



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

VICE PRESIDENT HATCHER

AM2014/196 AM2014/197

s.156 - 4 yearly review of modern awards

**Four yearly review of modern awards
(AM2014/196 and AM2014/197)**

Sydney

9.12 AM, FRIDAY, 5 AUGUST 2016

PN1

THE VICE PRESIDENT: All right. Can I take appearances in Sydney first? Mr Maxwell.

PN2

MR MAXWELL: Thank you, your Honour. Maxwell, initial S. I appear on behalf of the CFMEU and the AWU for today only.

PN3

THE VICE PRESIDENT: All right. Ms Taylor, you appear the Manufacturing Workers Union.

PN4

MS TAYLOR: Thank you, your Honour.

PN5

THE VICE PRESIDENT: Ms Carr, for the Transport Workers Union.

PN6

MS CARR: Yes, your Honour.

PN7

THE VICE PRESIDENT: Mr Ferguson for the Ai Group.

PN8

MR FERGUSON: Yes, your Honour.

PN9

THE VICE PRESIDENT: Mr MacDonald for APTIA

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MR MacDONALD: Yes, your Honour.

PN11

THE VICE PRESIDENT: Mr Arndt for ABI.

PN12

MR ARNDT: Yes, your Honour and - - -

PN13

THE VICE PRESIDENT: And associated entities.

PN14

MR ARNDT: Thank you.

PN15

THE VICE PRESIDENT: Mr Bull, you appear fur United Voice.

PN16

MR BULL: With my colleague, Mr Robson.

PN17

MR ROBSON: For today only I appear for the ASU and HSU in the (indistinct) matters.

PN18

THE VICE PRESIDENT: ASU and HSU?

PN19

MR ROBSON: Yes.

PN20

THE VICE PRESIDENT: Thank you. Mr Fredericks, you appear for Hair and Beauty Australia?

PN21

MR FREDERICKS: I do.

PN22

THE VICE PRESIDENT: Mr Ushakoff. You appear for Clubs Australia?

PN23

MR USHAKOFF: Yes, your Honour.

PN24

THE VICE PRESIDENT: Mr Ryan for the AHA.

PN25

MR RYAN: Yes, your Honour and the Accommodation Association.

PN26

THE VICE PRESIDENT: All right. RBTU, that's Mr Talbot, is it?

PN27

MR TALBOT: Yes, your Honour.

PN28

THE VICE PRESIDENT: All right. Ms Wells, you appear for Restaurant and Catering?

PN29

MS WELLS: Yes, your Honour.

PN30

THE VICE PRESIDENT: All right. Any other appearances in Sydney? No? All right. In Melbourne, Mr Fleming, you appear for the ACTU?

PN31

MR FLEMING: Yes, your Honour. Unfortunately we don't have an image of the Bench down here.

PN32

THE VICE PRESIDENT: All right. We will see if we can organise that. Just bear with us while that's done. Mr Pegg, you appear for Jobs Australia?

PN33

MR PEGG: Yes, your Honour.

PN34

THE VICE PRESIDENT: All right. Now in Canberra, Ms Pearsall, you appear for the National Farmers Federation?

PN35

MS PEARSALL: Yes, your Honour.

PN36

THE VICE PRESIDENT: Ms Adler for the Housing Industry Association.

PN37

MS ADLER: Yes, your Honour. Thank you.

PN38

THE VICE PRESIDENT: And in Adelaide, Mr Wallgren, you appear for SA Wine.

PN39

MR WALLGREN: That's correct.

PN40

THE VICE PRESIDENT: All right. What I intend to do, the parties should have seen on the web site a draft program for the final week of witnesses and the beginning of submissions. I will just identify some matters by way of updating and then if the parties want to raise any further issues they are free to do so.

PN41

Firstly, can I indicate that in respect of the Road Transport Award and the APTIA witnesses, there is a witness listed there by the name of Campbell. That is an error and should be deleted and there is an additional witness not included, Mr Geoffrey Ferris, who was required for cross-examination. Is that right, Mr MacDonald?

