

**HEARING COMMENCED 9.40am**

PRESIDENT: Appearances please.

**MR P. BAKER:** Sir, I appear on behalf of the applicant organisation - P. BAKER.

5 PRESIDENT: Thank you, Mr Baker.

**MR T. BENSON:** If the commission pleases, TONY BENSON; I appear on behalf of the Construction, Forestry, Mining and Engineering Union, Tasmania Branch, Mr President.

PRESIDENT: Very good. Thank you, Mr Benson.

10 **MR T.J. EDWARDS:** If it please the commission, EDWARDS, T.J.; I appear for the Tasmanian Chamber of Commerce and Industry.

PRESIDENT: Thank you, Mr Edwards. Well, Mr Baker.

15 MR BAKER: Sir, this hopefully will be an historic occasion today. It will bring to a conclusion some seven years, I think it's been, and I think Mr Edwards is the only surviving member of the negotiating team that started out so many years ago on the exercise but -

PRESIDENT: Is that being damned with faint praise or -

MR EDWARDS: I take great pride in that.

20 MR BAKER: I'm not sure - but today will see the conclusion of the minimum rates adjustment process which arose out of those discussions so many years ago now and I have - would hand to the commission an exhibit showing the sixth and final adjustment to the wage rates structure by varying employees in levels 3, 2 and 1 with the final instalment as far as the minimum rates adjustment process is  
25 concerned which will bring the employee at level 1 certainly up to the - what has become, if you like, a de facto minimum rate as far as the state is concerned.

PRESIDENT: In this award?

30 MR BAKER: In this award. I had to sort of say something to give Mr Edwards something to think about there for a moment.

MR EDWARDS: You should have asked for an adjournment.

35 MR BAKER: We would submit, sir, that it's consistent with the Wage Fixing Principles which were re-enunciated and adopted by a decision in matter T7702 of '98 of this year in principle 5 - the minimum rates adjustment proposal. We'd also submit, sir, that it will be six months from the date of the previous decision which was dated 26 February of this year and what we are saying, sir, that the operative date will be

from the first full pay period on or after 1 September just for ease of operation.

5 I have included - the draft order does contain what will be the wage rates as at 1 September. Perhaps it ought to have included the existing wage rates as at today so that there is in fact a schedule in the award. Perhaps I might have a discussion with Mr Edwards about that later, but the draft order will reflect the wage rates as at 1 September and then again at 14 October which will include this process of the minimum rates adjustment as far as this award is concerned.

10 In conclusion, sir, I just reiterate that its consistent with the wage fixing principles - principle 5 - namely the minimum rates adjustment process. It's consistent with the wage fixation principles, does not offend the public interest test and consistent with that we would ask you to vary the award accordingly from the first full pay period on or  
15 after 1 September of this year.

PRESIDENT: Yes. All right. Thanks, Mr Baker. I'll await to hear from the other side and from Mr Benson in relation to the two issues you raise, the first being whether or not there ought to be another column setting out what the figures are at present and - I won't say what I  
20 think about that at this stage - I'll wait to hear from the others - and I raise with you whether, at this point, we need to continue with the supplementary payment column but I'll take on board submissions.

MR BAKER: Well, sir, I left it there on this occasion, given the fact that there would be three variations in three months. I thought it may  
25 be prudent to leave it there but I'll take advice on that.

PRESIDENT: Yes, all right. Yes. Very good. Yes, Mr Benson.

MR BENSON: Simply, Mr President, that the CFMEU supports the application and seeks that the operative date be 1 September.

PRESIDENT: Very good. Thank you for that. The first full pay period  
30 thereafter.

MR BENSON: Thank you.

PRESIDENT: Yes, Mr Edwards.

MR EDWARDS: Thank you, president. The TCCI support the application and would consent to the award being varied by  
35 incorporating the sixth and final MRA which, as Mr Baker has already indicated, is the culmination of a somewhat longwinded process started all those years ago.

I suppose in some ways it's been a bit of a war of attrition and I almost won but they kept throwing fresh troops in which is a bit unfair but

nevertheless I think we're still here and I am in a position to say that that original agreement should now be brought to finality.

