

TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T Nos 6318, 6320, 6323, 6326,
6329 and 6332 of 1996

IN THE MATTER OF applications by the
Australian Workers Union, Tasmania
Branch to vary the Clay and Mud Products
Award; the Dairy Processing Award; the
Horticulturists Award; the Plant Nurseries
Award; the Quarrymens Award; and the
Shellfish Industry Award

re clause 8 - third \$8 arbitrated safety net
adjustment

PRESIDENT

HOBART, 15 August 1996

TRANSCRIPT OF PROCEEDINGS

Unedited

PRESIDENT: Could I have appearances in those matters please.

MR G. COOPER: If the commission pleases, I appear in all matters on behalf of the Australian Workers' Union, Tasmania Branch - COOPER, G.

PRESIDENT: Thank you, Mr Cooper.

5 **MR M. WATSON:** May it please it the commission, MARK WATSON; I appear on behalf of the Tasmanian Chamber of Commerce and Industry in all matters, and with me is **JENNY THOMAS**.

PRESIDENT: Very good. Thanks, Mr Watson.

10 **MR K.J. RICE:** If the commission pleases, RICE, K.J. I appear on behalf of the TFGA - the Tasmanian Farmers and Graziers Employers Association. I don't normally appear in these matters, commissioner - Mr President - but seeing we're here we are - in matter 6320 - the Dairy Processing and 6323 - Horticulturists. If it please the commission.

PRESIDENT: Thank you. Okay. Thank you. All right, Mr Cooper.

15 MR COOPER: Mr President, if it please the commission, in terms of these applications, I suppose it would be appropriate just to deal with them one at a time and provide draft orders, or -

PRESIDENT: Yes please.

MR COOPER: Yes, okay.

20 PRESIDENT: Yes.

MR COOPER: In respect to 6318, I have provided the TCCI with a draft order and I inadvertently realised that Mr Rice would be here and -

MR RICE: No, that's all right.

MR COOPER: - I have two copies, sir.

25 PRESIDENT: Well if you can make that available it would be -

MR COOPER: Well I have two - I have two copies that I have prepared for the commission.

PRESIDENT: All right, okay. Very good.

30 MR COOPER: Oh, he's not in this one - sorry. In terms of this draft order, Mr President, I can advise that this draft order has been provided to the TCCI and it has been checked and I understand it is correct.

In terms of this award it was last varied on the 28th July - but the operative date was the 26th July. That was through that full bench decision for the second \$8. So we say that consistent -

35 PRESIDENT: So the operative date was the 26th?

MR COOPER: The 26th July, 1995 for the second \$8.

PRESIDENT: The first full pay period?

MR COOPER: Yes, that's correct, sir.

PRESIDENT: Yes.

MR COOPER: So we tender that draft order and advise the commission that it is our view that it is consistent with the wage fixing principles that this award can now be varied for the third arbitrated safety net adjustment which is as is contained in that draft order. Did you want to give that a number, sir?

PRESIDENT: I haven't been in the practice of doing that for the draft orders but if you want me to I will - we'll call it AWU.1.

MR COOPER: And I would advise the commission that also in respect to - to this award that we have also varied work related allowances in line with the three safety net adjustments, and they appear at clause 4 - leading hands.

PRESIDENT: Yes.

MR COOPER: And they also appear at clause 17 - First Aid. And we have taken some liberty too, Mr President, in respect to this draft order not to repeat the supported wage provisions that's in the award, but merely stated that it remains as is.

PRESIDENT: Good. Thank you. And the work related allowances are varied by the cumulative percentage that's been agreed?

MR COOPER: Yes, Mr President. In terms of that, some of these awards were varied for the second arbitrated safety net adjustment -

PRESIDENT: Were they?

MR COOPER: - in terms of allowances, and what we have now done is we've deleted the amount that's there and adjusted it by the first, second and third. So if - we've actually taken the second one off and gone back to pre -

PRESIDENT: Oh, I see.

MR COOPER: - and put a cumulative amount.

PRESIDENT: So you've gone back to square and started at 5.75.

MR COOPER: That's correct, sir. That's correct. And that was - that made the system easier. So that's what happened. So the awards that we present, it is our intention to advise the commission except for one, that they all have work related allowances moved, and I'll advise the commission as we go through them.

