

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 3909 of 1992

IN THE MATTER OF an application by
the Tasmanian Electro
Metallurgical Company Pty Ltd to
vary the Ferro Alloys Award

re restructure award by replacing
all existing clauses with new
clauses

COMMISSIONER GOZZI

GEORGE TOWN, 1 September 1992
continued from 13/8/92

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: Are there any changes in appearances from last time?

MR J. LONG: Yes, if the commission pleases, JEFF LONG, appearing on behalf of FIMEE.

COMMISSIONER GOZZI: Thank you, Mr Long.

MR B. BEST: Appearing for the Federated Engine Drivers' and Firemen's Association, BEST, B.

COMMISSIONER GOZZI: Yes, thank you, Mr Best.

MR BECKER: I'm on my own, sir.

COMMISSIONER GOZZI: On your own. worry, Mr Becker. Well, ostensibly, this matter is listed to enable submissions to be put in respect of the career path, and in particular the points necessary for progression from grade 3, which is the entry point for the tradesperson.

I understand that the parties have had some discussions on this matter and not been able to reach a consensus as to what should happen. If there's nothing that anybody wants to pursue in conference at this stage then it's my intention to go straight into submissions and ultimately if nothing develops in the proceedings to issue a decision on this matter. Any comments?

MR HILL: Yes, sir -

COMMISSIONER GOZZI: Mr Hill?

MR HILL: There is one other matter we would like to - to address and that's the question of retrospective application of payments.

COMMISSIONER GOZZI: Right, okay, thank you. Who'd like to go first?

MR ABEY: Well perhaps, commissioner, if I could take it to the point to where I think we are and then perhaps if we could hear from Mr Hill so we can identify what the problems are.

COMMISSIONER GOZZI: Thank you.

MR ABEY: Firstly, if I may report there were -

COMMISSIONER GOZZI: Just a moment, Mr Abey, I'll just get the paper work. We'll just adjourn for just two seconds.

SHORT ADJOURNMENT

COMMISSIONER GOZZI: Mr Abey?

MR ABEY: Thank you, Mr Commissioner. Firstly if I may table what amounts to a set of replacement pages.

COMMISSIONER GOZZI: This is to the work changes agreement?

MR ABEY: Yes, it is the yellow document. The first one is page 35.

COMMISSIONER GOZZI: Right.

MR ABEY: And the second one is page 42. Now both of these pages, as amended, are agreed as I understand it. On page 35 the items contained 1 through to 6 - roman (i) through to (vi) have just been altered as to verbiage to restate the intention - it was previously somewhat ambiguous and similarly of item 7. On page 42 at the end of the first paragraph the word 'permanent' has been included, again to reflect the original intent. I don't believe there's any need to take those matters any further.

COMMISSIONER GOZZI: No.

MR ABEY: Now if I may table a further document; it amounts to a restatement of the training section.

COMMISSIONER GOZZI: Should that be a new exhibit or can they go into the work changes -

MR ABEY: Well it's a replacement page for the work changes.

COMMISSIONER GOZZI: Alright.

MR ABEY: Now I'm not sure it's agreed yet, but if I can just take it to that point to see what the outstanding issues are.

COMMISSIONER GOZZI: Well I'll mark it TEMCO.11

MR ABEY: Thank you. If I may go through it, on page 44 in the second paragraph on the second line, the words 'or to change any existing skill/modules' has been included. In effect, that's to underline the dynamic nature of the training arrangements in that it will be an ongoing process and that from time to time there will be changes to the training arrangements, modules, et cetera, not only to add new and additional training modules but to modify existing ones indeed if that is necessary. So that's just to reflect that again.

On page 46 at the beginning of the third paragraph, the words 'non-TAFE' have been included.

COMMISSIONER GOZZI: Right.

MR ABEY: And again reflect the intention of the parties. That takes us through to the actual training modules with no change to the operations career path model. Similarly with refractory.

COMMISSIONER GOZZI: Good.

MR ABEY: If I can take you to the mechanical maintenance area and identify the changes and then I'll come back and explain them. In the core skills, the Jacques Crusher Course was previously crushing and screening.

COMMISSIONER GOZZI: Yes.

MR ABEY: Then there's three additional, 1.29, 1.30 and 1.31.

COMMISSIONER GOZZI: Right.

MR ABEY: And at the bottom there's an asterisk which says: Are skills for which credit will not be awarded unless those skills are additional to the TAFE trade training skills applicable to the employee.

In other words, in all this area the intent is that they are additional to the base training module - they are effectively post-trade or the equivalent.

In the enabling skills, Mims, I think previously referred to Mims 1 and 2 or to that effect - that's just been combined.

COMMISSIONER GOZZI: Mm.

MR ABEY: And in personal skills, basic computer skills has been deleted. On the personal skills over the side there, basic computer skills was in the previous one and I understand that's been deleted because it's tied in with Mims I think. Well, there'll be an explanation of that, Mr Commissioner.

COMMISSIONER GOZZI: Thank you.

MR ABEY: Over the page on electrical maintenance at the bottom, 1.31 and 1.32 hydraulics and pneumatics have simply been transferred from enabling skills. They've transferred from one column to the other.

COMMISSIONER GOZZI: Which ones are they?

MR ABEY: Down the bottom - 1.31 and 1.32.

COMMISSIONER GOZZI: Yes.

MR ABEY: They've just come from the middle column in

COMMISSIONER GOZZI: Oh, I see.

MR ABEY: And again, 2.6 Mims has been altered - it previously referred to Mims 1 and 2 I think. And again basic computer skills has been deleted from the personal skills area.

Now that's the summation of the changes and most of them are non-.... If we can concentrate on the mechanical maintenance career path, that is where the area of debate has been concerned.