PN42

MR MacDONALD: Yes, it is.

PN43

THE VICE PRESIDENT: Yes, all right. In relation to the second and third day in relation to the United Voice claim for a casual entitlement to overtime penalties, we have been informed that Dr Oliver, Dr Muurlink, Padcrijona Jona, Hilario Alvero, Shane Dennison, Jack Gibney are all required for cross-examination. Is that correct?

PN44

MR BULL: I believe so.

PN45

THE VICE PRESIDENT: Yes. Is that right, Mr Ryan?

PN46

MR RYAN: As well as Mr Harvey and Ms Whitfield.

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THE VICE PRESIDENT: No, in addition to the ones already shaded.

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MR RYAN: Sorry. Yes, your Honour.

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THE VICE PRESIDENT: All right. So that will be amended. Now, is it right that nobody requires Mr Gary Talbot for cross-examination? All right. Well, there's no alteration required in that respect. Then the next witness is Mr Warren Tegg. Am I right in saying that he is now required for cross-examination?

PN50

MR FERGUSON: Yes, your Honour.

PN51

THE VICE PRESIDENT: All right. That will be amended. Are there any other corrections that need to be made to the witness list?

PN52

MR MacDONALD: Your Honour, if I might?

PN53

THE VICE PRESIDENT: Yes.

PN54

MR MacDONALD: I did send a letter advising you, which you referred to. In relation to Mr Doolan, I did advise that he would need a video link from Perth. He is now going to come to Sydney. So I can confirm that in writing if you wish.

PN55

THE VICE PRESIDENT: No, that's fine. All right.

PN56

MR MacDONALD: So he doesn't need the Perth link.

PN57

THE VICE PRESIDENT: All right, thank you.

PN58

MR MAXWELL: Your Honour, in regard to matter 8, miscellaneous issues on Wednesday, 17 August, we did send email correspondence to the Commission that we no longer require Ms Cloet for cross-examination.

PN59

THE VICE PRESIDENT: All right, thank you.

PN60

MR FLEMING: Your Honour, regarding item 8, at footnote 7 I advise that the ACTU requires all of those witnesses and only those witnesses listed in relation to the Clubs Australian industrial claim.

PN61

THE VICE PRESIDENT: The ones in part 4(a)?

PN62

MR FLEMING: Correct.

PN63

THE VICE PRESIDENT: Yes. All right. Thank you. Mr Ryan?

PN64

MR RYAN: Just one other correction to the second and third day. The AHA has filed a statement of Ms Jenny Wregg.

PN65

THE VICE PRESIDENT: Yes.

PN66

MR RYAN: She wasn't - she's fallen off that list and I understand she is required for cross-examination.

PN67

THE VICE PRESIDENT: Yes, that's correct. So that will be added to the list. Thank you.

PN68

MS TAYLOR: Your Honour, in relation to Mr Tegg at item 7, it indicates that it will be Tuesday or Wednesday. Could we confirm that Mr Tegg would be available on Wednesday.

PN69

THE VICE PRESIDENT: All right. No difficulty with that, Mr Ferguson?

PN70

MR FERGUSON: No, we can (indistinct).

PN71

THE VICE PRESIDENT: All right. Mr Wallgren, in relation to the wine industry witnesses, are you able to identify what days they will be available, whether it's both or any particular day?

PN72

MR WALLGREN: Yes, I did actually write to your associate on the 1st and the 2nd, advising that Mr Jeremy Dineen and Mr Richard Van Ruth are available for Wednesday the 17th.

PN73

THE VICE PRESIDENT: On the Wednesday?

PN74

MR WALLGREN: Yes.

PN75

THE VICE PRESIDENT: And what about Ms Balnaves?

PN76

MR WALLGREN: Ms Balnaves, I take it is not available on either Tuesday or Wednesday. Sir, I advised United Voice (indistinct) of the fact that she's actually not available for cross-examination.