PRESIDENT: Right.

MR COOPER: So in respect to that, Mr President, we say that this award is in a position where it can be moved for the third \$8 safety net adjustment. The AWU advised the commission that consistent with the requirement that came out of the full bench decision in T.6284 and T.6305 of 1996 and others, that the Australian Workers' Union commits to the principles as required in that decision and seeks the commission to endorse the variation of the award as contained in the draft order, and obviously we're only in a position to seek an operative date as of today - the first full pay period.

PRESIDENT: The first full pay period on or after today you're seeking.

MR COOPER: That's correct, Mr - we'd like to go back a bit but I don't think we're in a position to.

PRESIDENT: Well you could try.

5 MR COOPER: Well obviously what we'd like, is we'd like to see them varied from the first full pay period on or after the 26th July.

PRESIDENT: I'm just - I'm just really offering the other side the opportunity to say something if they want to, that's all.

10 MR COOPER: Look, just in respect to that, Mr President, it is an interesting point because we have noted that due to the large number of awards that have been brought on in separate applications, some of them now aren't being heard until September. Now what that does do, it means that there is a huge delay in terms of the -

PRESIDENT: Yes.

15 MR COOPER: - in terms of the \$8 and it's through no fault of the parties other than to say the full bench had to hear the matter and then had to schedule the matters in. So -

PRESIDENT: Yes.

MR COOPER: - it is something that I think is worth raising.

20 PRESIDENT: Yes. Well I think you'll find that all members of the commission are endeavouring to bring their applications on as quickly as possible -

MR COOPER: Yes, I understand that.

PRESIDENT: - and treat them as fairly as possible.

MR COOPER: It may be something we could fix in the next wage case.

PRESIDENT: Next time applications are made, I suspect, for this.

25 MR COOPER: That's correct, Mr President.

PRESIDENT: Alterations to the wage fixing principles.

MR COOPER: That's correct. If the commission pleases.

PRESIDENT: All right. Thank you. Mr Watson.

30 MR WATSON: Thank you, Mr President. Just in relation to that last point that Mr Cooper raised about the operative and the applications, I understand that there were some four or five applications that were actually put in some time ago that were actually varied by the full bench at the time of making this decision.

PRESIDENT: Yes.

35 MR WATSON: So it was available as early as the union were prepared to put their applications in, I'd suggest.

PRESIDENT: Yes.

MR WATSON: Mr President, as far as the principles are concerned for this particular award, going to the requirement of the wage fixing principles under the third arbitrated safety net adjustment, we would indicate that it is agreed that the award obviously has been varied for the first and second \$8 safety net adjustment, so that
5 test has been met.

PRESIDENT: Yes.

MR WATSON: Secondly, that at last 12 months has elapsed between the second arbitrated safety net adjustment and the operative date of the third adjustment if that's approved from the first full pay period on or after today's date. But we do have a
10 problem in relation to principle 7.3.2.3 -

PRESIDENT: Yes.

MR WATSON: - where it is required that parties give a commitment to review the award specifically and we would indicate that we would be looking for that commitment specifically from Mr Cooper before we can advise the commission any
15 further in relation to our position on this matter.

PRESIDENT: What did you think he said, Mr Watson?

MR WATSON: Well he - I'm sure he said he was committed to the principles.

PRESIDENT: Which mean what?

MR WATSON: Well I don't really know what that means, Mr President, but -

20 PRESIDENT: Doesn't it mean the commitment is to review the award?

MR WATSON: I don't know whether that means that or not -

PRESIDENT: Well I'll -

MR WATSON: - but I think we need it clarified. I mean it's quite a simple matter.

PRESIDENT: Okay.

25 MR WATSON: It's quite a simple matter.

PRESIDENT: If you -

MR WATSON: But what -

PRESIDENT: - if you want to be that pedantic on the point -

MR WATSON: Well it is important.

30 PRESIDENT: - press it -

MR WATSON: It is important in our view.

PRESIDENT: Yes.

MR WATSON: But just before I finish, Mr President, I understand you do have a letter from the TWU -

35 PRESIDENT: Is that in relation to this matter?

MR WATSON: Oh, I'm sorry - I'm sorry, we talked about it - yes - I'm sorry about that - so that's our position at this stage.

