

COMMISSIONER: I'll take appearances please.

MS J. THOMAS: JENNY THOMAS for the Tasmanian Chamber of Commerce and Industry Limited.

COMMISSIONER: Thank you. No further appearances. Ms Thomas?

5 MS THOMAS: Thank you. This application is as stated to vary subclause 36(e) of the Retail Trades Award to provide that King Island Co-op Limited can contribute into the National Mutual Simple Super Fund in lieu of the award nominated funds Tasplan and Rest.

10 Once again, section 32(1B) of the *Industrial Relations Act* will determine whether or not you approve this matter. It states that:

the Commission must not refuse to make or vary that award if the superannuation fund -

(a) is a complying superannuation fund; and

15 *(b) is one which the Commission is satisfied meets the wishes of employees.*

I'd like to hand up an exhibit at this stage.

COMMISSIONER: We'll mark this **EXHIBIT T.1.**

MS THOMAS: I would ask that exhibit TCCI.2 from the previous matter be considered as TCCI.2 in this matter. If it pleases.

20 COMMISSIONER: It will be considered as **EXHIBIT T.2.**

MS THOMAS: Yes.

COMMISSIONER: So that's TCCI.2 from application T6808 of 1987 be considered as exhibit T.2 for this matter.

25 MS THOMAS: Thank you, Mr Commissioner. In order to satisfy you that the proposed fund, National Mutual Simple Super is a fund which meets the wishes of employees, I'd like to take you through the detail of exhibit T.1.

30 The first document of that exhibit is a statutory declaration completed by Phillip Vaughan Jacobson who is a director of King Island Co-op Limited. This sets out all employees working at King Island Co-op Limited under the Retail Trades Award as follows.

35 Now you will note that there two names crossed out on that declaration. I have initial information on those two employees - or I think one is an employee, the other may not be an employee. I'd ask the commission that perhaps I go away and seek some further

information in relation to these two employees. I understand Heather Archer is a casual employee and her hours normally don't qualify for a payment of superannuation under the award. And Angela Chivers, I'm not sure if her status and why her name has been deleted.

5 So I wouldn't want to hold up the matter today but ask that I be given the opportunity to provide you with some more detail on those people because they haven't signed the employee acceptance form you'll note later on.

COMMISSIONER: Good.

10 MS THOMAS: So the employees that are clearly indicated on that statutory declaration, there are seventeen employees indicated there.

The next document is a further statutory declaration which has been completed by Phillip Jacobson once again which states that all employees of King Island Co-op employed under the Retail Trades
15 Award were provided with the following documentation before being asked to nominate the superannuation fund into which they wanted their contributions to be made and they were given all three pages of the employee acceptance or election form, information sheets for Tasplan, Rest and Simple Super, customer information brochure for
20 Simple Super, the 1995 trustees report for Tasplan and the investment update for Simple Super, September 1996. Each of those documents are to be found in exhibit T.2. They set out the - there is some detailed information on the National Simple Super and the standard A4 summary sheets that we use too.

25 In terms of the employees acceptance form, the seventeen employees who were listed in the first page of T.1 have all indicated on that form that they wish their contributions to be made into the proposed fund of National Mutual Simple Super Fund, and that's at point 3 on page 2 of that document and that is predominantly why I ask for that other
30 statutory declaration to be made because the employees had in fact signed on pages two and three of that document and I wanted you to be certain that they had in fact seen three pages and not just the two.

COMMISSIONER: If it was slightly worded in a different way as an employee declaration form you wouldn't have that problem would you.

35 MS THOMAS: Yes, yes, once again I'll attend to the verbiage used in this form in future.

Now beyond the yellow sheet, once again I've enclosed copies of the correspondence I forwarded to each union with an interest with the Retail Trades Award - AMACSU, TWU, ALHMWU, National Union of
40 Workers and SDAEA. The final document is a standard response from AMACSU dated 17 January in which Mr Paterson indicates basically that provided that the commission is satisfied then the union would be satisfied.

I think before I move on, I might go back to my initial comments concerning Heather Archer and Angela Chivers. Now what I will do is seek some further information from the employer about the status of those employees and ask that if they are employees and they are
5 employed under the Retail Trades Award and do have superannuation contributions made on their behalf, then I'd get something in writing from both those employees to indicate -

COMMISSIONER: Yes, otherwise it would beg the question do they remain in Tasplan - those two employees.

10 MS THOMAS: Yes. I do understand, I fairly well understand Heather Archer's situation. She is a true casual. She may only work one or two hours a week, if that, and they assumed that because she didn't qualify for the superannuation payment under the award, she shouldn't be on
15 this form. But in my view, there may be weeks where she does qualify or months where she does and she should be included and her preference indicated, I think, just in case, if you like.

Angela Chivers may not be an employee now but I will seek further information on her status.

COMMISSIONER: Good.

20 MS THOMAS: And hopefully get back to you within the week. It's a bit difficult given the location of the employer but we'll try our best.

In terms of the status of the proposed fund - it's compliance status, once again in exhibit T.2, there are two documents at the rear of that exhibit from the ISC which indicate that the fund has elected to become
25 a regulated superannuation fund under the *Superannuation Industries Supervision Act 1993* and is therefore a fund which has assumed compliance status under that Act.

You will note that once they make an election to become a regulated superannuation fund that is irrevocable.

30 So apart from you having any other questions and provided I can provide you with some further information in relation to those two employees, I'd ask that the award be varied operative from the first full pay period on or after today's date in the manner sought. If it pleases the commission.

35 COMMISSIONER: Good. Well, I can indicate to you I'll hand down a written decision in due course and it will be in favour of the application and you may just wish to inform my associate of the information or clarify that information. But in any case, it will only mean that either
40 these employees remain in Tasplan or if they are employees they then move to the new fund.

So having said that I now close this matter. Thank you.

HEARING CONCLUDED