PN77

THE VICE PRESIDENT: Well, this will be the last opportunity for witnesses to give evidence, so unless you can sort something out, I think in accordance with an earlier ruling that statement would not be admitted.

PN78

MR WALLGREN: Yes.

PN79

THE VICE PRESIDENT: So if there's any possibility that we can work out something, whether it's by telephone or at any particular time during the day, we will try to accommodate you, but I don't think we can hear any further evidence after the Wednesday.

PN80

MR WALLGREN: Yes.

PN81

THE VICE PRESIDENT: All right. Thank you. Now, unless any party tells me that cross-examination of any particular witness will take an excessive amount of time, I think the numbers are sufficient to allow us to commence at 10 am on every day. Does anybody have a different view about that?

PN82

MR ROBSON: Excuse me, your Honour. This is just in relation to the evidence of Dr Fitzgerald. She is being called by Jobs Australia in the NDIS and related matters.

PN83

THE VICE PRESIDENT: Yes.

PN84

MR ROBSON: She is currently scheduled for the afternoon of 15 August. We have discussed between the union parties and Jobs Australia that it might be sensible to call her on the morning of 18 August. There is a conciliation - - -

PN85

THE VICE PRESIDENT: No, the 18th is for submissions.

PN86

MR ROBSON: If it pleases.

PN87

THE VICE PRESIDENT: All right. Now, can I remind the parties that if any witnesses are giving evidence by telephone, we need to be advised the contact number 48 hours in advance and likewise as was the case on the last occasion, if you want to hand up documents to a witness who is not in the same physical location, you will need to provide the documents to us 48 hours in advance so we can make sure they're available in the court.

PN88

Have the parties conferred about the order in which the parties will make closing submissions about the common issues on Thursday and Friday?

PN89

MS CARR: Yes, your Honour. Before we go on to that, there are two witnesses that AiG require in relation to the long distance award, Brad Osland and Grant Hosking. I've indicated to the Commission it is likely that they will need to give their evidence by way of telephone. I have had some discussions with Mr Ferguson. My view is it wouldn't take very long.

PN90

These are long-distance truck drivers and unusually - well, not unusually, but their shifts are actually overnight, so I still need to confer with them if possible if the Commission could accommodate particular times for them, because they actually sleep through - during the day in preparation for their night shift.

PN91

So if the - when I find out, which probably will be in the next couple of days, if I could advise the Commission if we accommodate it in relation to specific times for those two witnesses.

PN92

THE VICE PRESIDENT: We will endeavour to accommodate that. Again, the parties should always confer about the order of witnesses and we will endeavour as far as we can to accommodate any special needs.

PN93

MS CARR: Yes. Well, it is just that there are two awards on that day at - two particular awards on that day and Mr MacDonald has four witnesses that we require.

PN94

THE VICE PRESIDENT: Yes.

PN95

MS CARR: So - I mean, you know, according to the order it would appear that the Road Transport Award would go first, which would probably suit our drivers.

PN96

THE VICE PRESIDENT: Yes. All right.

PN97

MS CARR: Thank you.

PN98

THE VICE PRESIDENT: Now, order of submissions. The parties can simply confer about that, unless they have got something to tell me about it.

PN99

MR FERGUSON: We haven't conferred, but just a suggestion in light of experience with past common claims, what we had envisaged might unfold - the way it might unfold is that proponents of claims would, of course, go first in the order of their making submissions and that would be the proponents of all the claims being dealt with; all the common claims being dealt with and then parties would respond accordingly. Within that context we had anticipated that, in terms of the order, that the various peak counsels would lead the order, so to speak.

PN100

But the other issue I might raise is the purpose of the initial submissions from proponents of the claims would be for the purposes of responding to the written material that has been advanced, initially so the parties can then respond accordingly, rather than the parties leaving the responses to that written material to their ultimate replies. Those are the only matters that I wanted to raise.