PRESIDENT: Yes, all right. Do you want to add anything to that, Mr Cooper?

MR COOPER: Mr President - no - I'd just say that I'm disappointed Mr Watson's
5 seen fit to raise this issue. We have discussed this issue in several proceedings before
this commission; we have discussed it in private with the TCCI; and we have advised
that consistent with that decision which has been set out quite clearly in a number of
pages, the commission said that it would seek the necessary commitment from the
parties and we have advised the commission - I think both yourself and Deputy
10 President and Commissioner Watling that our commitment to the principles is just
that; it's a commitment to principles; 7.3.2.3 is a part of the wage fixing principles,
and as such, that commitment includes that it doesn't preclude it. And in any event
we would say that that commitment -

PRESIDENT: So, just to answer the point to save going on about the pedantry -

MR COOPER: - now - it just makes me angry, sir - yes.

PRESIDENT: - do you - do you say that your commitment to the principles includes
a commitment to the review the award -

MR COOPER: It obviously does, Mr President.

PRESIDENT: -in the context of the principles?

MR COOPER: It can mean no more than - it can mean nothing less than that, and
20 I'm really disappointed they're seeking to be so pedantic over an issue that is
something that the commission must satisfy itself on and not -

PRESIDENT: Yes.

MR COOPER: - the TCCI necessarily. And in any event, Mr President, for the record,
25 the proof will be in the pudding for the third - for the next round of increases. If there
is no such commitment it could be shallowly given here today before the commission
and have no meaning at all other than to say, look, we're saying it because we have to.
Our commitment is more deeper than that and the TCCI know it and we are
disappointed that they are seeking further clarification on a straight forward point.
30 And I just say that simply for the record.

PRESIDENT: Yes, all right. Just - just for the sake of allowing matters to proceed
more fluently, is it beyond your capacity to use the words 'commit to review the
award'?

MR COOPER: Mr President, my instructions on this are that the AWU is committed
35 to the wage fixing principles which includes that provision.

PRESIDENT: All right. Well if you -

MR COOPER: And that's the commitment I'm instructed to give.

PRESIDENT: - if you say that. Mr Watson.

MR WATSON: Thanks, Mr President. First of all I would indicate that even though
40 we still don't believe it's actually been said, I would assume from what Mr Cooper has
said that they do commit to review the award. So the AWU commits to review the
award under Principle 7.3.2.3. I believe it's as simple as that and I really can't

understand why they can't actually say that because that's in fact what Principle 7.3.2 requires.

PRESIDENT: That - well - yes.

5 MR WATSON: And the other point is that it's got nothing to do with 7.3.2.4 about whether or not you get the next safety net adjustment. The commitment is about this one, not about what happens after that.

PRESIDENT: Yes.

MR WATSON: Fair enough. Anyway, I won't go any further about that. So on that basis, Mr President, we would consent to the application -

10 PRESIDENT: Very good.

MR WATSON: - on the base of the AWU's commitment and we would advise that it should be from the first full pay period on or after today's date. We believe that the application doesn't offend the public interest test of the act and is in fact in accordance with the principles -

15 PRESIDENT: Very good.

MR WATSON: - and advise of our agreement.

20 PRESIDENT: Yes, thanks, Mr Watson. Well just for the sake of the record, I'll indicate that the award will be varied in accordance with the draft order which I presume has been checked and you're happy with effect from the first full pay period to commence on or after today's date.

MR COOPER: Mr President, there was just one other matter: it was raised with us in earlier proceedings that there was a cross-referencing, and I would suggest that during the course of these proceedings, given that the commission has a better knowledge of which awards it seeks to consolidate -

25 PRESIDENT: Yes.

MR COOPER: - if that matter was raised, we do have a draft order prepared to facilitate that.

PRESIDENT: Yes. All right, well I'll alert you to that. We don't intend to consolidate Clay and Mud Products at this point. All right, thank you.

30 So the next - the next application -

MR COOPER: Is dairy processing - dairy processing, as I understand it, Mr President.

PRESIDENT: Yes.

35 MR COOPER: Similarly as in the previous matter, Mr Deputy - Mr President, we do have a draft order that has been prepared and has been checked by the TCCI.