COMMISSIONER GOZZI: Mm.

MR ABEY: When we were last before you, Mr Commissioner, the MEWU raised the problem as they saw it of the limited capacity of mechanical tradesmen to advance through to level 9. That has been specifically addressed with the addition of those items 1.29 - fluid mechanics, 1.30 - engineering drawing, and 1.31 engineering drawing interpretation level 2. As I'm instructed they're effectively components from the associate diploma course and they've been identified separately and the summation - sum total of all this is that it is now possible for the mechanical tradesmen stream to advance to level 9 - that wasn't possible before or not under - not without the associate diploma.

So as far as we know, that has addressed the major problem advanced by the MEWU. Now I think at this stage it would be appropriate if we heard from Mr Hill, for him to particularise any other problems he may have. If the commission pleases.

COMMISSIONER GOZZI: Thank you, Mr Abey. Mr Hill?

MR HILL: Thank you, sir. Firstly, some of the submissions made by Mr Abey are certainly selected. He implied that there was - they may not be controversial, but some of these changes that they've rung in, I've never participated in any discussions with the company about them at all. So, I would be seeking some opportunity to have discussions with our members to see what they - their response to those changes are.

And some, in my opinion, agreements that were reached in discussions have been omitted from the redrafted documentation. It's - it's accurate to an extent what Mr Abey has said, that initially the metal workers were seeking to ensure that we could gain access to level 9 in the career structure, but after some discussions with the representatives of management we find we've got more fundamental problems with the - with the structure than simply accessing level 9.

It could be that our difficulties and our lack of knowledge stem from the fact that we didn't participate in the working party that was set up to address the career structure but we were assured - and I've said this before on transcript - we were assured that once it was completed we would have the opportunity to negotiate with management about it and in my opinion we've never really seriously done that.

So I suppose to - to summarise our position, there are some changes proposed today in this latest draft which we've not had the opportunity to consider, nor have we had any discussions and we would like to outline our concerns about the fundamental problem that we have with the structure and also the question whether or not it should be appropriate to apply retrospectivity to some features of the payments.

If you like, Mr Commissioner, I can proceed to elaborate on that if - or -

COMMISSIONER GOZZI: Well, yes, from what you're saying, you'd like the opportunity to have some discussion with those people here or the membership generally. I'm not quite sure as to some of the changes mentioned by Mr Abey. You've got a fundamental problem with the - with the structure, notwithstanding that access to level 9 has now been resolved.

MR HILL: It's accessible, sir.

COMMISSIONER GOZZI: Yes. And issue of retrospectivity - well I guess that's going to be fairly straightforward in the context of argument.

MR HILL: I would have thought that.

COMMISSIONER GOZZI: Yes, it's just a case of what you want to put in that respect and for what Mr Abey might want to say about that. It's really a case of whether at this point we should go straight into arbitration or whether I should attempt to conciliate the parties, bearing in mind your comments that there doesn't appear to have been any real opportunity to discuss what the problems really are. How would you like to proceed?

MR HILL: Arbitration. I think we can muck around here for an indefinite period. I would like the opportunity though, sir, because I might be able to resolve the - the latest - some of the latest changes. I would like a short break to consult with the delegates that are here today. There may not be any major problems with them.

COMMISSIONER GOZZI: Fine. Mr Abey, it seems to me that the course is fairly well set. Do you agree that we should move straight to arbitration?

MR ABEY: Oh, I have - it would certainly be an advantage if Mr Hill particularised his fundamental problem as he's described it. If it's appropriate we'll respond to it in an arbitral sense if we can't find another way through the problem.

COMMISSIONER GOZZI: Alright. Mr Hill, let's keep going then on that. You put - you put what it is that's concerning the MEWU.

MR HILL: Yes, sir. Well, as Mr Abey has previously indicated, sir, since the commission - this matter was last before the commission, there have been some - some discussions and there were some - some degree of progress made in those discussions.

As Mr Abey has already indicated, the company offered to include in the mechanical maintenance career path model some additional courses, namely the field mechanics and the engineering drawing interpretation courses and have allocated 15 points to each of those successful completion of those courses.

It was also agreed that some additional words which would describe an agreement insofar as accessing associate diploma training was concerned and I carefully wrote those words down and they read that a grade 8 employee will have right of access to associate diploma training, subject to the company being satisfied that the applicant has the potential to successfully complete the course. And as I alluded to a while ago, sir, there is no sign of that verbiage being proposed now by the company, although that was the clear understanding of an agreement that I had in the two lots of discussions.

And we - we welcome those changes because we do believe they are changes in the right direction. But we still, as I've indicated, continue to have problems with some - some key elements of the manner in which the company proposes to implement the award career paths.

The - the situation appears to be that after the discussions that the - with the company, the company proposes to implement the career path model insofar as tradespersons are concerned, would be that the tradesperson would - would enter the career structure at level 3 - at grade 3. He would enter it at that grade as a qualified tradesperson and we have no basic problem with the entry at that level.

However, the career structure itself is predicated on the acquisition of points through training and as you acquire a number of points, you go to the next level in the career structure, and as a consequence of that movement, you receive a higher annual salary in recognition of the extra skills. The problem that we have with the way that the company

proposes to enter the tradesperson in the career structure is they will enter at level 3, but will not be allocated any points in recognition of the skills that they need to enter at that level.

If you were using the career structure which is the same for everybody and you walked in through the gate as a totally unskilled person, you would be required to do certain types of training and once you reach level 3 in the career structure, you have acquired 45 core points, as they are called. It's our contention, sir, to be equitable in this approach, when a tradesperson enters at level 3, they should automatically be credited with 45 points, and should not be required to start at zero, as under the company's proposal, would be the case.