PN101

THE VICE PRESIDENT: So that doesn't involve the parties giving submissions twice, does it?

PN102

MR FERGUSON: It would involve the proponents of claim responding to anything that was put against them. So those parties would have a potential opportunity to give submissions to us. So the proponents of claims respond to what already in the written material noting that there's already been directions for comprehensive submissions if I recall correctly. The respondents, if I can call them that, would then reply to that and then, of course, there would be a final reply, but confined to matters arising from the submissions in response.

PN103

THE VICE PRESIDENT: All right. Well again, I will leave it to the parties. I just want to make it clear I don't expect to receive any argument or dispute about this when we start on Thursday. If the parties have planned out something, you can assume we will accommodate it.

PN104

All right. Mr Fleming, did you want to say anything about that?

PN105

MR FLEMING: No, your Honour.

PN106

THE VICE PRESIDENT: All right. Ms Taylor.

PN107

MS TAYLOR: Just on that point, your Honour, it seemed appropriate given that the - we haven't received the material from the responders that is due this afternoon. Now, if past experience is anything to go by, that material might not be received, which means that we will have less than two weeks - you know, seven days - to look at that material. That material may not even include response to the issues paper, because the Commission gave parties the opportunity to respond, not respond, respond in writing or respond orally.

PN108

So we may be only hearing that material on the 18th or the 19th. So we would like to suggest that parties be given opportunity to put final written submissions for any material arising from the responses due by this afternoon or material that arises in oral submission and that those responses - final written responses would be due on 26 August.

PN109

THE VICE PRESIDENT: 26 August?

PN110

MS TAYLOR: Yes. Well - sorry, your Honour, two weeks after the 19th, which would be the week after the 26th.

PN111

THE VICE PRESIDENT: Does anyone else agree with that?

PN112

MR FLEMING: Your Honour, if I could just say one thing?

PN113

THE VICE PRESIDENT: Yes, Mr Fleming.

PN114

MR FLEMING: As I understand it, the parties have not yet had an opportunity to respond to submissions filed on 22 February in reply to the common claims, because the comprehensive written submissions were, at least as we took it, an opportunity to comprehensively outline the positive case and then the - I apologise, your Honour, there's a very loud echo here and it's very hard to talk.

PN115

THE VICE PRESIDENT: Well, I can hear you - we can hear you. So - if it's easier to sit down, Mr Fleming, please do so.

PN116

MR FLEMING: Then the way we at least read the recent round of submissions and I think Ai Group and the RCSA agree was that that also didn't address the 22 February submission round. So as I understood it, the only opportunity to address those matters was in oral submissions. So that further round of written submissions might assist there.

PN117

THE VICE PRESIDENT: Mr Ferguson?

PN118

MR FERGUSON: Well, we've taken a simpler view - - -

PN119

MR FLEMING: If I could just add, your Honour - - -

PN120

THE VICE PRESIDENT: Yes, Mr Fleming.

PN121

MR FLEMING: There are 36 employer submissions filed in response to the ACTU's claim, for example, on 22 February, including a number of jurisdictional objections that we would like to address.

PN122

MR FERGUSON: Well, we've taken a simpler view. We thought that the opportunity to file written submissions was an opportunity to deal with all the prior submissions that had been filed and an opportunity to deal with the evidence that had been taken and we understood that that was to be dealt with in a comprehensive manner and that the purpose of the oral hearing if you will or the actual hearing was to respond to material that proponents of claims made had put against them in the written submissions, and then of course to afford the respondents an opportunity to reply to anything that is put in that process.

PN123

That seems to be the ordinary course of these matters. We had apprehended that we now have the case the unions are putting already in the material and that new matters are not going now to be raised for the first time at the oral hearing. We're obviously put at some difficulty if that arises, because we'll be trying to grapple with it all on our feet, so to speak, rather than having had the time to consider the material.