PRESIDENT: Very good. Yes, we'll mark this AWU.1.

MR COOPER: Mr President, in terms of this draft order, we advise that this draft order has been provided to the TCCI and has been checked and has been agreed to. Similarly, in - as in the last application, we have sought to vary work related

allowances that are contained in this award and they have been done for the first, second and third \$8 at this point in time, so they are up to date under the wage fixing principles.

PRESIDENT: So where do they appear?

5 MR COOPER: In terms of -

PRESIDENT: Is that just in the last - last clause?

MR COOPER: I think - yes - in terms of this award, yes, there is only clause 14 - First Aid Attendant, and that is: delete the amount 5.80 and replace it with an amount of 6.10.

10 PRESIDENT: Yes, very good.

MR COOPER: In terms of this award, Mr President, it was varied - effective - last - the 26th of the seventh, 1995 which means that consistent with the wage fixing principles, 12 months has transpired since the last safety net adjustment. And similarly -

15 PRESIDENT: Was that the last full pay period on or after?

MR COOPER: Yes, yes, Mr President, the 26th of the seventh - yes. And again, Mr President, we understand that resulting - arising from decision 6284 of 1996 and T.6305 of 1996 and others, that there is a requirement placed on the union to commit to the principles that arose from that decision, and we advise that consistent with the previous matter, we give that commitment that is necessary to allow this award to access the third \$8 safety net adjustment, we say that -

20 PRESIDENT: Which is a commitment to review the award?

MR COOPER: That's correct, Mr President.

PRESIDENT: Yes.

25 MR COOPER: In terms of this draft order, again, as I say, it's - we would like to have it operative from the 26th, but obviously that's going to be opposed, so in that event we would seek the first full pay period on or after today's date. If the commission pleases.

PRESIDENT: Yes. Thank you. Mr Watson.

30 MR WATSON: Thanks, Mr President. As far as we're concerned, the requirements of the principles have in fact been met and I talk about Principle 7.3.2, that is the award safety net adjustment for the third \$8. We would advise that on the basis of Mr Cooper's commitment to review the award that we would advise of consent of this application. The public interest tests are not offended and the application is in accordance with the principles.

35 PRESIDENT: Very good. Thank you for that, Mr Watson. The award will be varied in the manner sought with effect from the first full pay period to commence on or after today's date. The next matter.

40 MR COOPER: Mr President, in terms of the next matter, which is I understand the next matter which is, I understand, the Horticulturists Award - 6323 - as in the previous two matters, there has - there is a draft order that has been prepared which I'll provide to the commission.

PRESIDENT: Yes, thank you. Oh, I made a - I made an error in relation to the previous matter. The - if we can go back to the matter 6320 - I'm sorry this - I hope this won't affect the transcript - but I should have alerted everybody to the fact that this particular matter - this particular order will be in the form of a consolidation - dairy processing.

MR COOPER: If that being the case, Mr President, then we would seek leave to amend our application to vary the award for the third arbitrated safety net adjustment to include a variation of the parental leave clause with respect to Part D, part time work, subparagraph (m), replacement employees, where there is an incorrect cross referencing where we delete roman numeral (v). I do have a draft order to that effect, Mr President.

PRESIDENT: All right. Now do you want to tender that?

MR COOPER: I do, Mr President, and I seek leave to vary the application accordingly.

PRESIDENT: Yes. We'll mark that AWU.2. Yes, the four - I don't know what - there is some additional verbiage that needs to go in that just for the purpose of -

MR COOPER: Well just on that, Mr President, I understand that the clause currently reads: unbroken service as replacement employees shall be treated as continuous service as provided for in paragraph (a) definition of continuous service of this part.

PRESIDENT: Yes.

MR COOPER: Now in checking the award, the cross-referencing at - currently is to (a)(v) - (a) roman numeral (v) -

PRESIDENT: Yes.

MR COOPER: - so this draft order seeks to delete roman numeral (v) where appearing after (a) in placitum 4 which is consistent with the requirement that the commission seeks to

PRESIDENT: Do you know whether that's been done in other amendments?

MR COOPER: In terms of that, Mr President, we've raised that in all matters that we've been appearing and the commission has indicated that it will only seek to do this where it consolidates an award.

