

HEARING RECOMMENCED 2.15pm

COMMISSIONER: No alteration to appearances.

MR FLOOD: I think there are some alterations, commissioner.

COMMISSIONER: Yes. I think we'll go again then.

5 **MR I. PATERSON:** If the commission pleases, IAN PATERSON, appearing for the Australian Municipal, Administrative, Clerical and Services Union.

COMMISSIONER: Good, thank you.

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

MR J. LONG: If the commission pleases, JEFF LONG, and I appear on behalf of the CFMEU Tasmanian Branch.

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

COMMISSIONER: Good. Thank you. Mr Paterson, do you wish to report on progress in relation to this matter?

20 MR PATERSON: Thank you, commissioner. This matter has been the subject of considerable exchange of correspondence between the parties. The Chamber of Commerce and Industry has, through the work of Mr Flood, produced some extensive documentation on how they see the proposal for this matter. It effectively applies the model developed in the Automotive Industries Award to the Produce Award. It produces a broadbanding, I think, into a total of eight levels.

25 My union has indicated to Mr Flood that, in-principle, subject to other unions and further negotiations and discussions, that we give in-principle support to that position. Subsequently, in early August, Mr Flood also provided some documentation on the proposed junior rates of pay. Again, it was my understanding that this also follows the model applied in the case of the Automotive Industries Award.

30 To date, I'm not aware of the response of the other unions party to this award and whilst I do see certainly some differences to other models of this process, in the interest of getting this matter moving and also on my understanding of the nature of the workforce, we're prepared to go with the proposals put forward by Mr Flood.

I think at this stage I would see these proceedings going by way of the other union parties indicating their position on the matters as developed by Mr Flood and then I think probably producing a time

frame for preparation of draft orders and confirmation of an MRA timetable, subject to there not being any major differences over the end result.

5 I'm not sure whether we have all parties to this award present here at the moment.

COMMISSIONER: Well, we might go without some of them.

MR PATERSON: I'll have to check that. If the commission pleases.

COMMISSIONER: Mr Flanagan, what's your position in relation to this matter?

10 MR FLANAGAN: Thank you commissioner. Commissioner, the proposal put to the parties by the TCCI is a fairly extensive proposal. In principle it appears to be something which, as a concept, we could endorse. In terms of some of the details as it relates to our interest in this award, we would simply like an opportunity that if we haven't
15 contacted the TCCI within seven days of today's date, then that can be taken as our support for the proposal.

COMMISSIONER: Mm. Why haven't we done it today?

MR FLANAGAN: They're on leave, commissioner. They return today, so that's affected the response of the union to TCCI.

20 COMMISSIONER: All right. Mr Long, what's your position?

MR LONG: If the commission pleases, sir, I myself, personally, have had nothing to do with this award since I've been with the CFMEU. The TCCI tell me this morning they have had some discussions with our State Secretary, Tony Benson. I was unable to contact Tony nor
25 the file, so I'm not quite sure where it's at but our union will certainly be involving ourselves in the process from here on in.

COMMISSIONER: Well, the process should have been nearly finished by now. How did you get instructions to come along here today, if you've had nothing to do with it?

30 MR LONG: Our union has but I myself, personally.

COMMISSIONER: Right. But don't you come along with instructions from your union?

MR LONG: Unfortunately, I wasn't aware that the hearing was on today and I was unable to contact Mr Benson.

35 COMMISSIONER: Mr Flood, have you any view?

MR FLOOD: Yes, commissioner. The proposal that I put to the AWU and the ASU and the CFMEU and I provided a copy to you on 2

December last year - that seems a long time ago, doesn't it, 2
December last year. I haven't received, apart from Mr Paterson - I
haven't received any confirmation that that proposal would be
accepted.

5 I did receive a telephone call from Tony Benson of the CFMEU about
two or three weeks ago and Mr Benson approved some subsequent
junior rates of pay that I had proposed. He made no comment as to the
full proposal but, commissioner, given that some of the union parties
aren't quite up to speed with where this matter is, perhaps Mr
10 Flanagan's suggestion, that they be given seven days to respond -
perhaps if they can be given seven days one way or the other, whether
or not they agree or not and I think if there is agreement by the union
parties present today, I think we're in a position then when I can draw
up some draft orders for you.

