

HEARING RECOMMENCED 10.00am

COMMISSIONER: I'd better take appearances because I don't think we're quite the same as before.

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

COMMISSIONER: Thanks, Mr Baker.

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

10 COMMISSIONER: Thanks, Mr Watson. Yes, Mr Baker?

MR BAKER: Well, the paperwork continues. I'll hand you another revised copy. I can also report that given the wonders of modern technology, the commission now has an electronic copy of it as well and I understand now the TCCI both in Hobart and Launceston also
15 have an electronic copy of the document.

In so far as the document is concerned, as I indicated on the last occasion, Mr Flood and myself have been having some ongoing discussions about the composition of the award and as late as Wednesday of this week, Mr Flood has provided me with a page and a
20 half of suggested amendments.

Now unfortunately because of circumstances, I haven't been able to verbally respond to Mr Flood in relation to those matters but I have actually proceeded through the document and made a number of changes which he has suggested.

25 There are a couple that I need to talk to him about further; there's issues that he's raised about should we do this or should we do something else and I've made some comments such as 'not sure, Andrew, will talk to you'. And there's a couple of others where Mr Flood and myself need to sort out the exact phrasing as far as the
30 document is concerned.

But with that, commissioner, I will actually also hand to you a copy of a transitional table which will actually show you where the current provision in the award is, and where you will find the new provision in the award.

35 COMMISSIONER: Yes, thanks, Mr Baker. I haven't marked the draft award yet, I think we'll wait till we get one where we're very close to the final document before we mark it otherwise -

MR BAKER: I think that would be appropriate, sir.

COMMISSIONER: Yes. Now what about this? Do you think this would be worth marking or just keep this as a guide at the moment?

MR BAKER: I think, commissioner, at the present time, it's probably just a guide to show you that in effect what's happened, we've translated all the current clauses into the new document and we've made two changes. We've actually deleted the old appendixes which were contained in the award - or propose to delete those - which are Appendix A which was the old transition schedule for metal industry employees, as is shown there, the translation schedule of clerical classifications.

In our discussions we decided that they were no longer really relevant as far as the industry was concerned and so we took them out and we intend to add a new provision which is the procedure for classifying employees which will actually go into the document which is consistent with the federal award, and it's also consistent with the policy document on the metal and engineering training package which commences operation on 1 January of next year.

So that's as far as we've gone at this stage, commissioner. As I've indicated, Mr Flood and myself have been through all of this. We've given it a vigorous going over and we've fixed various clauses. The award itself, we've basically kept it as it is. There are some provisions which we've changed which I can go into when we give you a final document such as the inclusion of the carer's leave provisions into various clauses, so they're actually - for example, the time off in lieu provision has been amended to reflect the carer's leave decision. So there's been a few changes like that, but basically the award is as it is now, except it's been reformatted to reflect the commission's decision of - I was going to say '98 - was it '97?

COMMISSIONER: I couldn't say myself.

MR BAKER: Time has sort of disappears on us. So that's basically where that is, commissioner, and I would hope that I may be able to get another hearing from you within a short space of time because I think the TCCI and ourselves are pretty close to wrapping it up.

COMMISSIONER: Yes, all right. Well is there anything else, Mr Baker?

MR BAKER: On that issue, no. There is the issue of the junior rates which I also need to address, but I think Mr Watson and myself have an agreement as far as that's concerned and I will propose a draft order to you in respect of that matter.

COMMISSIONER: And do you want to tell me more about that now or leave it till - I don't want to hear about it if it hasn't been finalised.

MR BAKER: It's been finalised.

COMMISSIONER: Well, what's happened then?

MR BAKER: Oh, okay. In respect of the supplementary payments for unapprenticed juniors -

5 COMMISSIONER: Now, we'll call this one **EXHIBIT B.6**. Yes, Mr Baker?

MR BAKER: And this actually shows, as was discussed when we were last before you, a schedule showing the transition from where we are today, the proposed operative date for the first increase on 1 December of this year and proposed dates that will see the
10 introduction and completion of the supplementary payments over the next two years.

The dates of 1 May, December and May as outlined there of course, sir, are subject to further decisions of the commission, and that's consistent with the previous exhibit I made to the commission in
15 relation to how the supplementary payments were arrived at.

Basically, commissioner, in relation to the unapprenticed junior employees, the amount of the supplementary payment at the Level 2 from where it's derived, is an amount of \$42.60 and that is simply divided by four and then the appropriate percentage rate for the
20 unapprenticed junior, the amount is added and those amounts are \$6.20, \$7.30, \$8.80 and \$10.40 in four equal instalments.

And likewise with the apprentices the supplementary payment is \$52. That amount is then divided by four which equates to \$13 and then the percentage figure of the tradesman's rate is then applied at 42, 55,
25 75 and 88 per cent which gives four equal instalments of \$5.50, \$7.20, \$9.80 and \$11.40, and they are represented in that schedule.