The whole structure is dependent upon the acquisition of points and I would contend, sir, that it is an unfair and unreasonable approach not to allocate and recognise the tradesmen's skills by the crediting of those points, and we would assert, sir, that it would be appropriate for the tradesman on entry to be allocated 45 points in recognition of the core subjects, and that only in this way would we adequately recognise and acknowledge the trades skills of the tradesperson.

And that, in brief, sir, is the position that we're in - we're advancing. The obvious situation which arises, if a non-tradesperson was following the career path, was at level 3. To move from level 3 to level 4, in core points, they would need simply to acquire another 25 points. If the company's method of entering the tradesperson at level 3 is agreed to and no points are credited to the tradesperson, it will require them to obtain 70 core points to move from level 3 to level 4 and I would strongly argue that that's an inequitable circumstance.

The - I can, sir, if it's - at this stage I don't think I need to say much more.

COMMISSIONER GOZZI: No, I think I understand what you're saying.

MR HILL: I would like to address the other matter, sir, of the problems that we have with - or we perceive that we may have with retrospectivity issues. If you like I can address those, or I can sit down.

COMMISSIONER GOZZI: Well, yes - no, just before you get onto retrospectivity. So, in summary, you're saying that a non-tradesperson comes in at Grade 1. On the way, through progression, from Grade 1, 2, and 3 - to get to Grade 3 they have to have 45 points.

MR HILL: Yes.

COMMISSIONER GOZZI: The next level is accumulation of 70 points - 45 plus 25 -

MR HILL: Yes, sir.

COMMISSIONER GOZZI: - and the non-tradesperson at Grade 3, if he acquires a further 25 points, progresses to Grade 4, whereas at that level - the Grade 3 level - the tradesperson has to get 70 points.

MR HILL: That's correct, sir.

COMMISSIONER GOZZI: Right. Okay. I understand. Okay. Well can we go on with the retrospectivity part of it?

MR HILL: Yes, sir. The problems that we have with the question of retrospectivity deals with the fact - or addresses the fact that during these discussions, since the last hearing, we have found out that the - some of the training proposals - courses, have not - the modules have not yet been written and as a result of them not being written, the competency standards have not been established also.

For example, and I merely give these as examples, sir. In the original proposals in the core skills on 1.3, it was identified as a crushing and screening systems, and as Mr Abey has now indicated, in the proposed new draft, it's called the 'Jacques Crusher Course' in - which - whatever description you call it, we all know what area of work we are speaking about and they - both the original and this one, that the new proposal carried 25 core skills which is quite a substantial number of core skills.

We have had eight persons at least, from our membership, indicated that they believed that they were skilled in - and competent in that area of training or that area, and they've been advised or - that the training modules have not been prepared and therefore it may not be able to determine or deem them to be competent.

Now we've asked how long that those training modules would take to develop and we've been told it could be anything up to 2 years, so it implies, at any rate, even if it didn't take 2 years, it could be some considerable time.

If I - another problem that we've experienced, sir, is in respect to the personal skills in the mechanical maintenance career path model. There is, on 3.8, one identified as basic supervision.

COMMISSIONER GOZZI: 3.8 in the old one -

MR HILL: In the old one, and -

COMMISSIONER GOZZI: TEMCO.2.

MR HILL: - and it's 3.7 in the new one, sir.

COMMISSIONER GOZZI: Right.

MR HILL: It carries five points, and we have been told once again that the training modules have not been prepared, and we've also been advised as a result of that that the competency standards have not been determined. We have in fact a member in our union who was acting in a supervisory capacity for 12 months and when we asked the question whether or not he would be deemed to be competent in basic supervision and he received an answer in the negative.

Now, if that, once again, falls into the possibility of 2 years before the standards are determined, it's an extremely long wait and a person could be clearly disadvantaged if he had to wait such a long time before he is deemed to have been competent and for those reasons, sir, we would be seeking some agreement or some understanding, if it is at all possible, if anybody subsequently fell into that category and would have attracted a higher wage, if they had of been deemed to be competent at the time that they claimed, that they were competent, then that should be acknowledged and remuneration applied accordingly. That's a argument. There are other training courses which also, I understand, fall into that category but they're two that have received some prominence in the discussions that we've had

COMMISSIONER GOZZI: I suppose, Mr Hill, one of the aspects with it is that you won't quite know, I suppose, what the module will contain until it's completed.

MR HILL: Yes, I think that's true.

COMMISSIONER GOZZI: Yes. All right. Thanks.

MR HILL: Thank you, sir.

COMMISSIONER GOZZI: Anyone else? Mr Becker or Mr Best? Mr Long?

MR LONG: I just want to say briefly, sir, that since the last hearing on the 13th, I spoke with John Glisson - unfortunately he is in Sydney today and in charge of this area. There have been further discussions with the company up until last Friday. We did have concerns, especially in regards to artificial barriers and what have you, but the company assures us that there will be ongoing negotiations in regards to associate diplomas in metallurgy and what have you and we're basically quite happy with it.

COMMISSIONER GOZZI: All right. Thank you, Mr Long. Mr Best?

MR BEST: Yes, Mr Commissioner. In fact, unfortunately, I was unable to attend the last hearing as you obviously would know. We had a meeting though on the 10th of August which was prior to the last hearing and discussed a number of points in relation to the work changes with the company. Since then and the hearing, subsequently a letter was sent to Mr Jones who is here today, in relation to a couple of issues. Mr Hill from the MEWU has pointed out to us that he hasn't - or isn't aware of some of these subsequent changes that have occurred in what's been drafted today.

Mainly the points we put back to the company was in relation to contractor's rates of pay which has been altered - point 7, and what we're saying -

COMMISSIONER GOZZI: Point 7?

