

HEARING COMMENCED 10.30am

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

MR T.J. EDWARDS: If it pleases the commission, EDWARDS T.J.,
and appearing with me is **MS V. STEWART** for the Tasmanian
5 Chamber of Commerce and Industry.

COMMISSIONER: Thank you.

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

COMMISSIONER: Good. Thank you. Mr Edwards?

10 MR EDWARDS: Thank you, commissioner. Perhaps a couple of
housekeeping matters first, if I might. As the commission may be aware
this is in fact an application that's been made by Mr Cameron from the
TCCI and I received it late yesterday afternoon. Upon viewing the
application, I've detected a number of minor issues that I'd like to seek
15 to amend our application to redress.

COMMISSIONER: Right.

MR EDWARDS: The first of those, sir, is the title of one of the awards
which we seek to insert which is listed in our proposed Schedule A
attached to our application as the Dairy Industry Award. The correct
20 nomenclature is in fact, I believe, the Dairy Processing Award and I
would like to seek to amend our application in that respect.

COMMISSIONER: It saves me mentioning that one.

MR EDWARDS: Thank you. And I'm sure you've got the other one on
your list as well, commissioner, and perhaps even some that I haven't
25 seen yet, but we have inadvertently omitted the Farming and Fruit
Growing Award and we'd seek to reinsert that into our Schedule A by
way of an amendment to our application and I would formally seek, sir,
to amend our application in that manner if I might.

PRESIDENT: No objection?

30 MR FLANAGAN: Not as such, but unfortunately my Schedule A
already identifies the award as Dairy Processing Award which is of
some concern.

COMMISSIONER: Are you looking at Schedule A?

MR FLANAGAN: Yes, Schedule A to the application which was
35 provided to the union -

COMMISSIONER: Yes.

MR FLANAGAN: - by facsimile from the commission. It already identifies in Schedule A.

COMMISSIONER: That's right, it is. There's a different - an earlier piece of paper, I think you might find, that's floating around.

5 MR EDWARDS: Perhaps, commissioner, if I might ask we go off the record for just a moment.

OFF RECORD 10.33am

ON RECORD 10.34am

MR EDWARDS: Thanks for that brief opportunity, commissioner.

10 COMMISSIONER: Just to put your mind at rest, then the Schedule A that I have with the application, Mr Edwards, does name the Dairy Processing Award as the award.

MR EDWARDS: Thank you, commissioner, that does set my mind at rest in that regard.

15 COMMISSIONER: However, the application in Schedule A does leave off the list the Farming and Fruit Growing Award.

MR EDWARDS: Which I now seek to redress, commissioner, and would formally request that our application be amended by re-including the term Farming and Fruit Growing Award in the appropriate place in the proposed Schedule A.
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COMMISSIONER: Good. Thank you.

MR EDWARDS: Commissioner, this application in essence falls into three different components. The first, I would describe loosely, is the deletion of obsolete references to awards, the second is to insert replacement award titles to overcome the obsolescence, and the third is to insert some new awards into the schedule.
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Dealing firstly with the first of those categories, the awards that fall into that that are currently included within the schedule in the award are the Abattoirs Award, the Meat Industry Award and the Meat Trades Award.
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As the commission as currently constituted is only too well aware, the parties to the Abattoirs and the Meat Trades Awards, some time ago now as part of the restructuring exercise, agreed to create a Meat Industry Award. However, when we tried to make the body of that award it became apparent that we couldn't do that, it was just too big a bite to take and so we changed direction. It was at that point roughly in time when this schedule was created and it picked up the obsolete awards being the Abattoirs and Meat Trades Awards and it also picked
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up the proposed new award which had been made in respect of title and scope at that time of the Meat Industry Award.

5 The reality is, the Meat Industry Award was not as such proceeded with and instead the parties determined to create two different awards, one being the Meat Processing Industry Award, the other being the Meat Retailing Award.

10 Unfortunately administrative oversight and perhaps just a lack of priority has meant that the schedule to this award hasn't been updated to reflect those changes. So therefore, what we propose by our replacement Schedule A is the deletion of Abattoirs, Meat Industry Award and Meat Trades Award and then that probably turns me to the second part of the application which is inserting the two new awards that replaced that conglomerate of awards, that being the Meat Processing Industry Award and the Meat Retailing Award which have
15 been made by the commission as currently constituted.

The third aspect of the application is to incorporate new awards into the schedule. They are the Business Services Award, the Butter and Cheesemakers Award and the Dairy Processing Award.

20 COMMISSIONER: That's already in there though. Oh no, you're seeking to include that, yes.

MR EDWARDS: Yes, that's seeking to be included today, sir. It's in the schedule attached to the application.

COMMISSIONER: In the schedule, yes. No, I'm with you.

25 MR EDWARDS: The Butter and Cheesemakers and Dairy Processing Awards are awards of longstanding of this commission both of which are active in the use of traineeships in industry and as a consequence there is a need for an underpinning award coverage, as the commission as currently constituted is aware, without going too far into the tortuous path of the relationship between the *Vocational, Education and Training Act* and the *Industrial Relations Act* and the Contracts of
30 Training, there is a requirement under the Contract of Training that there be an underpinning award coverage for a trainee. At the moment for trainees in the butter and cheesemakers area and the dairy processing area there is no such coverage.

35 As I say, I don't wish to go too far into that tortuous path as the commission is aware -

COMMISSIONER: But are there traineeships in the three industries that you're requiring to put?

MR EDWARDS: Yes, there are. There are, commissioner.

COMMISSIONER: What sort of traineeships are available in Butter and Cheese and Dairy Processing?

