

HEARING RECOMMENCED 2.35pm

COMMISSIONER: Appearances please.

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

5 COMMISSIONER: Good. Thank you.

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

COMMISSIONER: Good.

10 **MR D. STRICKLAND:** If it please the commission, STRICKLAND, D., for the National Union of Workers, Tasmanian Branch.

MR B. WHITE: If it pleases the commission, BILL WHITE, for the Construction, Forestry, Mining and Engineering Union, Tasmanian Branch.

15 COMMISSIONER: Thank you, Mr White.

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: Good. Who shall I turn to? Mr Flanagan?

20 MR FLANAGAN: Thank you, commissioner. Commissioner, on the last occasion that this matter was before you, the TCCI referred the commission to a proposal which you had forwarded to the parties in December of 1998. On that occasion the AWU indicated that we
25 wished to review some of the detail of that and advise the TCCI within seven days of whether or not there were any alterations which the union was seeking.

We subsequently informed the TCCI of our consent to both the model and detail as proposed in their documentation on 2 December 1998.

30 We also provided to the TCCI, as we indicated we would, a reformatted - or a draft reformatted award of the Produce Award. I understand from discussions with the TCCI that their view is that that documentation is fairly close to the mark; that we've done the hard yards, if you like, in terms of preparing the document.

35 We also provided the table which indicates, although it may not necessarily be in the form required by the commission indicating from where the clauses as they presently appear have come from. So in terms of where we're at from an AWU perspective, if the TCCI was able to incorporate the proposed new arrangement as indicated in

December into the reformatted award and was able to provide some translation documentations from the existing structure to the new structure, although that is essentially wrapped up in their proposal, then we should be able to move forward with this matter with reasonable expedition. If it pleases the commission.

COMMISSIONER: Right. Have you any view on when we come back together again?

MR FLANAGAN: I wouldn't see that there'd be any need for anything in excess of a fortnight, commissioner, save and except for those comments which I previously made in relation to the parental leave and any other matters of general application which would need to be addressed.

COMMISSIONER: Good. Thank you. Mr Paterson?

MR PATERSON: I was of the understanding, from talking to Mr Flood and to Mr Flanagan, that the reformatting was going to be a larger exercise than that. If most of the work has been done, I'm certainly glad to hear that. I don't know - well, I certainly haven't brought a copy of it with me and I'd be guided by the other parties on that. If that is in fact the case then my suggestion that we move into conference today in order to discuss any matters related to it probably is not required, and if that is in fact the case that the reformatting and the issue was really that this is one of the more complex awards in terms of divisions and different provisions and conditions for different divisions, and that was what I was anticipating, may have given rise to some further delays and I'm glad to hear that that's not the view of the AWU and I'm happy with that proposal.

COMMISSIONER: Mr Strickland.

MR STRICKLAND: Yes, commissioner, well I'm not sure what the NUW's position is because we haven't seen the proposal of December 1998. I understand that it was only distributed to the parties that were present at that hearing. Those that weren't were excluded from the process, so we reserve the right to examine the document and make any comment after we have been afforded the opportunity of having a look at them. If the commission pleases.

COMMISSIONER: Well, you've bounced the ball. Right, Mr White, have you view?

MR WHITE: If it please the commission, no, I've nothing further to add. I've just been thrown into this -

COMMISSIONER: Right.

MR WHITE: - owing to an absence.

COMMISSIONER: You're on a bit of sick leave. How are you going now?

MR WHITE: All right.

COMMISSIONER: Are you?

5 MR WHITE: Yes. Back for a couple of weeks - a couple more weeks - probably three weeks.

COMMISSIONER: Right. Very good. Now, Mr Flood.

MR FLOOD: Yes, thank you, commissioner, I thought I knew where I was headed with this one until Mr Strickland turned up today.

10 COMMISSIONER: He has a tendency to do that.

MR FLOOD: I guess it is his right to say that he wishes to have a look at our proposal of December of last year and I will undertake today to provide him with a copy of that as soon as I can.

15 But that aside, Mr Flanagan, is correct when he says that his union has prepared a draft of the reformatted award. He's also correct when he says that I believe that it's a fairly comprehensive draft. There are some things that are missing like making it gender neutral and so on, but that's not very much work involved in that. But I don't agree with Mr Paterson in relation to the draft being virtually complete so far as
20 the different divisions of the produce award as it currently exists are.

The draft provided by the AWU in relation to some clauses splits those clauses up into, in effect, the old divisions. We've got different provisions for storemen to clerks to auctioneers and so on within the one clause.

25 I think there's probably some room for movement speaking certainly to the AWU and the ASU for some agreement by all parties to try and remove those different conditions. That would certainly be my preference as much as we can to have the same -

COMMISSIONER: I'd certainly be looking to that.

30 MR FLOOD: Yes. Okay. Well, I'm pleased to hear that. I think probably if we proceed into conference now we might be able to knock a few of those over this afternoon.