PRESIDENT: Yes. I appreciate that but the actual verbiage that's been incorporated in the other awards - has that been the shorthand version or is it included after paragraph (a) - Definitions - continuous service of this part?

MR COOPER: Well all the matters that I've appeared in, Mr President, there has not been a draft order provided. It's been -

PRESIDENT: Oh, right.

MR COOPER: - simply to seek leave to vary the award to make it consistent to - with this cross-referencing. And now, as I understand it, all that is needed is that roman numeral (v) after (a) is what's causing the problem.

PRESIDENT: Yes, it is. It certainly is, but there were some additional words in the agreed - in a proposal -

MR COOPER: Oh.

PRESIDENT: - that was originally put forward to vary the part - that part. And it just more explicitly refers to the definition of continuous service, that's all.

MR COOPER: Yes. What says - yes - unbroken services replacement shall be
5 treated as continuous service as provided for in paragraph (a) - Definitions - continuous service of this part.

PRESIDENT: Yes.

MR COOPER: That's correct. They're the words, but I thought the cross-referencing
10 was the only problem. If that's not the case then I admit an error there in my part and the draft order would

PRESIDENT: Yes. Well look, we can just add those additional words.

MR COOPER: Yes. Yes.

PRESIDENT: With your leave. Can I hear perhaps first from you, Mr Watson, and then I think I need to hear from Mr Rice.

MR WATSON: Yes, now we're still on the Dairy Processing Award, aren't we?
15

PRESIDENT: We're still on dairy processing, Mr Watson, yes.

MR WATSON: Yes. Right. Okay.

PRESIDENT: Yes - and so we're just dealing with this particular -

MR WATSON: Yes.

PRESIDENT: - variation to the application which will need your consent if it's to
20 proceed.

MR WATSON: Yes. There is a form of words that I understand have actually been set out by yourself in a memo - that we're happy with in terms of Mr Cooper's amendment to his application.

PRESIDENT: Right. Okay. Thank you for that. Mr Rice.
25

MR RICE: Thank you, Mr President. I, on behalf of the Tas Farmers and Graziers Employers Association, sir, we support the submissions made by Mr Watson in this matter regarding the increase and, sir, there is a matter that's just caught me on the hop a little bit that when I looked at the note of the persons and parties bound, it
30 cause me to go to this particular award when you said you were going to consolidate it, sir, and the matter - clause 6(d)(ii) - it still -

PRESIDENT: Yes.

MR RICE: - it still speaks about the name of the TFGA Industrial Association. It was a matter that came before Commissioner Watling some time ago - several years ago,
35 sir, and when the organisation did change its name -

PRESIDENT: I seem to have some vague memory of that - yes.

MR RICE: - some reasons why that was necessary at that particular time, and I note in here it hasn't been changed, Mr President. We're still running under our old name, so it might be something that could be clarified in this award.

5 PRESIDENT: It's not something that we can fix up all that easily without an application.

MR RICE: It was my understanding at the time that Commissioner - and I haven't - I apologise for not having it with me - and it didn't come to my attention - that that's what was supposed to have happened as a result of our original application that when we changed the name of our organisation before the commission that those - all those
10 awards which were a party to our name was going to be changed at that particular time.

PRESIDENT: Mm.

MR RICE: And I note - there would be several here, commissioner, that hasn't - Mr President - that we're going through at the moment.

15 PRESIDENT: Right. Can I -

MR RICE: I'm not wedded to it, it's just something that we needed to -

PRESIDENT: - it was - obviously it's been a problem now for a long time -

MR RICE: It has.

PRESIDENT: - and of course the reviews coming up would sort that out anyway.

20 MR RICE: Oh look, that might be a way of handling it. It didn't come to my attention, it's an award that we don't normally appear in, it was just that it's on today.

PRESIDENT: If you're comfortable with it we'll leave it until then and we'll during the course of the reviews, but if you would like to do something, you might be able to seek the assistance of the applicant in this particular matter.

25 MR COOPER: Mr President, on my feet -

PRESIDENT: Mr Cooper.

MR COOPER: - I'd seek leave to amend the application once again in the manner sought by Mr Rice to facilitate that requirement which I think is only a procedural matter and would allow for a correct consolidation. So I'd seek leave to do that as well,
30 Mr President.

