATSON: I guess, to a certain extent, the application has really been made by us as a party to the award to implement the industrial arrangements -

COMMISSIONER: I appreciate that.

MR WATSON: - necessary to get the traineeships up and running.
10 So, I suppose, from our point of view, we're just facilitating the process, commissioner, but nevertheless, I take your comments on board about the issue about the parties.

COMMISSIONER: Mm.

MR WATSON: If we go to the next page, that in fact details all the
15 certificates that are available under this training package, cleaning operations certificate 2, 3 and 4 in asset maintenance, and in pest management certificate 2, 3 and 4 in asset maintenance, pest management, business operations and pest management technical. In the right-hand side there it's got the nominal hours that are required
20 for each of the traineeships.

It's also been identified, commissioner, that these traineeships will in fact be part-time and that those provisions are actually in the National Training Wage (Tas Private Sector) Award, so the award does cater for part-time traineeships.

25 COMMISSIONER: These aren't declared vocations, are they?

MR WATSON: I beg your pardon?

COMMISSIONER: These are not declared vocations, within the meaning of section 33 of the training Act?

MR WATSON: I would imagine not. This is simply the pathway for it.
30 If we go to the next page, this is in fact a letter from the Miscellaneous Workers Union to the Community Property and Health Services ITAB, which virtually states their consent to the pathways as declared by those documents.

COMMISSIONER: I'm supposed to read into that that they endorse
35 the award arrangements as well?

MR WATSON: I can indicate, commissioner, that before I lodged this application, I did contact Mr O'Byrne to ask him about their position in relation to it and he did indicate that they would consent to the application, however, as you've pointed out, it probably doesn't mean

5 anything on the basis that they're not a party to the award. So, I would have imagined that their consent would have in fact been conveyed to the commission today, through the TTLC but that obviously isn't the case because the TTLC aren't represented. Certainly, in a phone conversation I had with Mr O'Byrne, he did consent to the application.

10 Again, the next four pages of the exhibit are effectively exactly the same provisions going to the asset security training package, which is the ITAB's approval of the pathways and then again, the actual qualification itself, the title of the traineeships as per the next page and then again, the Miscellaneous Workers Union's consent to the pathways as declared by the ITAB.

15 To a certain extent, commissioner, it probably doesn't help us too much that the TTLC aren't represented today because I think if they were here they could in fact confirm the submissions that I've made to you about the consent from the Miscellaneous Workers Union, which as I've said, would obviously have to come through the TTLC to advise the commission as being a party to the award.

20 COMMISSIONER: Yes. I don't think the Miscellaneous Workers Union consent is needed to vary the award, it's a matter for the parties to the award to put submissions and I'll determine it on merit.

MR WATSON: I guess, in bringing an application like this to the commission, we would first try and achieve consent to make it an easier -

25 COMMISSIONER: Yes, but the trouble is for me and for you, achieving consent with people that aren't parties to the award means very little. I'd certainly encourage it if it was parties to the award.

30 MR WATSON: My thinking was that the TTLC would come along today and advise you of consent on behalf of one of their member organisations but that obviously hasn't happened, so it's a bit unfortunate. Nevertheless, commissioner, I guess we'll have to hear from Mr Flanagan in relation to his position of consent or otherwise.

35 We would submit that the application doesn't offend the Wage Fixing Principles and it doesn't offend the public interest test of the Act and is simply a vehicle to allow for these traineeships to proceed, as per the documents that I've provided, and we would request that the award be varied in the manner sought. If it please the commission.

COMMISSIONER: In terms of the award, just a quick question - say, someone was doing a certificate level 4, what industry skill level would you see them being placed under, if they were under a traineeship?

40 MR WATSON: In accordance with the National Training Wage?

COMMISSIONER: Yes.

MR WATSON: That would be industry skill level A because it in fact would come under the property services, that's for cleaning and property and I think, security, would in fact come under that heading as well because, again, the property, if you like, would in fact encompass cleaning and security industry. That would be my reading of it.

COMMISSIONER: Yes. So, you're saying that someone that's undertaking a level 2 certificate and a level 4 certificate would be under the same skill level, A?