PN124

I don't see why there's a need necessarily for another round of written submissions, because the unions will have the material before the oral submissions. If there's another round of written material to be put on by the unions, the only difficulty I might foreshadow - and it may not arise - is that if there is a great volume of material put to us only days before the hearing, we will be in an even more difficult position than the unions will. Now, that may not eventuate, we don't know, but that's an issue that perhaps we can deal with at the time if the parties make an application to file something.

PN125

THE VICE PRESIDENT: Right. Does anyone else want to say anything about this? Well, can I indicate that the directions were made on the basis that the submissions would be complete by 19 August, so the oral submissions are an opportunity to deal with replies to material that being filed at close of business today, as well as to answer any questions which the Bench may have about the issues, but if any party feels they are prejudiced, they can raise it on the 18th or 19th. If there's particularly any unexpected legal issues which arise, that might be an exception and might require some further written submissions if they are of

some complexity, but certainly in regards to the merits, we would expect the thing to wrap up by 19 August.

PN126

All right. Now, in relation to the - - -

PN127

MR FLEMING: Sorry, your Honour. Could I just clarify? Does that mean your Honour does not wish the parties to address 22 February reply submissions in the oral submissions on the 18th and 19th?

PN128

THE VICE PRESIDENT: Well, the oral submissions are really your opportunity to say anything you want to say. So we are not confining anybody. What you want to focus on in those oral submissions is entirely a matter for each party to make a judgment about. There is a whole range of submissions that have been filed and I'm not going to tell parties how best to run their case.

PN129

Now, in relation to the specific issues for which witnesses are being called in the final week, can I ask the parties to confer about how final witness submissions or final oral submissions might be dealt with for those matters and to report back at some stage during the final week of hearing? I indicate that if any party wishes to make oral submissions in addition to written closing submissions in relation to those matters.

PN130

So this is primarily the Road Transport awards, the United Voice claim for overtime penalties and the - I think it's the wine industry matters, then there are two dates available for oral submissions; that is 27 October and 29 November. The NDIS issues have already been scheduled for 28 November, which I will come to in a second.

PN131

So at any convenient time during the final week, the parties can raise that issue and report back and we will make directions to facilitate that. The next issue is that at the last set of hearing days there had been an inquiry made as to whether it would be useful to have any further conciliation in relation to, firstly, the hospitality award and, secondly, the registered clubs award and there has been some interest about that. Can I confirm what the position is about that, maybe starting with you, Mr Ryan?

PN132

MR RYAN: Yes, your Honour. The parties, United Voice and ACTU and the AHA are prepared to enter into conciliation. I haven't spoken with Mr Fleming, but a brief discussion with Mr Ball suggested that it would be beneficial to be held if possible prior to 15 August and that's about as far as we got at this stage.

PN133

THE VICE PRESIDENT: All right. And one of the critical questions is do the parties foresee that conciliation being conducted by a member of the Bench or would they prefer to be some member who is not on the Bench?

PN134

MR RYAN: Your Honour, we haven't discussed that, but from the HA and the Accommodation Association's perspective we are happy for it to be either.

PN135

MR BULL: I would agree with that. I've got no problem with a member of the bench conducting - - -

PN136

THE VICE PRESIDENT: Sorry, what? You have a problem with a member of the Bench?

PN137

MR BULL: Sorry, your Honour?

PN138

THE VICE PRESIDENT: Did you say you have a problem - - -

PN139

MR BULL: I don't.

PN140

THE VICE PRESIDENT: You don't?

PN141

MR BULL: We don't.

PN142

THE VICE PRESIDENT: All right. Mr Fleming, do you want to be involved in that process?

PN143

MR FLEMING: Yes, your Honour.

PN144

THE VICE PRESIDENT: All right. Do you have a view about who should conduct the conciliation?

PN145

MR FLEMING: No, your Honour. We are likewise open to a member of the Bench conducting it.

PN146

THE VICE PRESIDENT: All right. How soon do the parties want to conduct that exercise?