PRESIDENT: What do you think about that, Mr Rice?

MR RICE: I think that's a marvellous solution to the problem, Mr President, and perhaps there will be several others, I think, as I've looked through the notes, because it gave me heart failure when I looked at the list and I thought I've asked for a - to be a
35 party to some awards that I'm not listed as being a party to. So I - that's why I was rushing around checking because I was sure that we were. Thank you, sir.

PRESIDENT: All right. Well with the approval of the parties, we'll allow that proposed amendment to the application. You've no objection to that I take it, Mr Watson?

40 MR WATSON: Certainly not, Mr President.

PRESIDENT: And that being the case, the award will also be varied to accommodate that correction to the name of the organisation you represent, Mr Rice.

MR RICE: Thank you very much, Mr President.

5 PRESIDENT: And you've got no problems with the rest of the - with the other two propositions?

MR RICE: No, sir.

PRESIDENT: All right, well we'll go back to dairy processing and note that those three amendments will be affected and as contained in AWU.1, AWU.2 and the other proposition that the name of the Farmers and Graziers Employee - ers Association -

10 MR RICE: Tasmanian Farmers and Graziers Employers Association.

PRESIDENT: Yes. The - replace that - the Farmers and Graziers Industrial Association.

MR RICE: TFGA Industrial Association.

15 PRESIDENT: Very good. And that will done and effective from the same date being the first full pay period on or after 15 August.

Now we'll move to the next matter being the Horticulturists Award - is that correct?

MR COOPER: That's correct, Mr President. And in terms of that award, I think we part started that so we'll probably start it again.

PRESIDENT: Yes.

20 MR COOPER: I have provided you with a draft order -

PRESIDENT: Yes.

MR COOPER: - in terms of that award. Now that draft order I advise the commission has been provided to the TCCI. I inadvertently didn't provide it to Mr Rice, but it has been checked by the TCCI and we are advised that it is correct.

25 There are a number of allowances in this award that again been moved now for the first, second and third arbitrated safety net adjustment. They appear in this draft order in subclause (3) -

PRESIDENT: Yes.

30 MR COOPER: - Part 3 - where there are some leading hand allowances. They've all been moved.

PRESIDENT: Is that by the total 5.75?

MR COOPER: That's correct, Mr President.

PRESIDENT: Yes.

35 MR COOPER: Yes. There is also a number of clauses that are contained in the award and they are at last page of the draft order - clause 10 - Allowances, where we delete the existing amounts and replace it with the amounts that are contained there for

clause 10, clause 18, clause 36 and clause 39. Again, I advise the commission that those allowances are now up to date for the first - for all three safety nets.

PRESIDENT: Very good. And the rounding factor that's used in this particular award -

5 MR COOPER: Yes, Mr President?

PRESIDENT: - on allowances - that's to the nearest five cents is it? And one cent - and some of the other -

10 MR COOPER: Mr President, the formula to that basically has been agreed between the parties is, where an allowance appears as an hourly allowance, we just round it off to the nearest cent. Where it appears a daily allowance we round it off to the nearest five cents, and where it appears as a weekly allowance it's rounded off to the nearest 10 cents. And that's basically the agreed formula that we've been using for all allowances.

PRESIDENT: Right.

15 MR COOPER: So I'm assuming - I haven't got the whole clause there - but I'm assuming that those allowances that are appearing in clause 10 are hourly allowances, the first aid is either daily - it would daily -

PRESIDENT: Yes.

MR COOPER: - special rates would be hourly and wet pay would be daily -

20 PRESIDENT: Yes.

MR COOPER: - I assume from the way they've been construed.

PRESIDENT: Very good.

MR COOPER: Mr President, in terms of this draft award - this award - the Horticulturists Award -

25 PRESIDENT: Is there a variation to the minimum wage?

30 MR COOPER: No, we haven't sought to do that. There are number of reasons why we haven't sought to adjust that. This award is the last of a number of awards that do need to be reviewed in terms of a structural efficiency exercise undertaken by the union and this award does need to be tidied up and the parties have had preliminary discussions on that and it will be seeking to bring - you know - to bring this award up to date through the restructuring process left behind.