5 Dealing with a couple of the machinery issues that arise in respect to the draft order that's been tabled by Mr Baker, I think firstly I would not be inclined to the view that we should incorporate another column that shows the current rate - that's clearly already established by awards of the commission that have already been published. In this instance the most recent would be by way of the state wage case first stage. I don't see any need to repeat that in the award.

10 Secondly, in respect to the matter raised from the bench by yourself, president, I would be of the view and in accordance with the state wage case principles, I believe, that the base rate and supplementary payment columns ought to be amalgamated into one which would give rates of \$417.20, \$364.60, \$342.10 and \$325.40 respectively, if my  
15 arithmetic is anything like accurate - and I won't promise that it is - that would be consistent with the state wage case and most particularly consistent with about three state wage cases ago where there was a very lengthy debate between the bench and the parties over the question of the formatting of awards where it was agreed at  
20 that stage that at the end of the MRA process those two columns ought to be amalgamated into a single column which would be the column that retains the relativity against the hundred per cent level - in this case, the trades persons rate. And it would be our submission that that process ought to be followed through in this instance.

25 I know there are examples where that hasn't been completed in some awards but in our view it ought to be. It's very difficult to have awards with four or five columns in them. Certainly I know our members constantly express confusion as to what the columns mean. All they're really interested in most instances is the weekly wage rate anyway.  
30 They don't really care what the rest of it is, I think that's more for the purity of we practitioners - something we can play around with.

PRESIDENT: Is the deletion of the supplementary payment column going to make it difficult to deal with relativities and/or, if it should happen, work value assessments at a later stage?

35 MR EDWARDS: No. No, it won't in my view, president. The reason it won't is that by combining the two figures, the relativities that are shown in the extreme left-hand column will be retained and the base rate - and it would still be called that - would be 87.4, 82, and 78 per cent respectively of the hundred per cent level. That is so because the  
40 \$417.20 is the rate that was originally established in the August 1989 National Wage Case decision of the Australian commission which has in turn flowed into the state tribunal, and I know that because I looked it up this morning.

45 So, in my view, no it wouldn't create that difficulty. In any event I would offer the view that the history of these rates is very clearly

established within the records of the commission through the MRA process and the rates that were in the award before the MRA process commenced, and I think that would provide a very lengthy and detailed history for any person wishing to do the research.

5 PRESIDENT: Yes.

MR EDWARDS: Having said all of that, it would be our submission that the application is consistent with the Wage Fixing Principles of the commission which were established in T7702 of 1998 as has been indicated by Mr Baker. In our view, the public interest will not be  
10 harmed by the grant of the application and therefore in our view the test imposed by section 36 of the Act is met and we therefore offer our consent to the application.

I haven't had the opportunity, president, of just checking the numbers in the draft order. It was only passed to me immediately prior to  
15 proceedings and I'd just like the opportunity through till lunch time today if I might just be able to advise the commission of my consent to the actual numbers by then.

PRESIDENT: Yes. Good. I was going to ask you that.

MR EDWARDS: Certainly the concept I've got no problem with and I  
20 certainly agree we should still be showing that 14 October rate which would be reactivated following the September operative date of this particular matter should that date receive the support of the commission.

PRESIDENT: Yes.

25 MR EDWARDS: It certainly receives our support.

PRESIDENT: Very good.

MR EDWARDS: If it please.

PRESIDENT: Thank you. Have you anything further to add to that? Do you have a particular view on the supplementary payment issue?

30 MR BAKER: Not at all. I mean if it's required I'll simply knock together another draft order to give effect to the issues of what we've been discussing as far as the supplementary payments are concerned as from 14 October by combining the supplementary payment and base rate figure into one.

35 PRESIDENT: Yes.

MR BAKER: And I think Mr Edwards' figures are correct from memory.

5 PRESIDENT: Well you'll have the opportunity to test them won't you? Very good. All right, well thank you very much for those submissions. The award will be varied in accordance with the principles that have been sought to have been applied. I'll await on your revised draft order, Mr Baker, and at the same time I'll await on Mr Edwards to inform me that he consents to the actual numbers. Very good.

That matter is concluded. Thank you.

**HEARING CONCLUDED 9.50am**