I do not believe - and that, sir, was actually reflected in exhibit B.4 - and there was in fact a draft order which I prepared and presented to the commission some time ago in exhibit B.3.

30 I think actually I will need to re-present that to the commission because the second figure for the second year apprentice rate of \$269.70 is in fact incorrect and it should read \$241.10 by my calculation.

COMMISSIONER: \$241.10?

35 MR BAKER: Yes, sir.

COMMISSIONER: Yes, well you're going to produce another one are you?

MR BAKER: Yes. And we would propose, as has been discussed previously, that the operative date be 1 December of this year. So

5 subject to that change and consistent with the order which I produced in B.3, we would recommend to the commission that the commission accede to our request to incorporate supplementary payments - or the first step towards the complete introduction of supplementary payments into the award.

At this stage, sir, I haven't had a discussion with Mr Watson in relation to the figures as I've outlined in the document. He may be able to confirm with me whether they're correct or whether I didn't get them right for the second time.

10 COMMISSIONER: Well, we'll see what he says. The 30 November there, Mr Baker, I presume that's the current rate.

MR BAKER: That's the current rate as it applies in the award today.

COMMISSIONER: Yes.

15 MR BAKER: Now I'm not too sure, sir, where we wish or may not wish to actually keep this document - whether we attach it as an appendix to the award or whether it's simply kept on the file here in the commission.

COMMISSIONER: It's normally kept on the file.

20 MR BAKER: Yes. I must admit, sir, I think it's quite a good idea. I know Mr Abey and myself ran into some awful problems here a couple of years ago with an award when we lost the plot as to how we arrived at the figures.

COMMISSIONER: Yes. Well, I'm most anxious about that myself, but I see B.3, is it?

25 MR BAKER: Yes, commissioner.

COMMISSIONER: Or not - B4 seems to give it a reasonable explanation, doesn't it?

MR BAKER: Yes, it does, commissioner.

30 COMMISSIONER: So long as it is correct of course. And I'm leaving to the parties - and as the matter is not finalised as yet, I don't see that we need to go any further unless there is anything else you want to tell me, Mr Baker.

MR BAKER: No, sir, not at this stage.

35 COMMISSIONER: So naturally what I prefer is for you to detail all the changes to me and then for Mr Watson to stand up and say he confirms and agrees with the lot. I don't think he's quite in that position today.

MR BAKER: No, he's not, sir, unfortunately. As I've indicated, as far as the document itself is concerned, there has been, as I've previously indicated, some extensive discussions between myself and Mr Flood about it. There are still some discussions that we need to have in relation to basically the classification descriptors which is the old classification schedule, because there has been some changes with them over the last 12 to 18 months which reflect changes in really, I suppose, the education system and they've been reflected in the national standards and so there's been some subtle changes there which Andrew and I just need to sort of work through and there's also the issue of the transitional - or the proposed reclassification schedule which tells the employers and employees how you go about seeking to be reclassified consistent with the metal industry standards - or the metal and engineering industry competency standards.

And that is really I suppose, commissioner, the hub of what remains between us. The other issues really are about whether or not I agree with the way in which - basically, I suppose, it's a question of layout - whether or not I agree with Mr Flood where he wants this clause put or where he wants that one put. But other than that I can - and I suppose, sir, it would be a duplication, but I could actually take you through the document this morning and show you, highlight to you everything but I'm not too sure whether that would be in anybody's interest.

COMMISSIONER: No, I'm not looking for it, Mr Baker, until as I said we have that ideal situation where you go over all the details and then Mr Watson confirms his agreement. I don't think that's impossible, is it?

MR BAKER: No, it's not impossible at all. As I said, sir, it's there.

COMMISSIONER: Yes. And I'm more than happy to, if that's what you're suggesting, to adjourn today's proceedings to allow the parties to reach that stage. It certainly is a complicated process and I think it needs to be done carefully. Is that what you're getting around to saying, Mr Baker?

MR BAKER: Yes, sir. As I said, it's really just those two issues that we've just got to sort out and the rest of it will just fall into place - well, has fallen into place because Mr Flood and myself have been exchanging e-mails and I think we're in a stage where we've just about got it right.

COMMISSIONER: Right. And are you proposing that the unapprenticed juniors and apprentices supplementary payments introduction operative date 1 December will be incorporated in that process?

MR BAKER: Well, I was hopeful that as part of the documentation I would have given you today, it would have been part of it as a whole. As it turns out, we're probably a week away from that position.

5 COMMISSIONER: Yes, well, I just say this, Mr Baker, whilst it is a separate matter, I think ideally it ought to be joined with the rest of it, but if the operative date is going to be a snag because the other matter is not complete, I'd be agreeable to assist the union in that way, Mr
10 Watson, if they want to push the matter at the time which is next week, but I'm sure the Chamber will be cooperative, Mr Baker. But certainly we'll hear about that in a minute.

MR BAKER: I'm hopeful.