15 COMMISSIONER: Right. Mr Flanagan?

MR FLANAGAN: It's really just for the assistance of the commission.
There are three unions which are not present today which are party to
the award.

COMMISSIONER: That's not my problem and I told them to confer
20 before and I got a bit terse last time because people weren't taking this
seriously. They're not here at their own peril from here on in. If the
bulk of the unions come along and tell me they agree, then I'll place
significant weight on that, so long as they've got an agreement with the
employer.

25 If people don't want to front up, I just have to say, tough. It's been the
sorry saga with this award, no one's treated it seriously. In fact, a few
other awards of the commission are in the same boat. So, if they don't
turn up, so be it. I'm not going to be too fussed about it. They've been
given an opportunity by me. If they want to throw that opportunity
30 out, well, they can do it. I'm not going to lose any sleep over it but if
the people who want to push it come along and get an agreement with
the employer on it, well, I'm going to place some weight on that
agreement especially after our little discussion last time.

MR PATERSON: That last time was in relation to a different matter, I
35 believe, the Butter and Cheesemakers Award. Is that the one you're
referring to?

COMMISSIONER: Yes.

MR FLANAGAN: Your observations were effective though,
commissioner.

40 COMMISSIONER: Yes. That's the thing with this award
restructuring, it's in the hands of the unions and if some people are

pushing it and others are going to move, others don't want to attend, so in relation to this matter, I'm going to grant the adjournment.

5 I would strongly recommend that all parties to this award from the employee side notify Mr Flood of the TCCI within seven days as to their agreement or otherwise to the draft or an outline of the restructured award put to them by the TCCI.

10 The commission then would expect that I get some report back. I don't know whether the parties want to consider today a report-back date and that report-back date, depending on what you decide, may well become a hearing day as well to implement something that you've agreed.

15 MR FLOOD: Commissioner, being the one that's doing all the travelling, I'd certainly support that, that if we're going to have a report back, I would hope that we could report to you that we're agreed on the whole shooting match.

COMMISSIONER: Yes. There's no doubt that we're not looking at division restructuring. We're certainly looking at award restructuring, so I think the TCCI document does seek to come to grips with that aspect of it.

20 Given those comments, have the parties got any other comments that they wish to put forward in relation to report backs or dates, times?

MR FLANAGAN: Commissioner, I have noted that we have the Butter and Cheese matter before you on Wednesday 13 October. That may be a convenient opportunity for the commission to have it relisted.

25 COMMISSIONER: Right. It could mean then that we might be dealing with the document, if we get some agreement?

30 MR FLOOD: That's right, commissioner. Seven days will take us up to 11 October. I'll use the interim period to do some draft orders because, as I understand, there's probably not going to be much dissent amongst what we've already proposed and if no one's disagreeing to that proposal by 11 October, I will then send out some draft orders to the parties.

COMMISSIONER: Those draft orders will have to be in the form of the new restructured award arrangements.

35 MR FLOOD: I don't follow you, commissioner.

COMMISSIONER: You know how we have the new formatting, where the commission has approved the new formatting. It'll have to be in accordance with the new formatting.

MR FLOOD: In the hearings in relation to the new formatting of the awards, various awards were allocated to various parties, as I understand, for that process to be undertaken. Do you know off-hand, who had this award?

5 MR FLANAGAN: I do. We have the award and we have started work on that and a number of other awards, which were forwarded to the TCCI over 12 months ago. The Produce Award, because of its internal structuring, has been an extremely difficult exercise. We're about three quarters of the way through that, but given the lack of response from
10 the TCCI in relation to the other 14 or 15 that were forwarded to them, I'm not sure that a completed draft was ever put to them. I can inquire about that when I go back to our office.

We can certainly forward to the TCCI the result of the work as it is at the moment, which would take them a significant way through the
15 process, although perhaps not totally.

COMMISSIONER: I have to say, I don't anticipate going through this exercise and then going through another exercise to put it in the appropriate award format. The decision's been made in relation to award formatting. I expect that's the way I'll receive it.

20 MR FLOOD: Yes. I can certainly understand that, commissioner. The only concern I have is with the relatively short period of time between now and the 13th to get that done.

COMMISSIONER: Do the parties want to think about their timetable?

25 MR FLOOD: Perhaps, is it possible, commissioner, for us to make a tentative date for the 13th, would that be convenient for your self?

