

HEARING COMMENCED 10.33am

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

MR I. PATERSON: If the commission pleases, I appear on behalf of the applicant, the Australian Municipal, Administrative, Clerical and Services Union.

COMMISSIONER: Thank you.

MR A. FLOOD: Thank you, commissioner, ANDREW FLOOD, from the Tasmanian Chamber of Commerce and Industry and I also appear on behalf of The Hop Producers' Association of Tasmania.

COMMISSIONER: Thank you. Have we had some pre-hearing discussions in relation to this matter?

MR PATERSON: If the commission pleases, when these matters were brought on before the president for consideration in terms of how they would be dealt with, some very general discussions took place with the Chamber of Commerce and Industry.

When they were referred to individual commissioners - I think I've probably discussed with yourself, I hope I did, and with the other commissioners dealing with this, that at this stage of the proceedings there haven't been extensive discussions, very preliminary discussions only, and in effect this is a reporting rather than a determinative hearing that we would be seeking to have today.

I've had some very preliminary discussions with Mr Flood, both over the phone and just this morning. Obviously, the award is lagging in a number of respects. I noticed when I pulled the file out, it hasn't in fact been consolidated for six years.

COMMISSIONER: Has it been restructured?

MR PATERSON: No. I haven't had a lot of contact with our members in this area and I'm not aware of any previous attempts to restructure the award, but having assumed responsibility for our union's state awards, I've identified, I think, some 15 awards with clerical classifications that have not been through MRA processes and restructuring, for various reasons. Some of them because of complexities in the industry, some of them, I suspect, because of no imperative from the workplace pushing the unions to make them a priority, and I suspect in some cases and this may be one of them, because of the cast of thousands that are potentially involved making it difficult to do the total award restructuring exercise.

What our application seeks to do is to restructure the clerical classifications only.

COMMISSIONER: I have to say, that worries me, because the wage fixing principles talk about award restructuring and not division restructuring. We've been caught up with division restructuring on one other occasion and it's caused quite a mess. I refer to the Shearers and Wool Classers and they've ended up with the safety net adjustment being different dates and different times for divisions within awards.

Now, I really think, out of the award restructuring process, it is award restructuring and not division restructuring and I'm a bit reluctant to get into division restructuring because this is an award that needs a fair amount of work on it, I would say.

MR PATERSON: In respect of that, commissioner, I did anticipate that that would in fact be your position. In part my response would be, that the appearances today indicate one of the problems in this exercise and I did discuss that issue with Mr Flood on the basis of being prepared to look at that but in a sense, not being prepared to have our members held back, if you like, where their work under this award, as far as I'm aware, has no real difference in terms of the value of the work from any of the other clerical classifications in other awards and the work that people do.

I would be prepared to endeavour to do something like that but in the event that it wasn't successful, I would be asking that the - and I guess it may well end up being subject to consent.

COMMISSIONER: I'm still going to be reluctant if it's by consent because it's award restructuring. The other thing too is that you've got an interest in this award. You haven't got an interest in a division of this award. You have an interest and you can vary, amend, any area of the award that you see fit. You're not restricted to a division.

MR PATERSON: I appreciate that but, obviously, the inter union relationships will obviously come into that. I have had discussions with -

COMMISSIONER: If they're not going to do anything in the award area, the day of reckoning is going to come where you're going to be wanting to do something for the people whom you represent and the Act doesn't restrict you to a division within the award.

MR PATERSON: I have had also, in the context of the - I note the Australian Workers' Union is not one of the parties to the award - through FIME they would be, yes.

I have had some discussions with Robert Flanagan from the Australian Workers' Union in respect of the applications that we have put in that they also have an interest in. Most of those are, I believe, with either Commissioner Watling or the president. I expect that I'm guided by - we'll address those issues in discussions between my union and the Chamber of Commerce and Industry.

5 COMMISSIONER: Yes. The TCCI as an organisation with an interest in the award, may well have a view on the other sections as well. It may not be just - you might have a strong view on your section but they may have a view on all the other sections, so if people don't want to participate, well maybe there's only one view coming through and that's from the employer on the other divisions. I don't know, but it is award restructuring.

10 MR PATERSON: What I haven't done in the context of the broader award restructuring issues, is look at what differences there are in terms of conditions of employment between divisions and to what extent the process of award review and reformatting might also be accompanied with this exercise. I just haven't ventured into that area yet.

15 I must say also, that of the six applications that I put in, I anticipated this probably being, on account of the reasons that you've put forward, one of the more protracted exercises of the six applications that we've lodged.