MR BEST: Sorry, point 7 on page 35.

COMMISSIONER GOZZI: Of the yellow document?

MR BEST: That was tabled today, yes, work change

COMMISSIONER GOZZI: Oh, sorry, page 35 of TEMCO.11 - I haven't - sorry, TEMCO replacement pages.

MR BEST: Yes, replacement.

COMMISSIONER GOZZI: TEMCO.2

MR BEST: What we're saying there, sir, is that if you read through point 7 it says:

Contractors shall pay their employees when working at TEMCO the rates which they normally pay for general contracting work.

What we're saying, in terms of mechanical plant, the normal contracting - sorry, the award that covers mechanical plant operators in general contracting work is the National Building and Construction Industry Award and that the information I have in terms of contractors that are coming on site - the likes of Hazells and others - are respondents to that award.

COMMISSIONER GOZZI: So, what are you saying it is again?

MR BEST: The National Building and Construction Industry Award. The points that have been put to me, sir, is that that is a matter between the union and the contractor. However, I'm just making certain, as I understand that we have to be

clear on what our intentions are in terms of the work place change document, so I wish to table that.

The other points that we had in our letter to Mr Graeme Jones on the 25th was on the employment levels which is 42, which has been tabled today, and all we sought to clarify is that, yes, it's true there has been some changes that have been brought about, but the intent of the negotiations is to enhance and protect job security as you would have heard I suppose in press releases, et cetera, so whilst, you know, there has been some changes there, the intention is to support employment on site.

The other issue which we had which was training of staff which hasn't been tabled today, but I understand I'm going to receive a letter very shortly back from the company. It was put to us that that only applies where legitimate safety problems arises and would not be used to displace employees - okay - from performing their work. That was the understandings that we have. So I just sought to table those. That's all I have to add on that. Thanks.

COMMISSIONER GOZZI: All right. Thank you, Mr Best. Mr Abey?

MR ABEY: Thank you, commissioner. If I may deal with the issues, not necessarily in the order that they were raised, dealing firstly with the FEDFA. As I understand it, there is correspondence from the FEDFA to the company and a letter in response has been drafted. I will simply make the observation that the question of a contract as a resposdency is not a matter within the control of TEMCO. That is essentially a matter between the contractor, the union and the respective industrial tribunals, and I frankly cannot see in any way how TEMCO could influence that particular outcome. It's simply an observation I make at this stage.

Mr Hill referred to the position of Grade 8 employees will have the right of access to an associate diploma provided that the company is satisfied that the employee has the capacity to complete the course. I'm instructed that that is essentially an agreed position but we would that it is a matter that has to be recorded in the document. It's not something which really lends itself to that document, but it is an agreed position.

I now turn to deal with the substantive issue as raised by Mr Hill and if I can go back a little - short step and indicate how these training modules were developed. In each of the various streams, a working party was put together to essentially develop the modules, identify the modules and to assign points to them. Each of those working parties were intended to contain representation from supervisors and employees.

Now, in the case of the mechanical maintenance area, the MEWU declined to participate in that procedure as they've made clear and rather reserve their right to comment on the ultimate outcome.

I think it's important to note at this stage, and this will become more significant as I go through it, that each of the various streams - which is the expression that I use - were developed separately, by separate teams. Now that is a key point which will become apparent as I go through the document.

If I may refer the commission to the mechanical maintenance stream. I would make the point first up, and if necessary this can be supported by evidence if there is any real contest to it, that as the various streams were developed separately, twelve points in one stream doesn't equate to, say, twelve points in another stream. Now, perhaps, in hindsight, they should have, but the reality is that they were developed separately.

The point we make is, that whilst on the face of it, it would appear that a tradesman employee would require the additional - would require an additional 70 points to go from level 3 to level 4 and a non-trade employee would require 20 points it would be our submission that the level of effort required is broadly equivalent in both cases.

We make the further point that level 3, trade and monitored, in work-value terms to the company equate. They are seen as being equal in terms of work value to the company.

Similarly, the company would view two employees - one trade one non-trade at level 4 - as being equal in terms of work value. Now that is clearly inherent in the salary which is paid at each of these points.

The skills which a tradesman bring to the company as part of his apprenticeship training is recognised by the accelerated entry point. That is, a new employee with a basic trade qualification will start at level 1, whereas any other employee would start at the entry point.

So, the salary differential represents, or recognises, those initial skills.

MR: Three.

MR ABEY: Sorry?

MR: Three, not one.

MR ABEY: A tradesman enters at level 3, sorry. Did I say 1? A tradesman enters at level 3, a non-tradesman enters at the entry point.

Now, if I can - I have wrestled with this most of the morning - and I think I've come to grips with it.

COMMISSIONER GOZZI: Mr Abey, I will have to ask you -

MR ABEY: Yes, I am sorry. I have wrestled with this for most of the morning but I think I have finally come to grips with it, and I hope I can explain it as simply as possible where we are coming from.

If I may take an example. In the operations career path model

COMMISSIONER GOZZI: What page is that on?

MR ABEY: Well, it is not numbered, but it's in fact about 3 or 4.

MR: Page 48.

MR ABEY: Is it?

MR: 48.

MR ABEY: Sorry, 48.

COMMISSIONER GOZZI: 48. Right.

MR ABEY: You will note at the top there is modules turbine theory and turbine applications. Now I am instructed that to obtain the 10 points for turbine applications that requires 900 hours practical experience plus 32 hours theory, and the sitting of basically what amounts to an external exam set by the Department of Labour and Industry.

COMMISSIONER GOZZI: 900 hours?

MR ABEY: Practical experience.

COMMISSIONER GOZZI: Practical. And 32?

MR ABEY: 32 classroom instructions.