COMMISSIONER: Right. So, what you're saying then is - well, I'd have to say that -

MR FLOOD: I'm just a bit concerned, that I've no idea what the
30 progress has been made on the reformatting of the award.

COMMISSIONER: Are you suggesting that the parties notify me at some later date as to whether or not they want the 13th?

MR FLOOD: Perhaps.

35 MR PATERSON: If I may, the alternative would be to use the 13th as a report back on the MRA and classification matters and a status report on the award reformatting. I think if the award reformatting into the commission's new format - well, it's two years old now, I suppose, is to take place then we're probably not as close on that as we are on the classifications and relativities.

COMMISSIONER: Is that such a large job though? Isn't it a matter of cutting and pasting.

MR FLANAGAN: It's very difficult with this particular award.

MR PATERSON: I presume, just looking at it, there may well be
5 significant differences between divisions on some entitlements. If the
exercise doesn't involve changing any entitlements and merely does
involve a reordering of them, then it may well be a relatively
straightforward process. To the extent that it was to involve any
10 standardisation that's not in the award, then it could become a more
protracted exercise, that would be for sure, but if the parties go away
from these proceedings here today in line with the principles for the
award and reformatting of deleting the obsolete, the discriminatory
and otherwise just the reordering of the content, then it may not be as
15 laborious an exercise apart from the fact that the cut and paste involve
a cut and paste across four or five divisions rather than just reordering
from a single stream.

COMMISSIONER: Very good. Well, we'll adjourn and leave 13
October in the list, 2.15, at which time I'll receive another report back
in relation to all the matters raised today.

MR FLOOD: Commissioner, just before we do adjourn, there is one
20 other matter that I would like to raise while I'm with the union parties
at the moment and that is, that in the proposal that I've put to them
and in the draft orders, we'll include a comparative schedule of old
classifications to new broadbanded wage group levels.

25 Commissioner, I have a personal view that that schedule should only
remain in the award for a limited time. I've seen in other awards where
they've been put in and left in for ever and a day and, commissioner,
it's my experience that people rely too much on the schedule rather
than the new classifications themselves, the classification definitions.

30 I think they are an aid to help people in the changeover and given that,
we should perhaps put a time limit of 12 months perhaps on that
staying in the award.

COMMISSIONER: Well, isn't that in your hands really, because how
does the commission alter or vary an award without an application?

35 MR FLOOD: Well, I think, commissioner, what I'd just like to seek is,
if I can get it today, some agreement from the unions present that that
will be acceptable to them.

COMMISSIONER: Yes. So, you're saying the translation provision
will only remain in the award for a period of 12 months, at the
40 conclusion of which you're going to make an application to remove it?

MR FLOOD: Well, I think, commissioner, if it's possible, I'd like it to be removed automatically.

COMMISSIONER: It can't be.

MR FLOOD: Okay.

5 COMMISSIONER: I'm more than happy to vary awards off my own motion if the parties like to have the Act changed so I can do that.

MR FLOOD: Is it possible, commissioner, that we can say in an award that these will only have effect for 12 months?

COMMISSIONER: Yes, but it doesn't mean that I can -

10 MR FLOOD: Automatically remove them.

COMMISSIONER: I've got to have an application so I can issue an order, so as I can take something out.

MR FLOOD: I understand.

COMMISSIONER: We just can't do things off our own motion.

15 MR PATERSON: If the commission pleases, given that an application is required for each of the four MRAs, I would think that it would be quite practicable to reach an agreement in-principle on transcript in the same way that we reach agreement about an MRA schedule, an agreement that along with the fourth MRA, that a translation schedule
20 can be deleted. The application's going to have to be there in any event. It's just a different sort of application, one that's solely MRA.

COMMISSIONER: So, it'd be an application then to insert the final MRA and delete clause so and so or appendix so and so?

25 MR PATERSON: I'd have no problem in principle with that and I think the MRA process at its conclusion should have given, by its nature, should have engaged in - been the incentive for everybody to engage in the process by which time if you're up to your fourth minimum rates adjustment, you should know where you sit in the new banding.

30 COMMISSIONER: Yes. Is that an acceptable arrangement, Mr Flood?

MR FLOOD: I think that's eminently suitable, commissioner, yes

COMMISSIONER: Great. Well, I'll adjourn. Thank you.

HEARING ADJOURNED 2.35pm