PRESIDENT: The only reason I mentioned it was that it was involved in your draft and I thought there might have been a particular significance.

35 MR COOPER: No, no, I don't place any significance on that, Mr President. In terms of the Horticulturists Award, it was last varied effective first full pay period, 26th of the seventh, 1995.

PRESIDENT: Mm.

40 MR COOPER: It is therefore consistent with the principles that the award can now be varied for the third arbitrated safety net adjustment and - and consistent with the requirement that comes out of the decision, T.6284 and T.6305 of 1996 and others,

the union commits to the wage fixing principles as is required to access that safety net adjustment.

Again, Mr President, we'd seek an operative date being the first full pay period on or after today's date, if the commission pleases.

5 PRESIDENT: Yes. And just to identify that more specifically, that commitment is to review of this award.

MR COOPER: Consistent with the principles, that's correct, Mr President.

PRESIDENT: Very good. Thank you. Mr Watson.

10 MR WATSON: Thanks, Mr President. We were advised of consent in relation to this application. The application, we would say, is in accordance with the wage fixing principles, particularly in relation to Mr Cooper's commitment to review the award and we were advised that the public interest tests of the act are not offended and therefore consent to the application from the first full pay period on or after today's date.

PRESIDENT: Very good. Mr Rice.

15 MR RICE: Mr President, I must apologise to the commission in Horticulturists, we're not a party to that award and we did seek - it's jogged my memory, sir, we did seek some time ago to have our name deleted from that since there was a change in the scope of that particular award.

PRESIDENT: I see. Okay. Thank you for that. And that has occurred?

20 MR RICE: Yes, sir, that has occurred.

PRESIDENT: Right. I should of course at this point indicate to the parties that the commission has a letter of commitment from the Transport Workers' Union to a review of the Horticulturists Award, a copy of - copies of which I think are with the parties.

MR WATSON: Yes.

25 PRESIDENT: All right. Did you want to add anything, Mr Cooper?

MR COOPER: No, Mr President.

PRESIDENT: No.

MR COOPER: Unless you're seeking to consolidate this award.

PRESIDENT: No, I'm not seeking to consolidate this award.

30 MR COOPER: Well I have nothing further to add, Mr President.

PRESIDENT: All right, well thank you for your submissions. The award will be varied in accordance with the order tendered - exhibit AWU.1 - effective from the first full pay period on or after today's date. Very good.

I believe the next item is T.6326 - Plant Nurseries.

35 MR COOPER: That's correct, Mr President. In terms of that award, we do have a draft order that has been prepared by the TCCI for this award and it has been checked and I believe it is correct.

In terms of this draft order it does again seek to bring allowances up to date for the third arbitrated safety net adjustment - that includes the first three. Allowances in this award appear at the bottom of the draft in terms of clause 9(e) and subclause (f).

PRESIDENT: Yes.

5 MR COOPER: The award was last varied - plant nurseries - the 26th of the seventh, 1995 - the first full pay period. So I advise the commission that consistent with the principles, 12 months elapsed since the second arbitrated safety net adjustment and therefore it is consistent with the principles to allow this award to be varied for the
10 of 1996 and T.6305 of 1996 and others, the Australian Workers Union commits to the wage fixing principles, and that is necessary to access the third arbitrated safety net adjustment. We commend the draft order to you and seek - seek the award to be varied in the manner sought, obviously from the first full pay period on or after today's date. If the commission pleases.

15 PRESIDENT: Yes, very good. Thank you, Mr Cooper. And the commitment of course includes the commitment to review the award.

MR COOPER: It's inclusive, Mr President, that's correct.

PRESIDENT: Very good. Mr Watson.

20 MR WATSON: Thanks, Mr President. Yes, we were advised of consent in relation to this award. The application is in accordance with the principles; particularly we're satisfied with regard to Mr Cooper's commitment to review the award and on that basis we don't believe the public interest test have been offended and therefore we advise consent to the application.

25 I might just add, Mr President, that it might be easier if Mr Cooper just commits to the award rather than you have to ask him every time.

PRESIDENT: They're his instructions, Mr Watson. All right, thank you for that. Well there being no further submission in respect of the Plant Nurseries Award -

MR COOPER: Unless you're seeking to consolidate, Mr President.