PN147

MR BULL: Well, it would seem useful to have it before we finish the evidence. I know next week is very soon, but I've suggested 10 and 11 August and possibly the afternoon of 15 August. It is one of those matters where we will know fairly quickly if we are going to get anywhere, I would have thought. So perhaps if we can get time before the hearing, that would (indistinct).

PN148

THE VICE PRESIDENT: Mr Ryan and Mr Fleming would you be available on the 11th?

PN149

MR RYAN: The 11th is convenient to the AHA, your Honour.

PN150

THE VICE PRESIDENT: Mr Fleming?

PN151

MR FLEMING: Yes, your Honour. That's convenient.

PN152

THE VICE PRESIDENT: All right. How long do the parties want?

PN153

MR BULL: I would have thought an afternoon - an hour or so in the morning or afternoon.

PN154

THE VICE PRESIDENT: All right. Well, I will set aside half a day.

PN155

MR BULL: The other thing is - the understanding is that they are separate in the sense that there's a conciliation for the claims in relation the Hospitality Award and there's one in relation to the Clubs Award.

PN156

THE VICE PRESIDENT: I was going to come to the Clubs Award. So Mr Ushakoff, what's the position of the Clubs - - -

PN157

MR USHAKOFF: Yes, your Honour. The position of the Clubs Australia Industrial is essentially the same, that a conciliation before 15 August would be preferable, along the lines already discussed and that would be fine. A separate conciliation to the one between the AHA and the ACTU and United Voice, as the issues are somewhat separate with a separate history.

PN158

THE VICE PRESIDENT: Yes, and would you be available on the 11th?

PN159

MR USHAKOFF: Yes. Yes, we would be.

PN160

THE VICE PRESIDENT: Mr Fleming, do you want to participate in that?

PN161

MR FLEMING: Yes, your Honour.

PN162

THE VICE PRESIDENT: All right. Well, I will tentatively give you half a day each on the 11th and unless there is any objection, I will contract the conciliation myself.

PN163

MR USHAKOFF: Thank you, your Honour.

PN164

THE VICE PRESIDENT: Now, in relation to the NDIS issues, do I take it, Mr Arndt, the email sent to my chambers on 22 July proposing directions represents an agreed position, is that right?

PN165

MR ARNDT: That's correct, your Honour.

PN166

THE VICE PRESIDENT: All right.

PN167

MR ROBSON: Yes, your Honour.

PN168

THE VICE PRESIDENT: Mr Robson. All right. Well, those directions will be made and they will be issued in due course. Now, there has been no appearance by the Recruiting and Consulting Services Association, but there was a further witness statement filed by them on 29 July. Are the parties familiar with that? Mr Fleming, have you seen that? Or Ms Taylor?

PN169

MS TAYLOR: No, your Honour.

PN170

MR FLEMING: No, your Honour.

PN171

MS TAYLOR: I haven't seen that, but I thank you for alerting me to it.

PN172

THE VICE PRESIDENT: All right. Well, we will send it to you later this morning, but we received correspondence from the lawyers for the Recruitment and Consulting Services Association on the 29th, which indicated that they had foreshadowed back in March possibly filing a further witness statement in response to the evidence of Mr Clinton Lewin. They've now filed that statement. It's the statement of Melissa Evans, and it is some 17 paragraphs and five pages long, responding to some of Mr Lewin's evidence and they want the opportunity to adduce that statement.

PN173

So I understand it is on the web site, but in any event I will ensure that a copy is sent to you. So can I ask you both to provide advice as to your position about that statement prior to close of business today?

PN174

MS TAYLOR: Yes, your Honour.

PN175

MR FLEMING: Yes, your Honour.

PN176

THE VICE PRESIDENT: All right. Mr MacDonald, Mr Ferris, where is he going to give evidence from?

PN177

MR MacDONALD: From Sydney.

PN178

THE VICE PRESIDENT: Thank you. I think that's all the issues I have to raise. Is there any issue which any other party wishes to raise?