COMMISSIONER: There might be an argument to say that there should be just one scale for wage rates and no division.

20 MR PATERSON: Clearly, the restructuring of awards in terms of classifications and rates has produced two models, one of a single industry generic classification and another of retaining, as this application would seek to do - retaining a generic clerical classification alongside other production or service oriented classifications. For instance, one of the other applications which is not before yourself concerns Aerated Waters where in fact it appears to me the production classifications have been restructured and the clerical ones haven't, so that's a different argument altogether in that sense.

30 For the reasons of nothing being done to this award, all those issues resurface that you've mentioned, obviously.

COMMISSIONER: I don't say it's easy. I recognise it's pretty hard. If you want to get up and move and go but that doesn't mean that the employer doesn't have a view either on the other divisions. I'm sure there'll be participation then.

35 MR PATERSON: This is, I think, probably an incredibly diverse award in terms of its coverage. It also does have some - the industry does have some intersection with at least one federal award, Finance Sector Union Award. It's a little bit unclear to me exactly where the intersections are. I think it's been renamed since this time.

40 COMMISSIONER: The Finance Sector Union?

MR PATERSON: Yes, sir. At the time it was a Clerical and Salaried Staff Wool Industry Award, which in Tasmania the respondents were

5 Roberts and Websters. That award excluded from its coverage the Tasmanian Produce Award except employees in livestock divisions. So, the livestock divisions of those businesses are picked up in that federal award. Some of the other business of those companies is picked up in the Real Estate Agents Award but the breadth of the coverage of this award in terms of the activities of the employer, is quite extensive and I still must say, I don't know what artificial manure is.

COMMISSIONER: No. It seems like a load of bull, doesn't it.

MR PATERSON: Rocking horse.

10 COMMISSIONER: Yes. That could be artificial. That's another area - the scope of this award that really needs to be fixed up and also, I think, it's got a reference to a federal award as well, hasn't it? No, I think it's another award I've got in mind. Have you got a view on this, Mr Flood?

15 MR FLOOD: Yes, commissioner. I also anticipated your comments in relation to a classification restructure across the whole award rather than just the clerical division. Of course I don't share Mr Paterson's need to have the clerical provisions done as quickly as possible. We obviously don't care about any delays too much, however, having said
20 that, I do feel some sympathies towards the ASU and I'm certainly not going to try and put hurdles in their way to get the clerical classifications restructured.

Mr Strickland of the NUW has threatened, on two occasions, to provide me with a proposal for restructuring of classifications for his members.
25 That was in the last month or so. I've received nothing from Mr Strickland. I, like Mr Paterson, expected several more unions to attend today to try and join in the application.

Our position, commissioner, would be that we certainly would have a preference to have the divisions done away with, if that's the correct
30 phrase.

COMMISSIONER: Right. Now, I've given out a disk of the consolidated award during the award restructuring conference which was on 30 March 1998 and people were going to do their job within six weeks on that occasion. That's what I was told.

35 MR PATERSON: Who took that disk? Did I take that one?

COMMISSIONER: The disk was given to - the AWU have the disk. That's the consolidated version. Have you got a copy of it?

MR PATERSON: No.

40 MR FLOOD: Not if it's gone to the AWU, no. As to where we go from here, commissioner, I guess to some extent, I'm in your hands.

5 COMMISSIONER: I would really like the new formatting, the new award, the whole lot to be hit at one time. I know that's a huge job but I think the parties have to work out first up whether they're going to have one integrated system of award wage rates and then have classification and level definitions for each of them or whether they're going to stick with the divisions. That's the first thing that has to be decided.

It's a bit like the Metals, where we integrated everything in eleven levels, or whatever it was.

10 Maybe we'll go off the record and talk about it.

OFF RECORD 10.45am

ON RECORD 10.52am

15 COMMISSIONER: Let the record show, we've had a conference in relation to this matter and the commission is going to adjourn this matter *sine die*, however, it's been agreed that the commission will reconvene the conference held on 30 March 1998 - that's the award redrafting conference - to consider progress in relation to the redrafting and reformatting of that award along with giving consideration to the progress being made on award restructuring in accordance with the wage fixing principles.

20 Are the parties happy that we adjourn *sine die*?

MR FLOOD: Yes, thank you, commissioner.

MR PATERSON: Yes, commissioner.

25 COMMISSIONER: Everyone is nodding. This matter is adjourned *sine die*.

HEARING ADJOURNED SINE DIE 10.54am