COMMISSIONER: Yes. Thank you. Yes, Mr Watson? Can we just fix that small item first? What I'm saying is, Mr Watson, the
15 supplementary payment matter, it seems to me it's virtually complete. I wouldn't like to see the operative date spoiled because the other matter go on into December, or even January. Am I able to prevail upon you in that regard?

MR WATSON: Yes, commissioner. I can in fact indicate that - as I've
20 advised Mr Baker verbally this morning - there is consent in relation to the supplementary payments implementation in a four-stage implementation for junior employees and apprentices. And the document that Mr Baker has tabled before you today, B.6, all of the rates concur with my calculations, so as far as B.6 is concerned in terms of all the rates there, that is an agreed matter in four stages.

25 But the only thing is, the way I see it, it should be 1 June, not 1 May. So it should be 1 December, 1 June, 1 December, 1 June.

COMMISSIONER: Yes. What do you say to that, Mr Baker?

MR WATSON: Mr Baker has only got five fingers, commissioner.

COMMISSIONER: Mathematically correct. Yes.

30 MR BAKER: The key, commissioner, is the figures.

COMMISSIONER: Yes.

MR BAKER: I take his point. I take his point.

COMMISSIONER: Yes, you're right. Yes.

MR WATSON: And of course it would be the first full pay period on or
35 after which would be applicable, so with those two amendments, commissioner, that is a consent matter.

COMMISSIONER: From that operative date, 1 December 1999.

MR WATSON: Yes, well, as far as that 1 December 1999 is concerned, again that is an agreed matter, but I would be in a difficult position if the commission's order is not issued until after that date because we don't want to be in a position of retrospectivity. So I'd be quite happy for that matter to be fixed up today if we can and then we can proceed on that basis, if that is possible.

COMMISSIONER: Yes. Well, I'm agreeable to that on the understanding - on the proviso, Mr Baker, that I receive a draft order absolutely correct within the next day or so, so I can issue that before 1 December.

MR BAKER: Upon my return to the office, I will have the matter remedied.

COMMISSIONER: Yes. Mr Watson will have to approve it. Send him a copy and once I know that both parties have agreed that matter will proceed. Yes, Mr Watson?

MR WATSON: I think the order, commissioner, would in fact be B.3 as Mr Baker tabled on 6 October with the adjustment to the figures for apprentices as he's indicated this morning.

COMMISSIONER: Yes.

MR WATSON: So I think that the actual order there has been done just has to have the figures adjusted.

COMMISSIONER: Thanks, Mr Watson, well we'll do that then.

MR WATSON: So we'd be happy, commissioner, for the document, B.6 to be kept on the file as the agreed translation scale and obviously it would be subject to separate application by Mr Baker for each of the last three instalments and I guess just for completeness sake, we'd appreciate a clean copy of this document with the new dates put in so as we all know where we stand.

COMMISSIONER: Yes. Well, that will actually be incorporated in my decision, Mr Watson. Will that suffice?

MR WATSON: That's fine. That's fine, commissioner, yes. So that deals with the issue of the supplementary payments, commissioner.

In relation to the award matter, I think Mr Baker has given you a fairly detailed summary of where things are at. Certainly Mr Flood's advice to me is that the matter is nearing completion but there's a few matters obviously that need to be fixed up between us and the union and we don't envisage that taking long at all, but that will be subject obviously to the discussions between Mr Baker and Mr Flood.

5 So I don't think there's probably anything else that I need to add at this stage, commissioner, other than to say that I agree that the next time we're before you we need to have a complete document which is the finalisation of the matter and then all the summaries can be given to you as to how it's all evolved. If it pleases the commission.

COMMISSIONER: Yes, thanks, Mr Watson. All right then, Mr Baker - perhaps we'll go off the record thanks.

OFF RECORD 10.25am

ON RECORD 10.30am

10 COMMISSIONER: Thanks for that, gentlemen. I just confirm that this matter will be adjourned *sine die*. The matter of the supplementary payments for unapprenticed junior employees and apprentices has been finalised by agreement and that will be completed and issued separately. There was a separate application
15 wasn't there, Mr Baker?

MR BAKER: Yes, sir. What we actually did was, we used that application to be the vehicle for not only the unapprenticed juniors and apprenticeship rates, but also for the reformatting of the award.

COMMISSIONER: I see. So this will be an interim decision?

20 MR BAKER: Yes, sir.

COMMISSIONER: Because that application will continue on after.

MR BAKER: Yes.

25 COMMISSIONER: All right. Just confirming again that that matter will be completed. The parties have advised agreement including the operative date. I will issue an interim decision on that particular matter and the operative date will be the first full pay period commencing on or after 1 December, and then, as the parties are well aware, any future increases following from that one will need a separate application from the union to be implemented.

30 And then, Mr Baker, in particular I'll leave it to the parties to finalise their agreement on the whole award matter, reduce it to writing in the draft form and then when that is done if you advise me I'll bring on a hearing within five working days.

Thank you, this matter is adjourned *sine die*.

35 **HEARING ADJOURNED SINE DIE 10.31am**