COMMISSIONER GOZZI: Yes - 32 theory.

MR ABEY: Plus an external exam set by the Department of Labour and Industry. And that has a of 10 points.

If we go back to the mechanical maintenance area, I am instructed that a tradesman coming through the gate into TEMCO

would spend their initial time in the following areas: that is 1.1, 1.2, 1.6, 1.7, 1.8, 1.9, 1.31, and 1.32.

Now the total available points in those particular areas is 145.

Now, in many of these cases the modules haven't been developed with precision, but I asked one of the operating supervisors this morning: In an ideal circumstance, how long would it be likely that someone would be trained in, say, No. 1 and No. 2 furnace? - and I don't want this to be taken as read, but the response was: In ideal circumstances, if someone was dedicated to it, probably about a week, and virtually all those modules have been identified as a week or less.

Now I am talking about ideal circumstances, because circumstances are never ideal, and it is likely that an employee will spend a day here and a day there and all the rest of it.

I don't think we need to get down into precision as to the detail of how long it takes. What I am pointing out that those areas which I have identified which are essentially training modules which are obtained in the job, rather than outside training classes, say, provided by TAFE, provide in the very formative period of operation at TEMCO access to 145 points.

Now, we say you are not comparing apples with apples. We're saying that the points in the mechanical stream are far higher than the equivalent level for the points in the operational stream. Now that may seem a bit untidy, but that's the way it has worked out.

The principle in which the company has approached it is that the degree of effort and application to get from one level to the next is broadly the same whether you be trade or non-trade.

Now there are a couple of other points I would like to make. A tradesman walking through the gate at TEMCO would almost certainly pick up some of those additional points halfway down the page. The sort of tradesmen which TEMCO would attract would almost certainly have done some post-trade modules and pick up some of those 15s down the middle of the page as he walked in the gate.

COMMISSIONER GOZZI: What you call enabling skills do you mean, or -

MR ABEY: No, no, in the core skills.

COMMISSIONER GOZZI: Which ones halfway down the page do you mean?

MR ABEY: Well, industrial hydraulics, pneumatics, etc. And it is likely that a tradesman which TEMCO would pick up would have some post trade and would get immediate recognition.

The point I make is that a non-trades employee would not have any of those points because they are literally all TEMCO specific.

Now perhaps it would become more clear when we identify how the existing TEMCO employees have been classified in the trades area.

Now, again, the assessment was done for the existing employees on an individual basis. An individual skills audit was taken for each employee essentially by their immediate supervisors in a consultative mode. In other words, an assessment was made, if the employee disagreed the matter was discussed, and as I understand it, resolved satisfactorily.

Now of the 44 employees involved this is how they have been assessed: 11 are Group 6, 29 are Group 7 - or level 7- 4 are level 8. There are none at level 9 at this stage, and there are none at 3, 4 or 5. So the lowest paid TEMCO tradesman is a Grade 6.

The shortest term TEMCO mechanical tradesman has been out of his apprenticeship for some 20 months. That particular individual has been credited with 227 points, and I think that equates with level 7 or 8 - one of the two.

The thrust of what I am saying, Mr Commissioner, is that whilst this may on the face of it appear internally inconsistent and perhaps even a little bit untidy, it has been designed so that tradesmen can achieve those points in the formative stages relatively easily compared with the non-trade employee who is approaching the end of his career structure.

Aside from what Mr Long said about access to the associate diploma, which I confirm, the non-trade employee career structure ceases or finishes at level 5. Indeed, there is one FIMEE employee who has been classified at that level.

So, in essence, we say - and the internal classification of the existing employees certainly demonstrates - that it is far easier to gain those necessary points for a tradesman at the beginning of their career structure than it is for non-trades to do the same at the end of their career structure; and the sum total of the lot is that it is designed so that the effort required to go from one level to the next is the same, or broadly the same, for both non-trade non-trade and trade.

Now, of course it would have been possible, I suspect, to start from square one and attempt to scientifically equate all

those points so they were equivalent across the streams and not just within the streams.

It would have also been possible to structure it so that tradesman who came in the gate as a base tradesman receive some credit, whether it is 45 points or some other figure. But, of course if you did that all the numbers would be different, and that's where the difficulty lies. This is the company's best effort to come up with how they see it.

Now, when you look at it from outside, as I had some difficulty coming to grips with it this morning, and I suspect maybe you are too, that is the design of the model.

Employees at a particular level, whether trade or non-trade, are deemed to have the same work value, and the effort required to go from one level to the next is, again, considered to be the same, albeit the numbers are different.

COMMISSIONER GOZZI: Yes, you have to take a lot of it on good faith because in your example in the operating stream if somebody does 900 hours and 30 hours theory and gets - I think you said 10 points - somebody else does 320 hours and gets 145 points, I think it was - yes, 145 points for 320 hours. It is a bit hard to sort of equate that as being equal.

MR ABEY: What - 140?

COMMISSIONER GOZZI: Well, going through the mechanical model, as you took me, and previously to that you took me through the operations model, and I took you to say that the - and I don't want to get too deeply into it - but the turbine application requires 900 hours -

MR ABEY: On the job.

COMMISSIONER GOZZI: Practical on-the-job experience, and 32 hours training -

MR ABEY: 32 hours formal training.

COMMISSIONER GOZZI: Yes, which is worth 10 points, whereas the other internal training for the mechanical module - all those items 1, 1.1, 1.2 etc., total 145 points and if they all take in an ideal circumstance 1 week to do that's 8 weeks by 40 hours is 320 hours.

MR ABEY: Well, I can say up front that those ideal circumstances will not exist.

COMMISSIONER GOZZI: I know, but in terms of comparative effort it is hard to see how that is equal.

