

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 5178 of 1994

IN THE MATTER OF an application by the
AWU-FIME Amalgamated Union Tasmania
Branch to vary the Roadmakers Award

re minimum rates adjustment,
restructuring of award, structural efficiency
principle and 2.5% wage increase

COMMISSIONER GOZZI

HOBART, 11 October 1994

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: I'll have appearances, please.

MR G. COOPER: If the commission pleases, I appear on behalf of the AWU-FIME Amalgamated Union, Tasmanian Branch, COOPER G.

COMMISSIONER GOZZI: Thank you, Mr Cooper.

5 **MRS H. DOWD:** If the commission pleases, I appear on behalf of the Australian Municipal Administrative, Clerical and Services Union, DOWD H.J.

COMMISSIONER GOZZI: Thank you, Mrs Dowd.

MR S. GATES: If the commission pleases, GATES S.J., appearing on behalf of the Tasmanian Chamber of Commerce and Industry Limited.

10 COMMISSIONER GOZZI: Thank you, Mr Gates. Mr Cooper?

MR COOPER: Commissioner, if I may report, in respect to this award, as you will recall the last time we were before you on this matter you decided to make fresh applications and start again with the process, and that has certainly tidied things up from my point of view because I simply have one new folder now to start with; but
15 since that meeting we have had numerous discussions with the TCCI in respect to the restructuring process as it relates to the Roadmakers Award, and I must report to the commission that while I am very pleased with the progress we are not in a position to give you a substantial document today.

20 However, if I can report that we have met and we have corresponded and we have agreed on the following: that the award itself will roughly reflect the AWU Construction and Maintenance award, which is a federal award, and there has been a nexus between this award and the federal award since its inception, and that nexus the parties have agreed to maintain.

25 Now, what that does mean is, because the Roadmakers Award has not been restructured in any significant manner since '89 that the changes in terms of conditions and wages are quite significant.

What the parties have done is that they have reached agreement in respect to the conditions, and the AWU produced a draft award and the parties have been through that draft document, which is a substantial document.

30 We have agreed, effectively, on the conditions that will be contained in the new award. Now that is actually being processed at the minute and will be finished today.

The difficulties we have encountered, though, in going from the old Roadmakers Award and going through the restructuring process applying the second SEP, the 2.5, and the minimum rates adjustment process is that the quantum leaps in wage rates are
35 significant, and we have also encountered difficulties with respect to translation from the old Roadmakers classification structure to the structure that is contained in the federal award,

40 So we are having some difficulty with translation. Some classifications in the award that refer to horses, for instance, don't actually apply today, so we have decided that some of those classifications will actually be deleted. And that is the difficulty that we are dealing with now.

But the TCCI have committed resources to that, and they actually met yesterday afternoon to go through that process.

Now, hopefully, that will be finished by the end of the week, and then we will probably be back with a completed draft to give to the commission, and we have to reach agreement in respect to that draft of the time frame for phasing in the restructured increases.

5 So we haven't reached agreement on that yet. the TCCI are asking for 2 years and unions are asking for something less than that.

10 But, in all other respects, sir, I report to the commission that we have spent the last couple of months very productively. We have met - that's the AWU-FIME as the principal union - with the TCCI to rationalise the process and also make the award reflect what it should be, and that's a civil construction award.

We have also agreed to introduce a new classification to cover the work that would normally be performed by the ASU, and that is a definition which the TCCI have referred to as a site clerk.

15 Now we haven't actually developed that, we want to do that with the ASU, because in doing that if that definition satisfies the ASU then it will see them being removed from the award as a respondent, which will also assist in rationalising the unions respondent to the award.

20 The only other union involved is the TWU - the Transport Workers' Union - and we had mentioned to them some time ago that we didn't intend to alter their classifications, they are happy with that, and they would rather have a general award apply, but the opinion of the TCCI is that they should stay in this award unless we reach agreement in respect to what carting and driving functions can be removed; and at the moment the ones that are in there shall stay and they will simply be restructured and brought back in terms of the process that will be undertaken.

25 So, sir, in reporting all that to the commission I will just go back over that.

But, roughly, the TCCI and the AWU-FIME have agreed that the award will be roughly aligned with the AWUCNM federal award; conditions have been agreed on, and they simply have to be restated now and presented to the parties.

30 The wage increases to be phased in over a period - if you take the TCCI view of 2 years, if you take the AWU-FIME view of substantially less than that - and the safety net wage increases there is to be a delay in applying those safety net increases if they become available in the next 2 years.

35 So I would say, Commissioner, that while I am disappointed that I am not here with a draft to give to you that we can actually sit through and go off the record to, I am pleased with the report - to report - that significant progress has been made, and if we could at the conclusion of submissions briefly adjourn for the purpose of setting a new date - say, not too far down the track - I am sure we could come back with a completed package to present to the commission.

40 COMMISSIONER GOZZI: Yes, Mr Cooper, where does the award apply? Has it got wide application or not?

MR COOPER: Sir, if you look at the scope of the award at the moment in terms of the industry -

COMMISSIONER GOZZI: That is what I am looking at.

MR COOPER: -Yes, well what it does do, it picks up basically anyone that is not a major company in Tasmania that does undertake roadworks in respect to railways, tramways, tunnels, reservoirs, as defined in the scope.

COMMISSIONER GOZZI: There wouldn't be many, though, would there?

5 MR COOPER: Well, there are a few small ones. Like the big ones are Hazell Bros., the Boral's, all those are respondent to a federal award, like the AWU-FIME or CMFEU.

COMMISSIONER GOZZI: Right.

MR COOPER: What it does pick up is people that do work on a contract basis for councils, and in some stages Works Tasmania.

