

HEARING COMMENCED 10.40am

COMMISSIONER: I'll take appearances.

MR I. PATERSON: If the commission pleases, IAN PATERSON, appearing for the Australian Municipal, Administrative, Clerical and Services Union.

COMMISSIONER: Thanks, Mr Paterson.

MR J. O'NEILL: If it pleases the commission, O'NEILL, J., appearing for the Tasmanian Chamber of Commerce and Industry.

COMMISSIONER: Yes, thanks, Mr O'Neill. Mr Paterson.

10 MR PATERSON: Yes, if the commission pleases, this application seeks to incorporate into the Barristers and Solicitors Award a generic classification structure. As you will note from the application, the structure in this particular case is more open-ended in terms of the application as made in that the union recognises that there is a need
15 to do more than just transplant a generic classification; that the legal industry has specialist industry skills that we recognise as being appropriately incorporated into the classification structure. On that count this matter will probably take some considerable time in the development of that structure and agreements particularly on the
20 matters of translation may be - well, I anticipate that they will need to be specific to this award and reliance on a generic model used in the past in other clerical awards may not entirely be appropriate.

The application similarly is made in accordance with the structural efficiency principle. This matter has a long history going back to
25 correspondence and meetings between the parties in 1994. Various proceedings in the federal commission at various times have effectively terminated or truncated discussions between the parties and at this point in time there is an issue outstanding there that is yet to be resolved and formal progress of this matter will probably depend on
30 the outcome and agreement between the parties in respect of an appeal against a dispute finding in the federal commission.

In terms of my branch - my position as a branch officer of the union, it's my intention to pursue this restructuring, however I may be constrained by direction from federal office in terms of federal
35 industrial matters.

I do personally have a commitment to seeing this progress in this way and I believe that we will be able to give undertakings and reach agreements to progress this matter.

40 There are some very useful developments happening in the vocational, education and training area in this field where there is a national training package under development which will be, I believe, a useful

tool in terms of identifying particular skills as they apply to the people who are covered by this award.

5 At this stage I would not seek to have any further action by the commission in respect to this matter other than perhaps to set a date when the matter can be brought on again for a report-back on progress.

If the commission pleases.

10 COMMISSIONER: Yes, that federal application - the appeal about a dispute finding - if that appeal - there has been a dispute finding has there?

MR PATERSON: A dispute has been found and Tasmanian law firms were served logs of claims. A dispute was found and the appeal, I believe, is going to be heard on the eleventh of this month.

15 COMMISSIONER: And if the appeal fails does that put this matter in jeopardy, does it?

20 MR PATERSON: I don't believe so. Given the provisions of the federal Act I would expect that the employers in this state would be making applications for refrain orders in respect of matters covered by this award and that's why I am relatively confident that we will be able to progress the matter because I think in the current federal legislative environment or legislative environment taking on law firms over legal matters is a waste of time and money.

25 COMMISSIONER: Yes, well I was just wondering about all that, Mr Paterson. Dealing with doctors and dentists is hard enough. I think lawyers are supposed to be further up the scale so they might even be harder. You're aware of that problem -

MR PATERSON: They certainly challenge you at every point.

COMMISSIONER: Yes.

30 MR PATERSON: So yes, my belief is that irrespective of the outcome of that dispute that we will be able to reach an agreement on a position that sees this award progress and I, subject to what instruction or advice I get from my federal office, I believe that we will be able to give undertakings that federal awards won't be pursued, and that's on - saying that on a, at this stage, without prejudice basis, but
35 that's why I have confidence that we won't face a road block as a result of those federal proceedings.

COMMISSIONER: Yes, I'm glad you see it as a challenge, Mr Paterson, that's the right way to view it, I think. Now, Mr O'Neill.

MR O'NEILL: Thank you, commissioner. Yes, there certainly is a preliminary issue which was previously raised with this commission in relation to the federal log. We still haven't received a satisfactory undertaking from the ASU in respect to that matter. Notwithstanding that, some progress has been made in respect to the classification descriptors to be inserted into the Barristers and Solicitors Award, however we would be needing some detail in that regard so that we can take detailed instructions from our members in respect to those classification descriptors. So yes, at this stage we'd be - we're still looking at a resolution to that federal matter, but notwithstanding that the matter can still proceed.

COMMISSIONER: But you're not against an adjournment today?

MR O'NEILL: No, I'm not, commissioner, thank you.

COMMISSIONER: Thanks, Mr O'Neill. All right, well what about this matter, Mr Paterson - the adjournment in this matter - are you happy to align it with the previous matter or do you want to make it separate?

MR PATERSON: At this stage I think they can probably all be brought on on the next time having the principal issues in each separate case having been raised and identified to you today. It may be that at the next time we do come back that they can be brought on together for a quick report-back either together or separately. I think a report-back would be a useful check on our progress in any event.

I would anticipate that this will take a lot more time than the matter in T7902, to progress.

COMMISSIONER: Yes, thanks, Mr Paterson. I don't think that's a bad idea, Mr O'Neill, what do you think?

MR O'NEILL: I have no problems with that, commissioner, thank you.

COMMISSIONER: Good. Thank you. All right, we'll adjourn this matter and hopefully we might be able to fix a date on it after we've finished with the other matters. Thank you.

HEARING ADJOURNED SINE DIE 10.47am