MR ABEY: You can't really compare the two because one is 900 hours on-the-job experience and there will obviously be a component of that in the trades area.

COMMISSIONER GOZZI: I guess what you are saying to me is, if you shift one brick you shift the lot. Is that what you are saying? I suppose. I mean, it really -

MR ABEY: Yes. I find this - it is extremely difficult for an outsider like myself and yourself to come in and supplant my view or your view on it.

COMMISSIONER GOZZI: Well, I am going to have to, by the looks of it -

MR ABEY: Well, I have resisted -

COMMISSIONER GOZZI: - because if we can't agree -

MR ABEY: Well, I mean we can - and it may, if necessary, be desirable to go to evidence from the person who was principally responsible from it - and, indeed, it may be appropriate -

COMMISSIONER GOZZI: Look, I understand what I am saying, all I am reflecting on is it takes some good faith to recognise, or to accept your statement that it is equal worth when in the very example I have just referred you to, 900 hours practical experience, 32 hours theory, is worth 10 points, whereas - and I accept totally what you are saying about ideal circumstances - but, prima facie, 8 weeks by 40 hours a week, 320 hours to accumulate 145 points practical experience - based on practical experience. It is hard to see the quality of effort there.

MR ABEY: You can't, and I want to make sure that that's - we're not trying to draw that conclusion. What we are trying to do is say that those 10 points for the turbine are far more difficult to achieve than 10 points somewhere in the mechanical stream.

COMMISSIONER GOZZI: Yes, and that's why I am having trouble agreeing with the equality of effort. I mean, 900 hours is three times more effort in the workplace than 300.

MR ABEY: Yes, but it is 900 hours of time serving.

COMMISSIONER GOZZI: Oh, yes, well so is that 145 points is all time served.

MR ABEY: Well, that's why if we start going down too many rabbit burrows it becomes extremely difficult. Each stream has been developed -

COMMISSIONER GOZZI: It sure does.

MR ABEY: Each stream has been developed separately.

COMMISSIONER GOZZI: I don't want to go down too many rabbit warrens at all.

MR ABEY: No. But the point I make is it would be possible to give pre-trade recognition - or trade recognition - and then you would have to revamp all the other numbers.

COMMISSIONER GOZZI: Yes, I hear what you are saying.

MR ABEY: I am also instructed that an apprentice who did his time at TEMCO would very likely get into those numbers fairly quickly because he has been there for 4 years to start with and he'd have a head start on somebody coming from outside. There are those sorts of scenarios.

COMMISSIONER GOZZI: Well, the example of 20 months to get 227 points is not a bad effort.

MR ABEY: And the fact that there are no 3, 4, or 5s amongst the existing tradesman employees. This argument all becomes a little bit academic, I suspect.

On the question of retrospectivity, I wasn't aware that that was coming up. I'd have to take a moment to get instructions on the company's position on that.

COMMISSIONER GOZZI: Yes, well I guess while you are doing that, it seems to me that there ought to be some mechanism in some of these areas to be able to accredit skills that a person holds and some value given to it. I mean, the problem arises, as I put to Mr Hill, that you don't know at this point what's in the module.

But presumably, take the basic supervision aspect, if somebody has demonstrable experience in supervision it's hard to contemplate what would be in that module over and above what the title comprehends and suggests basic supervision. But you asked me in the last hearing to make the whole thing operative from 17 August, which I did, and I suppose that underscores what is before me here. Anyway I won't go any further than that at this stage.

It seems to me too, just before I do adjourn, for a few minutes, that we're only talking about 12 employees.

MR ABEY: Twelve?

COMMISSIONER GOZZI: Yes, 12, 12 employees.

MR ABEY: I don't quite understand that.

COMMISSIONER GOZZI: Well let me put it this way. The particular problem arises, as I understand it, because there are eight people who claim they know everything about the crushing job and there are four people, as I understand it - sorry, one employee, just one employee so we're talking about nine people. One employee who has acted in a supervisory capacity for 12 months.

MR ABEY: If I could take a moment on that.

COMMISSIONER GOZZI: Yes, okay, we'll adjourn for a few minutes. Thank you.

SHORT ADJOURNMENT

COMMISSIONER GOZZI: Mr Abey?

MR ABEY: Thank you, Mr Commissioner. Dealing with the question of operative date, I am instructed that in virtually all areas the company has made an assessment as to competency standards and has, indeed, applied that in the manner which they were best able to in the circumstances to each individual employee and points have been allotted accordingly. The only two exceptions relate to the crushing and the supervision.

I am advised that the competency standards for the crushing module will be available virtually immediately and it will be possible to do those competency assessments again virtually immediately and should anyone be - should people qualify and meet those standards they will be paid retrospective to that operative date.

In respect of the basic supervision, the company with the benefit of hindsight is of the view that that shouldn't have been there, that should have been one of the evolving modules because it doesn't exist at this moment. There certainly presumably would be people who from time to time are required to relieve in a supervisory capacity and they are paid an allowance for that. But simply put the module doesn't exist. When it does exist it will address skills. It may or may not apply to the existing employees and in what sort of time frame at this stage we cannot determine. So simply put that is something that does not exist at the moment. There is nothing to assess it against and we say that one should just occur when the module is developed and people who can reach that standard will be paid from an appropriate time. So we would oppose any notion of retrospectivity in that case but in the crushing case that will take care of itself.

In conclusion, Mr Commissioner, I simply reiterate without getting bogged down into the details, that you cannot compare one stream with the other. And if you make a change in one area, then it will follow that it will be necessary to revamp the total structure.

COMMISSIONER GOZZI: Mr Abey, I certainly understand your apprehension about me tinkering with any part of the structure and that each part of it should stand alone. But, of course, looking at the award document, TEMCO.1 - and by the way that's now been formally endorsed by me in a decision which will probably be available to you later on today, if you haven't already got it.

