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**AUSCRIPT**

## TRANSCRIPT OF PROCEEDINGS

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O/N 70782

### TASMANIAN INDUSTRIAL COMMISSION

### DEPUTY PRESIDENT P.C. SHELLEY

**T No 13055 of 2007**

### TOURISM TASMANIA AWARD

**Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 lodged by the Minister administering the State Service Act 2000 to vary the above award re Clause 7 – Definitions and the deletion of Annexure A**

### HOBART

**10.10 AM, THURSDAY, 13 DECEMBER 2007**

**Continued from 5.12.07**

### DAY TWO

**MR P. BAKER appears with MS J. FITTON, MR G. BURGESS and MR P. HARWOOD for the Minister administering the State Service Act MS K. TYSON appears for the Community and Public Sector Union (State Public Services Federation Tasmania) Inc.**

**This transcript was prepared from tapes recorded by the Tasmanian Industrial Commission**

THE DEPUTY PRESIDENT: Thank you. Who is going to begin?

MR P. BAKER: Well, I will be brief, Deputy President. Ms Tyson, and ourselves,  
5 have had a discussion in the intervening period and we have agreed that we will put the  
following comment, or comments on the public record.

The Community and Public Sector Union and the State Public Services Federation  
Tasmanian Corporate and the representatives of the Department of Tourism, Arts and  
the Environment, the agency, and the Public Sector Management Office for the  
10 Minister administering the State Service Act 2000 consent that annexure A, and the  
definition of term of appointment in clause of the Tourism Staff Award be deleted to  
enable the agency to use its best endeavours to have the employees who substantially  
occupy these positions, that not back-filling for another occupant be direction converted  
to permanent employment, including making an application to the office of the State  
15 Service Commissioner.

Pending finalisation of the conversion process the occupants of the positions will, where  
necessary, be offered an extension to their term contract of employment that is limited  
in tenure to operate until the conversion is completed, or 31 March 2008, whichever is  
20 the latter. It is the intention of the minister to make an application to the State Service  
Commissioner for conversion to permanency no later than 31 March 2008. And with  
that I will conclude my submission, deputy president.

Thank you. Ms Tyson?  
25

MS K. TYSON: Yes, good morning. We did receive verbal advice from the agency  
on 10 December that is pregnant before we were able to consent to the matter. It was an  
explanation about each position under the annexure and whether it existed, or if it was  
occupied and, if so, was it filled permanently or fixed term. So we were advised the  
30 positions numbered 1, 2, 4, 6 and 7 no longer exist.

With number 3, our member has been employed in that position since 1998 and her  
position has been advertised, but we believe she has an entitlement to remain in that  
position. But we do believe that the intention of the agency and along with Mr Baker's  
35 request, which I thought would be a consent order, so I'm unsure whether what Mr  
Baker has just put on the record has that same binding effect as a consent order, or - I'm  
unsure?

MR BAKER: Well, first, if I might clarify and I - there was an oversight on my part.  
40 We would seek that the award be varied in the terms sought, that is, the annexure A be  
deleted and also the - - -

THE DEPUTY PRESIDENT: The definition.

MR BAKER: - - - the definition be deleted from the first full pay period effective from  
45 today's date.

THE DEPUTY PRESIDENT: Thank you.

MR BAKER: I apologise for the oversight, deputy president.

THE DEPUTY PRESIDENT: That's fine. So if you consent to that variation then it has the effect of the consent order and will be issued as an order - - -

5

MS TYSON: I see.

THE DEPUTY PRESIDENT: - - - of the commission to vary the award.

10 MS TYSON: Thank you.

THE DEPUTY PRESIDENT: With the person holding position number 3, which she has done since 1998 - - -

15 MS TYSON: Yes?

THE DEPUTY PRESIDENT: - - - you said that position has been advertised but do I take it that that just won't be progressed any further and that she will be part of the direct selection process through the State Service Commissioner?

20

MS TYSON: From what I understand, she will be part of that direct selection process to permanent employment, however, I've just been advised this morning that she was advised yesterday that she was unsuccessful in her position. So - - -

25 THE DEPUTY PRESIDENT: Which she has held for nine years?

MS TYSON: Unfortunately, and that's advanced without my knowing and that's the decision the agency has made at this stage.

30 MR BAKER: Perhaps if I just clarify that? Whilst that is so, the commission should draw comfort from the fact that that relevant employee will continue in employment with the department at her substantive salary level.

THE DEPUTY PRESIDENT: In a different position?

35

MR BAKER: That has yet to be determined, but she will continue employment at level and she will be part of the conversion process.

40 THE DEPUTY PRESIDENT: Okay. So whilst all this is taking place there won't be any more such slip-ups, or advertising of positions held by long-term employees?

45 MS TYSON: Yes. The advice I have from the agency, with the remainder of those positions each - position number 5, there's approximately 10 area sales managers, and they work from home. So some of these employees have been there long-term. Their contracts will end in January but I'm sure they'll be covered, obviously, by this consent order and, from what I would understand they're not in that same position as our member, so I don't know if the agency can confirm that those positions won't be advertised, or that might be pending at the moment because of the restructure?

MR .....: Can I comment on that?

MR BAKER: Yes.

5 MR .....: I would like to comment on that. Not all - there's only a couple of contracts  
end in January. Some of them are marked, some are September and we have just got to  
work through that as the restructure. So what we want to do is basically get that  
annexure amended so we can actually work through those. So the ones who expire in  
10 January need to extend and allow us to do that, so it's the lesser number that expire in  
January.

THE DEPUTY PRESIDENT: Okay. Well, if you're content with that - those  
undertakings and those clarifications, Ms Tyson, I'll take it that you are consenting to  
15 the variation?

MS TYSON: Yes. Yes, and positions 8 and 9 have already been advertised earlier, so  
I guess they're no longer a concern and we believe the intention of the consent order  
will be to provide secure employment to these people, so we consent to the  
representative of the minister's request to have that put through. Thank you.

20 THE DEPUTY PRESIDENT: Okay. And do you also agree to the operative date for  
the change, which is the first - well, it doesn't, I mean, it's not really wage-related so it  
could even - it could apply from today. It doesn't need to line up to a pay period.

25 MS TYSON: Yes, or back to when we were first here?

MR BAKER: Well, perhaps if I just suggest that, as an alternative then, be operative  
from the date of decision?

30 THE DEPUTY PRESIDENT: Is that acceptable to you, which will be held within one,  
or two days?

MS TYSON: Yes. Yes, that's fine.

35 THE DEPUTY PRESIDENT: Okay. Okay, well, I indicate to the parties that the  
award will be varied in the manner sought with an operative date from the date of  
decision, which will be issued shortly. The matter is adjourned.

40 **MATTER ADJOURNED at 10.20 am INDEFINITELY**