MR EDWARDS: Well, in the butter and cheese area there is the dairy manufacturing industry traineeships. I think that's the correct path, but I can provide those to the commission. Regrettably I didn't bring them with me today.

COMMISSIONER: No, I was just interested to know what -

MR EDWARDS: I can provide you a list. There is a quite comprehensive list of traineeships in that area. They do have their own specific vocational pathways in both those.

COMMISSIONER: In the two awards - Butter and Cheese and Dairy?

MR EDWARDS: In both, and in fact there is a fair crossover in the vocational pathway between the two industry awards. Therefore, there is a need, in our submission, for there to be an underpinning reference in this award to the traineeship area so that the contracts of training have a degree of validity.

The Business Services Award is in a slightly different category inasmuch as it is a new award of this commission which doesn't exist in toto at this point in time. It is a matter of continuing negotiation between the parties. However, there are a number of traineeships that exist in that area, particularly those in the information technology pathway area dealing with call centres and the like.

At the moment they are not appropriately underpinned in our estimation by any existing award. The only award coverage is the Clerical and Administrative (Private Sector) Award and that is at best tenuous for people engaged in call centres.

COMMISSIONER: But doesn't the award - the Business Services Award - direct them off to that award at this time?

MR EDWARDS: What it does do is say if they are currently covered by that award then they remain covered by that award. I don't think it creates award coverage where there isn't any.

COMMISSIONER: I thought it went on to say that until the award is made they -

MR EDWARDS: That it would continue to apply.

COMMISSIONER: - shall observe in its entirety.

MR EDWARDS: It would continue to apply to the extent that it does, I think, commissioner. We may be slightly at cross purposes. But what we'd like to do by this application is to put that issue beyond doubt in terms of award coverage of trainees. The other problem with the

Clerical and Administrative (Private Sector) Employees Award is that whilst it does have a reference to trainees, it is only by way of a reference back to this award.

5 So this really is perhaps completing the loop almost and it may be belts
and braces, but if that's so then I don't think that's a bad thing, it's an
area in which there should be no doubt and at the moment there is
some confusion and as the commission is aware, we are endeavouring
to eliminate all forms of confusion in respect of traineeships or new
apprenticeships, however styled, through a project of the TCCI's
10 undertaking and Vivienne Stewart from our office is undertaking that
project.

We've had a number of negotiations with interested unions and they
are resuming next week and we hope to be back before the commission
fairly shortly to process some more matters in respect of this award.

15 It's our submission, sir, that these variations to the award are in the
public interest and that is to provide and to ensure that there is an
appropriate underpinning of wages and conditions of employment for
trainees in the industries concerned, and the other parts, obviously the
updating of awards, is very much in the public interest to ensure
20 relevance and currency of the awards that do exist within the
commission.

Unless the commission requires me to go to any further detail in that
respect, I don't believe, sir, that I need add further to the submission
we've made. If it please the commission.

25 COMMISSIONER: Mr Flanagan?

MR FLANAGAN: Thank you, commissioner. If I can indicate that the
AWU supports and endorses the submissions of the TCCI in so far as it
relates to the deletion of the obsolete provisions, the replacement titles
and the new awards.

30 I suppose what needs to be understood is that in terms of the AWU's
area of interest with this particular application, the substantive effect
of the variation is to place into the Butter and Cheesemakers Award
and the Dairy Processing Award access for people to commence
traineeships, and that access to date has been a difficulty for the
35 industry.

The industry has established national competency standards and links
in with the food industry certificates and in the absence of appropriate
underpinning industrial regulation, we are unable to move forward for
the establishment of a vocational pathway.

40 So this application to that extent is necessary in order for the
establishment of traineeships consistent with vocational pathways, and
at this point in time they haven't been able to access and that is a

difficulty - a real difficulty - that has been experienced in the industry and indeed there have been numerous discussions between the union and the Food Industry Training Council on this issue.

5 So in our submissions, it is quite necessary that the application be approved for that to occur and in those circumstances we would support that.

10 In relation to the Farming and Fruit Growing Award which doesn't appear in Schedule A, obviously it presently is an award which is party or roped in to this award so that should be inserted following the Estate Agents Award identified in Schedule A.

In relation to the Business Services Award, I can make no comment. That's not an award that the AWU is party to.

COMMISSIONER: The Farming and Fruit Growing is actually in the award at the moment.

15 MR FLANAGAN: That's right, and we're saying that it should stay but Schedule A doesn't actually identify -

COMMISSIONER: Of the application.

20 MR FLANAGAN: - yes - and if it was not amended to include that, the effect would be to remove those people from the underpinning industrial regulation. And given that there are traineeships established in the industry and presently operating, it would certainly be contrary to the public interest for the Farming and Fruit Growing Award not to appear in Schedule A.

25 I am of course, commissioner, speaking to Schedule A attached to the application made on 13 April this year and forwarded by facsimile to the AWU on 13 April. There was earlier a little bit of confusion about the schedule, but that's the schedule I'm speaking to and consenting to as amended in the proceedings today. If it pleases the commission.

30 COMMISSIONER: Good. Thank you. Any further submissions? What about the operative date, are we going to address that?

35 MR EDWARDS: I was just going to address that, commissioner, thank you. I would request the commission make the variations operative with effect from today's date. I don't think the first full pay period is a necessary form of nomenclature in this particular occasion but just make it operative on and from today would be satisfactory from our perspective. If it please.

COMMISSIONER: I can indicate that I'll hand down a written decision in due course. It will be in favour of the application and the operative date will be from today. Orders will be issued in due course.

40 **HEARING CONCLUDED 10.47am**