The progression as has been pointed out by Mr Hill and yourself is based on the accumulation of points. Really there is no differentiation between the points there and simply if you go from - to be allocated grade 1 you have to have at least 20 points and so on and so forth. Now a non tradesperson coming in presumably will get allocated 20 points otherwise they probably won't be employed.

MR ABEY: Well a non tradesperson coming in will be allocated nil.

COMMISSIONER GOZZI: Well to qualify they've got to be paid something so presumably they're going to be paid grade 1. So you're going to have to deem it, aren't you?

MR ABEY: There's an entry pay rate.

COMMISSIONER GOZZI: Oh, sorry. Where's the entry pay rate again?

MR ABEY: \$23,200, grade 1. It's essentially the second level. Page 10 of the green document.

COMMISSIONER GOZZI: Oh, yes, right. I overlooked that. Okay, so there is a capacity to hire somebody without those skills and they acquire those skills.

MR ABEY: Yes.

COMMISSIONER GOZZI: Okay, fine. So they come in with zero presumably.

MR ABEY: Yes.

COMMISSIONER GOZZI: Let's take that example. They acquire points, they go all the way through, they get to grade 3, promoted to grade 3 and that means they have had - they've got to have 50 points, 45 from the core skills.

MR ABEY: That's correct.

COMMISSIONER GOZZI: Why wouldn't the tradesperson have any points at that stage?

MR ABEY: Well, as I say, you could revamp it so that you could give a tradesperson, say, 45 points, if you want to. But to make the whole thing work you would then have to adjust downwards probably the post-trade areas.

COMMISSIONER GOZZI: See on the face of it, on the face of it it seems to me that the tradesperson has to go from zero to 70 compared to an additional 20 points that the non tradesperson has to get.

MR ABEY: That's correct and that's why I was saying the two aren't comparable. The people who devised this will argue that those 20 points that the non tradesman has to get to go from three to four is -

COMMISSIONER GOZZI: Equal in effort. You're saying the 70 -

MR ABEY: - equal in effort to the tradesman to go from nought to seven because if you look at the nature of the type of modules which a tradesman will gather reasonably quickly in his formative years with TEMCO. And the statistics are there for the asking or there for the identification so far as the existing

COMMISSIONER GOZZI: Well see, that's where I have the problem. That's where I have the problem because the operating stream that you referred me to - is it the operating stream?

MR ABEY: Yes.

COMMISSIONER GOZZI: Which is the non tradesperson's one?

MR ABEY: It's page 48.

COMMISSIONER GOZZI: Yes, that's the operating one. Yes, okay. So you're saying that the operating core skills acquisition, i.e. the demonstration of 10 points takes that 900 hours practical and 32 theory compared to the mechanical module which, in my arithmetic, is 320 hours if everything was ideal which attracts 145 points.

Again, I want to get away from those - the only reason for the example is that I'm trying to show that the operating turbine 1 is far more difficult to get 10 points there than it is for a tradesman to get 10 points if some other module in the formative stages of the trades career path.

If it may assist the commission, I think it might be an advantage if Peter Harris from the company just explained how these were derived because I -

COMMISSIONER GOZZI: Oh, look, no, I accept what you say there. I'm quite happy with that.

MR ABEY: Okay.

COMMISSIONER GOZZI: I'm trying to come to grips with the notion of equal value in broad terms as you've described it when in some cases there seems to be quite a disparity. I mean, you're suggesting to me equal value is represented by a tradesperson having to acquire 70 points at Grade 3 to go to Grade 4, compared to 20 points for a non-tradesperson.

MR ABEY: Well, as I say, I wrestled with that this morning, Mr Commissioner, and it took me some little time to come to grips with it, but the numbers really speak for themselves. There is one FIMEE employee at Grade 5 and there are no trade employees less than six, and in - the shortest term employee has accumulated 227 points in 20 months.

COMMISSIONER GOZZI: All right. Thanks, Mr Abey. Mr Hill?

MR HILL: Thank you, sir. In my opinion, Mr Abey's attempt to defend the document is pathetic. The - and I don't mean that too ungenerously, sir. I realise that Mr Abey has to be briefed on the position, but - and hasn't been involved to the lead-up discussions which were held over a period of 6 months as you would be well aware, sir.

I do want to correct the initial comment made by Mr Abey where he said that the metal workers - quite properly pointed out, the metal workers didn't participate in the working party, but he said that we reserved our right to make comment on the final results. It was a little bit more than that - much more than that. There was an undertaking that the result of the working party would be a negotiable result and it seems now that the company - through Mr Abey - want to rely upon some sort of argument, and I found some difficulty in following the argument, but wanting to rely on some sort of an argument that the - which the points.

Now, there's been absolutely no attempt by anybody to my knowledge to tackle that question. The question - or the proposal that there were streams existing in their imagination. It was the company who insisted that we have a single career structure, and it was the company's idea that that career structure or movement along that career structure would be dependent upon the acquisition of points.

I haven't heard anybody, sir, in these proceedings or proceedings before jump and try to argue that this is a

perfect document. We've accepted its imperfections. We've not attempted to evaluate the one lot of points against another lot for the various sections of the work force, but if the company want to indulge in that sort of thing at this late stage - we've been prepared to accept the warts that are hanging off this thing - but if the company want to indulge in that practice now and try to back pedal and do that equation, then we'd be quite prepared now to participate in it.