MR WATSON: I don't think there's any - because there's skill level B and skill level C, I don't believe encompass these particular traineeships.

COMMISSIONER: In your opinion, do skill levels A, B and C envisage certificate levels above 2?

MR WATSON: Well, I guess the wording of the award as per clause 9 probably would say that it does. That's my reading of it, even though, I suppose, in some ways it may seem a bit off beam in that certificate 3 and 4 is in fact trade level, and above, but I suppose that would also be a matter that would have to be sorted out between the parties when the traineeships go to the training agreements committee for ratification, and the training agreements committee would obviously be looking for union support to the position that the traineeship either goes with National Training Award or it would be classified in accordance with the Industry Award.

So the training agreements committee, which is a group of employers and unions, would in fact have to put their stamp on it as well for it to proceed. I'd imagine there'd probably be some discussion there about certificates 3 and 4, about whether or not it is appropriate to the Industry Award or national training wage.

COMMISSIONER: Thank you. Mr Flanagan?

MR FLANAGAN: Thank you, commissioner. This is not exactly a comfortable position with the AWU. We've not been involved in any discussions with the Miscellaneous Workers Union, the TTLC or the TCCI in respect of the application which is before the commission. The application also deals with awards which the AWU is not, and does not have an interest in, although I would observe that this application does touch upon pest management and whilst I haven't examined it recently, my recollection is that that is within the constitutional rule of the AWU.

I see that the Miscellaneous Workers Union have in fact approved the pathway but that in itself doesn't necessarily mean that they would approve of the present application which is before the commission and whilst I note the commission's comments about the parties to the

consent or otherwise of the proposal, being the parties to the award. One would expect that the TTLC of which the Miscellaneous Workers Union is an affiliate of, would be the appropriate organisation to speak on their behalf.

5 The difficulty we have with the application is that, firstly, it touches upon an area where we don't have a direct involvement. Secondly, that we haven't been involved in discussions and in those circumstances whilst it wouldn't be our intention to necessarily oppose what is proposed, I think that it would be inappropriate for the matter to go
10 forward today in the absence, at least, of representation from the TTLC on behalf of the Miscellaneous Workers Union.

COMMISSIONER: They were notified of the hearing.

MR FLANAGAN: Yes. One of the difficulties with this situation is that it may impact upon existing employment arrangements. I've come
15 across that in our own area of interest, where the need for these types of arrangements to go forward is quite critical.

COMMISSIONER: I suppose that some of the issues will then be debated when the actual training agreements committee meets.

MR FLANAGAN: Perhaps, but that's our position, commissioner.

20 COMMISSIONER: Just to clarify it, for the sake of the record, that you make no submission either for or against the proposal put by the TCCI?

MR FLANAGAN: Our submission is that we don't believe that it's appropriate in the absence of the TTLC on behalf of the Miscellaneous
25 Workers Union for the matter to go forward today.

COMMISSIONER: Yes, but the TTLC's been notified of the hearing, so what does the commission do, just wait until the TTLC's ready to go?

MR FLANAGAN: I take the point, commissioner. That is a matter for
30 the commission. We are not going to attempt to become involved in that area of issues.

COMMISSIONER: No, I understand that. Well, I've heard your submissions, however, I would have to say, certainly from my record here, it seems like the parties to this award were notified of the
35 hearing, and therefore I'd have to say I can only hear from the parties that attend and as I've had no submissions in opposition to what's been put, I'm going to hand down a written decision in due course which will ratify the application and implement the application put forward by the TCCI in this matter.

40 Are there any submissions in relation to the operative date?

MR WATSON: No, I don't believe so, commissioner. I guess it'd be from the date of decision because at this stage the pathways, having just been declared, and the traineeships would in fact need to go to the training agreements committee as well, so we would be happy from the date of decision.

COMMISSIONER: Right. Mr Flanagan, any comment?

MR FLANAGAN: No further comments, thank you, commissioner.

COMMISSIONER: Thank you. This now concludes this matter.

HEARING CONCLUDED

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