PN179

MR FERGUSON: A couple of minor - - -

PN180

MS TAYLOR: One minor issue, your Honour. Unfortunately, I would like to seek leave for the final week of hearings. I had arranged to be travelling overseas at that time. Last year I had estimated that the matter would have finished by then. So I do seek leave.

PN181

THE VICE PRESIDENT: Leave to do what?

PN182

MS TAYLOR: To not appear.

PN183

THE VICE PRESIDENT: All right. Well, I don't think you need leave for that.

PN184

MS TAYLOR: I would not like to see it as any indication of my lack of interest or the organisation's lack of purpose in this matter.

PN185

THE VICE PRESIDENT: I am sure we are persuaded that the AMWU is interested. Mr Ferguson.

PN186

MR FERGUSON: Just a couple of matters, your Honour. Firstly, in relation to the submissions dealing with the evidence that was heard in the week commencing 11 July, but not part of the common claims, I don't think there's any

actual directions that have been issued formally, dealing with when those submissions should be filed.

PN187

THE VICE PRESIDENT: So this is evidence not concerned with the common claims?

PN188

MR FERGUSON: That's right. So issues associated with, for example, the Horticultural Award and the AMWU's claim in that respect. I think there were some draft directions handed up by the Ai Group or filed by the Ai Group and your Honour may have indicated, as I'm instructed, that prima facie those directions would issues, but I am not sure they did.

PN189

THE VICE PRESIDENT: All right. Well, I will make sure that is dealt with, but Mr Ferguson can you send us the document again and we will deal with it.

PN190

MR FERGUSON: Yes. One other issue is an SDA claim in respect of certain awards, including the Fast Food Award, the General Retail Award, the Pharmacy Award and the Hair and Beauty Award.

PN191

THE VICE PRESIDENT: Yes.

PN192

MR FERGUSON: Now, there had been directions, I think, for the SDA to file submissions in October last year and then for the reply submissions. I think what actually eventuated is the SDA filed their material well outside of that entire timetable and, as such, there has been no directions for filing reply submissions to that.

PN193

THE VICE PRESIDENT: All right.

PN194

MR FERGUSON: We would propose that perhaps they should be filed by some point in September, probably the middle of September and, apologies, I don't have a specific date, but that may enable it to be dealt with at that October hearing if there is a need for any final oral hearing.

PN195

THE VICE PRESIDENT: Can I ask you to confer with the SDA about that and see if you can come up with an agreed program? Otherwise can I leave it for you to raise again in the final hearing?

PN196

MR FERGUSON: Yes, your Honour.

PN197

THE VICE PRESIDENT: All right. Mr Ryan?

PN198

MR RYAN: Your Honour, just a matter that's similar to the first matter raised by Mr Ferguson. In the July hearing dates, the United Voice, the AHA and Clubs proposed a timetable for filing written submissions. I am optimistic, given the conciliation next week, that we might not need it, but in the event that we are back in August, we can perhaps just settle those directions - - -

PN199

THE VICE PRESIDENT: Can you send those through again today, Mr Ryan?

PN200

MR RYAN: I will do, your Honour.

PN201

THE VICE PRESIDENT: All right. Anything else in Sydney? Anything else in the other locations?

PN202

MS PEARSALL: Your Honour, I understand that in hearings on 11 July our barrister Mr Easton indicated that we would seek similar directions in relation to the Pastoral Award as what AiG has proposed for the Horticultural Award for closing submissions.

PN203

THE VICE PRESIDENT: All right. Have you conferred with the AWU about that and United Voice?

PN204

MS PEARSALL: Not since the hearings, your Honour.

PN205

THE VICE PRESIDENT: All right. Well, can we ask you to confirm what the agreed position, if any, is with the AWU and any other relevant union and then communicate that to my chambers?

PN206

MS PEARSALL: Yes, your Honour.

PN207

THE VICE PRESIDENT: All right. Thank you. Anything else? All right. Thank you for your attendance and I will now adjourn.

ADJOURNED INDEFINITELY

[9.42 AM]