But if Mr Abey and the company rely upon that equation, I just point out that an apprentice, for example, who serves a 4-year apprenticeship which I assume is that equal to the entry to Grade 3, is required to attend approximately 1,000 hours for 3 years at TAFE and during the 4-year period of his apprenticeship which is a complete training period, it approximates somewhere in the order of 8,000 hours. Now, my argument, sir, is that they've performed through that process sufficient enough - well enough to be allocated the 45 points for skills on entry. And I don't think Mr Abey's advanced any argument to counter that argument, sir.

COMMISSIONER GOZZI: Well he's put the proposition, of course, that that is recognised - the apprenticeship training is recognised at the entry point for a tradesperson.

MR HILL: It's recognised by way of a payment that was made, but in terms of the whole of the career structure, as I've said before, it's predicated on the acquisition of points for skills. Nobody's attempted yet to differentiate between the points, and my argument simply rests on the fact that a tradesperson enters the career structure at level 3 and ought to be given a credit for 45, which incidentally are covered in the - is the exact amount of points that are allocated in the latest TEMCO.11 document. For example, in 1.3.5 and 1.3.6 and 1.3.7, in the core skills area of the mechanical maintenance career path, those TAFE courses would be acquired by an apprentice who successfully completed a course in a structural trade, and likewise, 1.2.1, 1.2.2, and 1.2.3, - I'm sorry, 1.2.2, 1.2.3, and 1.2.4 were TAFE courses which would be acquired by an apprentice who completed his apprenticeship and it's more than coincidence that each of those training courses are allocated 15 points which is the necessary number to be regarded as having acquired level - Grade 3 in their career structure, so maybe there might be some science associated with it, otherwise it's been a real lucky guess.

The other aspect of - I wanted to make some comment at this stage, sir -

COMMISSIONER GOZZI: Of course, that has now been varied with that additional on the bottom

MR HILL: Well they realised the mistake in the first place and now they're attempting to deny a person claiming those - competency in those areas, sir. That's the reason that the asterisks have been added to it and the comments at the bottom.

The other points raised now by Mr Abey. It seems as though the company has now made a bit of an error in the - in including the basic supervision. I'm assuming that they are proposing to delete it.

Now, the other changes that they've attempted to ring in in the - in TEMCO.11 or TEMCO.2 document I'm not sure - is in respect to enabling skills in 2.4. In the original document, sir, they had MIMS 1 and 2 with an allocation of two points and MIMS 3 and 4 with an allocation of two points. Now they are proposing just to have MIMS with an allocation of two points. So, I mean, we could demonstrate and did demonstrate to the company after they checked their records that we had persons already qualified under the original proposals and would have attracted four points in the skills. Well, Mr Abey's comments have just written two of them off like that, and also they've got to - because they think they've got it wrong, they propose to change the basic - remove the basic supervision provision out. Mr Abey also omitted to mention that -

COMMISSIONER GOZZI: Well that's going to stay there the provision. It's just that module's not - the basic computer skills that come out. It's just that there is

MR HILL: Well I wasn't quite sure what Mr Abey was saying.

COMMISSIONER GOZZI: Yes. No, that -

MR HILL: It seems that if it's going to be there in a skeleton, it won't be useful to anybody.

COMMISSIONER GOZZI: Not for a while.

MR HILL: Yes, or if ever. The other area where Mr Abey omitted to mention that there was any change is in respect to the DLI rigging. In the original document they put up it was 1.2.6 and 1.2.7, DLI rigging and basic rigging. They both carried 10 points. Well, Mr Abey omitted to mention that in this one - the new one - 1.19, DLI rigging is going to carry 10 points, but they ripped another five points off because they've changed basic rigging down - 1.20 in the new one - down to five points. There's all these sort of little funny games. It's pretty hard to keep up with them, and I don't know now whether or not Mr Abey's comment is still accurate that we have now got - still got access to level 9. It was touch and go in the first place, but - I mean, it's pretty hard to follow that act, sir.

MR ABEY: Well that last point was the MEWU request. You spoke to the anomaly on it. I mean, that's how - I didn't pull it out - I mean, what about the rigging?

MR HILL: We never sought to change the rigging at all. We just pointed out to them during the conferences that they got it wrong, in our opinion.

MR ABEY: Well -

COMMISSIONER GOZZI: All right. Does anybody else want to make any comment at this stage?

MR BECKER: Yes.

COMMISSIONER GOZZI: Mr Becker?

MR BECKER: Yes, sir. I've sat here and -

COMMISSIONER GOZZI: You're in reply, Mr Becker.

MR BECKER: I've sat here and listened to this basic debate, I think you could call it, and one could say 'I told you so'. If the company, or anybody else, is going to open up the argument of degrees of difficulty to obtain certain skills through certain TAFE courses, then we're going to buy back into the argument. Thank you, sir.

COMMISSIONER GOZZI: Yes. All right. I'm not sure that's what's being said. I think the indications were simply that there was an attempt made in these varying streams - modules to try and equate the effort. I mean, I'm very reluctant, quite honestly, to open up the discussion any wider than what it already has been opened because I can see the whole thing being unravelled and finishing up in a heap. I prefer to consider the submissions that have been put and come with an arbitrated decision.

If there are no further comments at this stage, subject to what anybody else might want to raise in respect of any discussions that you might want to have, it's my intention to adjourn. Have you had the opportunity to consult on the outstanding issues? You did raise, Mr Hill, the desire to raise a number of issues with some delegates.

MR HILL: Yes, sir, I had those discussions with our shop steward in the recess period, but the only point which arose from those was the way the company now proposed to deal with the MIMS training. The reality of life is that we had some members who had acquired four points and now with the stroke of the pen under this new regime they've got two points.

COMMISSIONER GOZZI: Well, in all the circumstances, it's my intention to adjourn these proceedings, sine die, and - no, not adjourn sine die - I intend to conclude the proceedings and issue a decision in due course.

HEARING CONCLUDED