

From: Leigh Svendsen <leighs@hsu.net.au>

Sent: Friday, 23 July 2021 10:04 AM

To: Chambers - Ross J <Chambers.Ross.j@fwc.gov.au>

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Subject: AM2018/26 - URGENT Correspondence

Importance: High

Dear Justice Ross,

We refer to the above matter and proceedings listed before the Fair Work Commission (**Commission**) later today. We send this correspondence on behalf of the following organisations:

- (a) The Health Services Union;
- (b) The Australian Services Union;
- (c) The United Workers' Union;
- (d) The Australian Industry Group;
- (e) National Disability Services;
- (f) The Australian Federation of Employers and Industries;
- (g) Australian Business Industrial;
- (h) The NSW Business Chamber;
- (i) Leading Aged Services Australia; and
- (j) Aged and Community Services Australia.

(jointly, **Interested Parties**)

A copy of this correspondence was circulated to representatives of each of the Interested Parties before it was filed in the Commission. All have confirmed that they agree with the characterisation of their respective organisations' positions as set out below.

Since the HSU last wrote to the Commission on 16 July 2021, the Interested Parties have continued to have productive discussions about various issues arising from the Commission's decision of 4 May 2021. Specifically, the Interested Parties met on 20 July, 21 July and 22 July. In addition, various separate discussions have also taken place amongst some of the Interested Parties. The unions have worked together to advance a uniform position and the employer representatives have similarly endeavoured to do the same.

The discussions have resulted in the parties identifying a range of matters about which a compromise position may be able to be reached as a result of which it would likely be unnecessary to file detailed submissions or any evidence in relation to those matters, unless required by the Commission. The discussions have occurred on a without prejudice basis and have been facilitated by various parties reducing potential compromise positions to writing and exchanging them with the others.

The Interested Parties are of the common view that they would benefit from the grant of further time to continue their discussions. They also share the common view that if they are required to file submissions and evidence on 27 July, this will compromise the prospect of the parties reaching a joint position.

Moreover, the discussions that have occurred over the last two days have unearthed an important new issue arising from the Commission's decision. In the limited time available, the employer parties have not yet had a sufficient opportunity to consult their relevant constituents in relation to it and will not be able to properly do so ahead of the proceedings listed later today. Until they have had an opportunity to do so, they consider that they are unable to substantially advance the matter.

Given the nature of the discussions that have occurred to date and the issue identified in the paragraph immediately above, the Interested Parties respectfully request that:

- (a) The conference listed at 1pm today be vacated and the matter be relisted, at the Commission's convenience, for a report back on or after 30 July 2021;

- (b) The requirement to file submissions and evidence on 27 July be extended to 3 August 2021; and
- (c) The hearing listed on 4 August 2021 be vacated.

This request is made on the basis that the Interested Parties jointly consider that the aforementioned adjustments to the timetable will provide the parties with a valuable opportunity to continue their discussions which have so far proven fruitful. The Interested Parties remain hopeful that with the benefit of further time to engage in those discussions, a joint position in relation to various matters will be reached. The Interested Parties also seek an opportunity to consider and possibly be heard as to how any remaining outstanding issues are programmed, including the potential grant of an opportunity to file material in reply to that which is filed on 3 August 2021.

Should the Commission decline the Interested Parties' request to adjourn the conference listed later today, the parties will of course attend the proceedings and will be in a position to further speak to the matters set out in this correspondence.

Regards



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HSU National acknowledges the Traditional Owners and Elders past, present and future across Australia. We respectfully acknowledge that our office stands on the land of the owners and continuing custodians of Melbourne, the Boon Wurrung and Woi Wurrung language groups of the great Kulin Nation.

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