

From: Crossman, Lauren <LCrossman@seyfarth.com>
Sent: Tuesday, 6 July 2021 3:59 PM
To: Chambers - Ross J <Chambers.Ross.j@fwc.gov.au>; AMOD <AMOD@fwc.gov.au>
Cc: Skene, Henry <HSkene@seyfarth.com>; Tan, Elizabeth <ETan@seyfarth.com>
Subject: AM2020/104 - Application to vary Horticulture Award

Dear Associate,

We refer to the statement published by the Honourable Justice Ross on 2 July 2021 and provide the responses his Honour requested as follows:

1. The Australian Fresh Produce Alliance (**AFPA**) intends to call two witnesses, Nicholas King and Greg Houston (the expert). Each of these witnesses is available on 14, 15 or 16 July 2021. However, in light of the volume of expert materials filed by the union parties as part of their reply evidence and Mr Houston's commitments this week, it would be preferable for Mr Houston to give evidence on Friday, 16 July 2021.
2. In relation to cross-examination, AFPA is still reviewing the voluminous reply materials and has not made a final decision as to whether it will seek to cross-examine any witnesses. At this stage, unless it notifies otherwise, AFPA requires the following witnesses for cross-examination:
 - i. Elsa Underhill;
 - ii. Joanna Howe; and
 - iii. Thomas Costa.

AFPA anticipates that the cross-examination would take about 1 hour for Dr Underhill, about 30 minutes for Dr Howe and about 30 minutes for Mr Costa. Realistically, the earliest that AFPA could be ready to cross-examine these witnesses is Thursday 15 July. Those witnesses have provided substantial material in reply. Mr Costa's affidavit affirmed 18 June 2021 is not in the nature of reply; rather, he has annexed at TC-4 a study released in June 2021. Mr Houston has not yet had an opportunity to look at any of the unions' reply evidence and it is unlikely that AFPA will have an opportunity to confer with Mr Houston about his views on this material until next week.

3. AFPA does not seek to make any submissions in opposition to the proposed orders for confidentiality.
4. AFPA does not seek to make any submissions in opposition to the proposed orders for production, but reserves its position in relation to the impact such a process might have on programming of the hearing.

Sincerely,

Lauren Crossman | Senior Associate | Seyfarth Shaw Australia
Level 40, Governor Phillip Tower | 1 Farrer Place | Sydney, New South Wales 2000
Direct: +61 2 8256 0461 | Mobile: +61 404 920 773
lcrossman@seyfarth.com | www.seyfarth.com



The information contained in this transmission is attorney privileged and/or confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited.