

HEARING COMMENCED 10.38am

COMMISSIONER: I'll take appearances.

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

5 COMMISSIONER: Thanks, Mr Baker.

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

COMMISSIONER: Thanks, Mr Flanagan.

10 **MR M. WATSON:** May it please the commission, MARK WATSON. I appear on behalf of the Tasmanian Chamber of Commerce and Industry.

COMMISSIONER: Thanks, Mr Watson. Before I start I must say it's a pleasure to have three professionals before me - amenable professionals. Yes. Now, Mr Baker? We have a lot of trouble with
15 amateurs around here these days, I'm afraid.

MR BAKER: I was actually going to pass some comment. I assume there must have been something in your near past that's occurred but I won't make comment.

COMMISSIONER: No, Mr Baker. Day after day we get people who are
20 representing themselves and I can assure you it's very difficult and when I come here and here we are, three gentlemen who know the ropes, it's a pleasure I can assure you.

MR BAKER: Well, thank you, for that, sir. When this matter was last
25 before the commission in June of this year, as I understand it, there were a number of other matters that were joined with it together with a series of other applications which had been the subject of either proceedings before the commission, or alternatively, matters which had not yet been proceeded with. As a consequence of the proceedings
30 before you in June of this year, a number of those matters were deleted - sorry, the files were closed - and it was agreed, as I understand the situation, that as far as the matter T7268 of 1997, which is the application before us today, we would use that document to proceed to use that as the vehicle for the award simplification process or the award restructuring process.

35 Now to that end I think I reported on the last occasion when I was before you, that Mr Flood, from the TCCI had in fact produced a document which he had given to me for my perusal and comments. In the meantime since then I have in fact now prepared a document which I've handed to both the other parties here this morning.

I would, if you request, sir, provide you with an information copy but as the document runs for some 120 pages I presume your filing system would be like ours and somewhat overloaded, and at this stage I'm not sure what purpose it would serve the commission by having a copy.
5 However, should you require one, sir, I'd make one readily available to you, but it's our draft.

It is my intention to sit down with Mr Flood in the near future and go through both his document and mine and as I indicated on the last occasion I don't believe that there's a great deal of difference between
10 the parties as far as what the file document will look like at the end of the day.

It is unfortunately cumbersome and it is unusually thick brought about by, as we are aware, sir, some fifty to sixty pages of definitions and classification procedures which are contained within the
15 document.

Having said that, I would turn to the issue which is the subject of the application today, and that is, the wage rates for engineering production juniors unapprenticed and apprentices, and that is the supplementary payments to those wage rates concerned.

20 You may recall, sir, that this had been the matter before you some considerable time ago. I understand almost a year ago, well, in fact over a year ago now, and unfortunately the matter fell into a bit of a hole, where we actually sought to have supplementary payments flowed to both apprentices and junior employees.

25 As I said, unfortunately the thing fell into a hole, I don't know where the hell it went to, but it is our intention to proceed with that matter today and to that end I have a draft order which I would hand to the commission consistent with the intention of the parties at that time. Although I should say to you, sir, Mr - I should indicate to you, sir,
30 that Mr Watson has indicated to me that he now has - may have some difficulty in proceeding down that path. So without sort of putting words into his mouth, I'll let Mr Watson respond accordingly, but consistent our application and without reiterating all the arguments that went on before on this matter, I would submit that the award
35 ought to be varied in the manner shown. And in the manner shown, although it's not shown in the draft order, I'll explain my calculations. In fact I do have a draft of the way in which they were calculated, and that is, that I took the current - if we deal with apprentices, took the current rate for an apprentice and then added one quarter of the
40 supplementary payment which is paid to a Level 7 trades person, that is, the \$52 divided by 4 which arrived at a figure of \$13 and then applied the relative percentage figure on the \$13 to the award rate, and in those circumstances it was 88 per cent of \$13, 75 of 13, et cetera.

As I've indicated I do have a copy of the workings out which I can provide to the parties.

COMMISSIONER: Yes. Just before you go any further, Mr Baker.

MR BAKER: Yes, sir?

5 COMMISSIONER: We'll call that draft order **EXHIBIT B.3.**

MR BAKER: Thank you, sir.

COMMISSIONER: And I confirm I would like a copy of how you worked it out, please. When you're ready, there's no rush.

10 MR BAKER: I will make those calculations available to the commission.

So with that, I'd conclude my submission, subject to any comments or queries from yourself, sir. The two issues - the award simplification or the award restructuring process is continuing and Mr Flood and I, perhaps as a result of today's proceedings, you may give us a date in
15 November to which we can work to and hopefully we can come back to you with, as I indicated on the last occasion, an agreed position. And secondly, in respect of the unapprenticed and apprentices, that the first step be taken in the process that supplementary payments may be applied to their wage rates consistent with their application within
20 the federal award framework. Thank you, sir.

COMMISSIONER: Yes. I won't ask any questions at the moment. I'll wait with baited breath to hear what Mr Watson says. Yes. Mr Flanagan?

25 MR FLANAGAN: Thank you, commissioner. Firstly, commissioner, in respect of the discussions which are proposed in relation to the award review process, the AWU would like to be informed by the applicant and TCCI of when the meeting for those discussions is to occur, as we'd like to participate in that process which has not been the case to date despite previous indications that we wish to be
30 involved in matters before this commission affecting this award.

And dealing secondly with the submissions of Mr Baker in relation to B.3, the AWU would support the method of calculation which has been proposed by Mr Baker and indeed support the variation of the award to give effect to that draft order . If it pleases the commission.

35 COMMISSIONER: Yes. Thanks, Mr Flanagan. I'll just make the point that I presume, without being derogatory whatsoever, that you have every right to be at these discussions, Mr Flanagan. That being the case, if you are able to come along or if you happen to come along next time and tell me you haven't we'll adjourn proceedings.

MR FLANAGAN: Thank you, commissioner.

COMMISSIONER: Yes. I'm sure that won't occur. Now, Mr Watson?

MR WATSON: Thank you, commissioner. Just on that last point
about invitations to meetings, I take it that responsibility would fall
5 with the applicant, commissioner.

COMMISSIONER: Precisely, yes.

MR WATSON: Commissioner, on the last occasion that this matter
was before you, I think it was on 17 June, there were a number of
matters that were -

10 COMMISSIONER: 1998.

MR BAKER: 1999.

MR WATSON: 17 June this year.

COMMISSIONER: 1999 was it? Yes, thanks.

MR WATSON: There are a number of matters, as Mr Baker has said
15 to you, that were where we had files closed and I think at that stage
there was a submission made that this matter would be wrapped up
within a month, but that obviously hasn't happened.

Now I don't wish to argue the point or embarrass anybody but we
haven't seen this document until this morning and I have checked
20 with Mr Flood and he hasn't received anything either, so I just put that
submission, for what it's worth, commissioner, and I don't believe that
it would fair or appropriate that we really have to respond to that
document in any way today on the basis of only having received it this
morning.

25 COMMISSIONER: Yes.

MR WATSON: In relation to exhibit B.3 which is the draft order for
the application of supplementary payments to juniors and apprentices,
I'm not going to reveal the contents of what we sent to Mr Baker
because it was on a without prejudice basis, but I can tell you,
30 commissioner, that we did indicate to Mr Baker in correspondence in
May 1998 a position on this matter and that effectively has been the
last correspondence between the parties.

Now the position of our members, I don't know what their position is
going to be now in October 1999, it may in fact be a different matter or
35 a different position, so therefore if Mr Baker is now proceeding with
this part of the application where he's tabled a draft order before you, I

would need to resubmit the matter to our members to get a position on it an then correspond back to Mr Baker with our position.

Now I can't really do any more than that at this point in time, but I must say that if you compare B.3 to B.1 which was tabled very early in
5 the proceedings, the rates in Mr Baker's B.3 don't in fact tally with the rates in B.1, so I think we'd need to get a copy of the calculation that Mr Baker has offered us before we can actually do our own calculations to make sure that the figures are correct.

I guess that one of the problems with that has been safety net
10 adjustments and all sorts of other things that have occurred since this matter was last before you.

So I guess that's our position at this stage, commissioner. I'm sure Mr Flood will participate in discussions with Mr Baker and Mr Flanagan about the draft award that's been tabled but in terms of the
15 application of supplementary payments we would need to resubmit the matter to our members because it's so long since we had a position on it to see what the current situation is. If it please the commission.

COMMISSIONER: Yes. Mr Baker, I feel I have to defer to Mr Watson. What I recommend is that you add this to the discussions and I'm
20 more than happy to resume in November and that that matter be - it ought to be by agreement - I'm sure I said that before - it ought to be laid on the table by agreement at the next hearing even if its on it's own then if we're not ready to go ahead with the other matter. What do you say to that, Mr Baker?

MR BAKER: Well, two things. First of all, in relation to the document that I submitted this morning, I had no inclination that there would in fact be a response from the TCCI this morning. I mean, you know, you don't give people a 120 page document and say please give a response
25 in five minutes. So as far as the participation of the other parties in the negotiations, I don't have any problems with Mr Flanagan participating in those discussions. To date there's only been, if I may use the expression, two very brief discussions that have occurred between Mr Flood and myself and we really haven't done any negotiations on the document, so when I arrange that meeting with Mr
30 Flood my colleague will be in attendance.

As far as the other matter is concerned, I am content that the matter be deferred for a minimalist amount of time so that we come back and finally wrap this part of the award up.

COMMISSIONER: Yes. Thanks, Mr Baker.

40 MR FLANAGAN: I have nothing further to add, commissioner.

COMMISSIONER: Right. We'll just go off the record for a minute, thanks.

OFF RECORD 10.54am

ON RECORD 10.56am

- 5 COMMISSIONER: Yes, thanks, for that, gentlemen. These matters will be adjourned now and we will resume at ten thirty on Thursday, 11 November. Thank you, gentlemen.

HEARING ADJOURNED 10.57am