30 PRESIDENT: - no, not seeking to consolidate - we'll - I'll advise the parties that the application is approved and will be effective from the first full pay period to commence on or after today's date. Thank you.

The next matter is, I believe, T.6329 - Quarrymens.

35 MR COOPER: Correct, Mr President. Again, draft orders have been prepared by the AWU and provided to the TCCI and they have been checked and I understand they're correct.

PRESIDENT: AWU.1.

40 MR COOPER: The Quarrymens Award, sir, was last varied on the 26th July 1995 - that's the first full pay period on or after that date. We advise the commission that consistent with the wage fixing principles, the 12 months elapsed since the second arbitrated safety net adjustment has been included in the award so therefore it's open for this award to be varied for the third arbitrated safety net adjustment. This award has been amended in that manner and consistent with all our awards we have sought to improve - or increase - the allowances - the work-related allowances that are

contained in the award, and there are several of them in this award. They appear at clause 4 - Disability.

PRESIDENT: What about three?

MR COOPER: Tool allowance is expense related, Mr President.

5 PRESIDENT: Expense - it is too - yes - and that's not been varied.

MR COOPER: No - 4 - Disability, 5 - Leading hands, and then there is another clause 19 - First Aid Attendant. Now some of these were varied for the second so we've actually taken that off and put it on the first, second and third, so it now appears to be up to date, Mr President.

10 So consistent with the wage fixing principles, it's appropriate that this award now be varied in the manner outlined in Decision T6284 of '96, 6305 of '96 and others, and consistent with the requirements that are placed in that decision, the Australian Workers Union commits to the wage fixing principles that fell from that decision and that's the commitments that are necessary to allow the award to be varied for the third
15 safety net adjustment. And unless the commission seeks to consolidate the award, that concludes my submission, Mr President.

PRESIDENT: No, I don't intend to consolidate at this stage, Mr Cooper. That commitment to the principles includes of course the commitment to the review of the award?

20 MR COOPER: That's correct, Mr President.

PRESIDENT: Yes, thank you. Mr Watson.

MR WATSON: Thanks, Mr President. We'd advise of the consent to this application. The application is in accordance with the wage fixing principles and particularly in relation to Mr Cooper's commitment to review the award. We're happy with the
25 application; it doesn't offend the public interest and therefore there's consent from the first full pay period on or after today's date.

PRESIDENT: Very good, thank you very much. If there's no further comment in relation to this particular application, I can inform the parties that it is approved and will be effective from the first full pay period to commence on or after today's date.

30 The next matter, I believe listed in this segment is T.6332 - Shellfish Industry.

MR COOPER: That's correct, Mr President. In respect to this application, again the AWU has provided the TCCI with the draft order. It has been checked and agreed to and a copy of that is provided to the commission. This award

PRESIDENT: Thank you. AWU.1.

35 MR COOPER: This award was last varied the first full pay period on or after the 26th of the seventh, 1995 for the second arbitrated safety net adjustment, so consistent with the wage fixing principles, it is now available to the union to make application to vary the award for the third arbitrated safety net adjustment. The allowances in this award in terms of work-related are contained at clause 14 and they have now been
40 moved consistent with the first, second and third arbitrated safety net adjustment. They appear at clause 14. And consistent with the decision T.6284 of '96 and T.6305 and others, the union makes the necessary commitment to the wage fixing principles that's contained in that decision that allows for the third arbitrated safety net

adjustment to flow. We would seek an operative date for this increase being the first full pay period on or after today's date. If the commission pleases.

PRESIDENT: Yes, all right, thank you. And that commitment includes the commitment to review the order in accordance with principle 7?

5 MR COOPER: That's correct, Mr President, thank you.

PRESIDENT: Mr Watson.

MR WATSON: Thanks, Mr President. We're advised of consent to this particular application. The application meets the test of the wage fixing principles, particularly in relation to Mr Cooper's commitment to review the award and would advise that in our
10 opinion the public interest tests are not offended and therefore consent from the first full pay period on or after today's date.

PRESIDENT: Very good. Thank you. Given the consent of the parties and conformity with the principles, the award will be varied in the manner sought with effect from the first full pay period to commence on or after the 15th August, 1996.

15 **HEARING CONCLUDED**