COMMISSIONER: Right. So do you think in a few weeks we might be able to come back with a finalised document? Are we that far along the
35 line?

MR FLOOD: I think we should be fairly close, commissioner. I think if we go into conference now there will be some matters that we'll either agree to to combine the different provisions or we won't, and if

we won't I think we can probably leave the draft as it is but I think we should be able to get something done within a matter of weeks although, as Mr Flanagan suggested, perhaps the things like the parental leave, which I'm unaware of the stages of that, that might
5 slow things up for us.

COMMISSIONER: Well, there is a clause available now, isn't there -

MR FLOOD: Yes, there is.

COMMISSIONER: - arising out of the first reformatting conference.

MR FLOOD: Yes.

10 COMMISSIONER: And in fact I've inserted it in a couple of awards that have been restructured. We haven't got the latest one though.

MR PATERSON: Parental leave?

COMMISSIONER: Parental leave, yes. It came out of the full bench matter as well dealing with the parental leave.

15 MR FLOOD: I have seen that one, commissioner, and it may be that we can agree in the interim that that should go into the award.

COMMISSIONER: Yes. I don't know anything about the conference the president's running, it's in his area, but I have to say that there has been a clause floating around for some time and even out of the
20 original drafting conference. I take it that that's the clause that's being inserted until such time as the revised one, that the drafting conference under the guidance of the president, is examined.

MR PATERSON: Things fall into place. The clause you're talking about is essentially just a renumbering to fit a parts format rather than a listed clause format with no effective changes to the provisions.
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COMMISSIONER: That's right.

MR PATERSON: Yes. No, that's correct, yes.

COMMISSIONER: Right. Well, are you suggesting then I should leave the date open for resumption of this application?

30 MR FLOOD: I'm happy to leave it open, commissioner. I think perhaps though what we could do is proceed to conference this afternoon and advise you or perhaps even go back on the record if you think it's necessary later this afternoon.

COMMISSIONER: I was going to close these proceedings and then go
35 into the restructuring conference.

MR FLOOD: I'm with you. So, yes, we've got the classification restructure and then the award restructure.

5 COMMISSIONER: Yes. Remember when the *State Wage Case* came out a couple of years ago and the commission convened conferences - restructuring conferences of all awards as per the Wage Fixing Principles? I envisage today that we would close off this application and then the parties would enter the award review conference.

MR FLOOD: I'm not sure, commissioner, whether we can close off the first part of it given Mr Strickland's comments can we?

10 COMMISSIONER: Well, I think we're at a stage where Mr Strickland is saying no comment because he doesn't know what it is.

MR FLOOD: Yes.

15 COMMISSIONER: The question for me to determine is when will we come back again and in the meantime it's really up to Mr Strickland to make himself familiar.

MR FLOOD: Yes.

COMMISSIONER: Well, I thought he may have done that with what's going on, even if he talks to his union colleagues.

20 Could I suggest to you that it may be appropriate to come back some time in November to finalise the making of this award - or, not the making of it, but to implement the new structures that you're currently negotiating?

MR FLOOD: What was that, sorry, commissioner?

25 COMMISSIONER: I'm suggesting that maybe we should set another date.

MR FLOOD: Yes.

30 COMMISSIONER: Probably in November and that date will be put aside for the purpose of hearing submissions to amend the award in accordance with the structural efficiency principle and the minimum rates adjustment principle.

MR FLOOD: Commissioner, it would suit me personally if we were to list this on the same day as the previous hearing before you which, I think, was 23 November.

COMMISSIONER: Right. Well, what do the parties feel about that?

35 MR FLANAGAN: Yes, we'd support that, thank you, commissioner.

COMMISSIONER: And there will be no excuses then. There's plenty of time.

Right. This matter stands adjourned.

5 MR FLOOD: Excuse me, commissioner, there's perhaps one thing that I might ask you, seeing that I've had charge of this matter. I just seek some instructions from you as to the other unions that are a party to this award that haven't take part in the proceedings. I'm just concerned that those unions may turn up at the next hearing and we'll be even further off down the track. Should I provide copies of
10 correspondence and so on to those parties?

COMMISSIONER: My strong suggestion would be to do that. History and experience in IR tells me that you never leave any party to the award out. If they get the documentation and then they decide not to do anything with it, well, it's on their head. If you've forwarded copies
15 of proposals to them and they haven't responded or they don't turn up to the hearing, well you have some record that they have been informed and I have to tell you that I'm prepared to certainly take note of that and I won't entertain lightly any argument that says, well, I didn't know about it. However, if they haven't got the documentation
20 there would be grounds for parties to argue that they haven't been kept involved even though they may not wish to attend this hearing.

MR FLOOD: Thank you.

COMMISSIONER: This matter will stand adjourned until 23 November 1999. Thank you.

25 **HEARING ADJOURNED**