10 The major ones that are under this award have been picked up in terms of body hire firms by the AWU-FIME with registered agreements. Now, those agreements are subject to this award when they expire, and that would be in terms of my union one company of at least 80 members.

15 COMMISSIONER GOZZI: That provision, subject to the award of course, undergoing amendment, isn't it?

MR COOPER: It is undergoing amendment, that is correct, yes, but that award does underpin a number of state registered agreements that we do have.

COMMISSIONER GOZZI: Does it sort of extend to back-hoe operators and that sort of thing?

20 MR COOPER: It does, yes. That's only back-hoe operators that employ people.

COMMISSIONER GOZZI: Yes.

MR COOPER: All the owner/drivers, obviously the award doesn't apply to them.

COMMISSIONER GOZZI: No, those that employ, yes.

25 MR COOPER: Yes, those that employ, and they are in the minority, I must say. You see, the councils are covered by the Councils Award, the public sector is covered by a federal award, and the majority of the major contractors are covered by federal awards. So it picks up the smaller companies. And, as I said -

COMMISSIONER GOZZI: There would be more in the sewers, drains, reservoirs, pipe tracks, well, even that may be footpaths.

30 MR COOPER: Well, footpaths, and work that -

COMMISSIONER GOZZI: And general earth-moving contractors.

MR COOPER: Yes. The work that isn't done by the councils, and that's, you know, in the main the councils are undertaking \$200,000 to \$300,000 projects themselves now. So it doesn't leave many that is picked up by it.

35 COMMISSIONER GOZZI: How do employers know that this award applies to them in those sort of areas as back-hoe operator areas and things of that kind? You know, the general earth-moving contractors, and so on.

MR COOPER: I would assume, being an employer, they would be responsible enough to determine what award should apply should they employ somebody. If they are not

sighted to a federal award, then obviously a commonwealth or state award would apply.

I know the members of the TCI that are members of - the TCCI, sorry - are familiar with the conditions of the award and do apply it to the letter.

5 COMMISSIONER GOZZI: Right. Now, what about the TWU? You mentioned that they have all maintained those classifications in Division C. Do they reflect the transport classifications generally, do they?

10 MR COOPER: With respect to the TWU, what they would prefer is they would prefer to have one award - their general award - to apply to all driving functions. So they would prefer to see themselves out of this award. But, the industry - or the TCCI - would prefer to see them stay in the award.

Now what we have done, we have said to the TWU that we don't interfere with your classification structure, we'll leave that there, but if you want to change it let us know, and they haven't provided us with any information.

15 COMMISSIONER GOZZI: Alright. Thanks, Mr Cooper. Mrs Dowd?

20 MRS DOWD: Mr Commissioner, the ASU haven't had any discussions since our last hearing on the 23rd of August. The only area that we are actually concerned with in this particular award with the restructuring is the fact that there will be a new definition for site clerk inserted into the award, and the other clerical classifications will be deleted from the award.

If the employers actually have any clerical employees other than the site clerks they will be picked up under the Clerical and Admin. Award because all the other clerical classifications will be deleted from this award by agreement.

COMMISSIONER GOZZI: Is that agreed, is it?

25 MRS DOWD: Yes, it is, yes.

COMMISSIONER GOZZI: Yes. So all the Division D clerks come out?

MRS DOWD: That will actually be deleted and there will be one definition in there for a site clerk with a wage rate appropriate.

COMMISSIONER GOZZI: Yes. Fine. Okay. Yes, thank you, Mrs Dowd. Mr Gates?

30 MR GATES: Yes, thank you, Mr Commissioner.

Mr Cooper's summary was fairly indicative of the progress that we have made on the award.

35 There is agreement in principle to the aligning of the award with the federal AWU Construction and Maintenance Award with which there has been a loose historical nexus for some time.

There has been substantial discussions occurring between the TCCI and AWU-FIME over the conditions to be inserted into the newly titled Seal, Construction and Maintenance Award with a -

COMMISSIONER GOZZI: What is it?

MR GATES: Seal, Construction and Maintenance Award, Mr Commissioner. It reflects the nature of the award.- with a modernised -

COMMISSIONER GOZZI: I'm not so sure what seal - anyway, go on, seal, yes.

5 MR GATES: With a modernised and more descriptive scope clause. The scope clause has been party to substantial work with the TCCI.

It is agreed in principle to broadbanding existing operative and plant operation classifications in a similar vein to the AWU Construction and Maintenance Award, but to include single clerical position of site clerk.

The AMACSU would then withdraw from the award, on our understanding.

10 This is a complex process which has taken some time, Mr Commissioner, but it is well advanced in the - well, is well advanced to date.

15 The primary delay that we found, Mr Commissioner, is occasioned by the fact that there is not commonality between the awards for all classifications, i.e. some in the state but not in the federal and some in the federal which aren't in the state and, indeed, as Mr Cooper alluded to, there are some classifications in the state which plainly no longer exist any more, such as the horse classifications.

The process is proceeding well to this point, but the major stumbling block, as we alluded to previously, is how to phase in the relativities and the increases.

20 There is no agreement at this point in time, Mr Commissioner, as to the phasing in timetable for the substantial wage increases which will come with the alignment to AWU Construction and Maintenance Award, and the TCCI and the AWU-FIME we've had substantial 'without prejudice' letters across to them and they back to us.

25 What we would seek, Mr Commissioner, is that we go off record with a view to seeking a short delay in the matter at which point we could then come back to the commission at a later stage and present a complete award.

If the commission pleases.

COMMISSIONER GOZZI: Very good. Thank you, Mr Gates. We will now go off the record.

OFF THE RECORD

30 COMMISSIONER GOZZI: These proceedings are adjourned to the 9th of November at 10.30. Thank you.

HEARING ADJOURNED