

TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

1048407-1

COMMISSIONER HAMPTON

**AM2012/27 AM2012/89 AM2012/147 AM2012/158 AM2012/176 AM2012/178
AM2012/193 AM2012/244 AM2012/259 AM2012/331**

**Sch. 5, Item 6 - Review of all modern awards (other than modern enterprise and State
PS awards) after first 2 years**

Wine Industry Award 2010,
Poultry Processing Award 2010
Food Beverage and Tobacco Manufacturing Award 2010

**(ODN AM2008/7)
[MA000002 Print PR985112]]**

Adelaide

10.33AM, THURSDAY, 13 JUNE 2013

**THE FOLLOWING PROCEEDINGS WERE CONDUCTED VIA VIDEO LINK AND
RECORDED IN ADELAIDE.**

PN1

THE COMMISSIONER: Technology permitting, I'll take the appearances, perhaps starting here in Adelaide.

PN2

MR A. SHORT: If the commission pleases, Short, initial A appearing for PP Adelaide in relation to Poultry Processing Award.

PN3

MS S WEST: If the commission pleases, West, initial S appearing on behalf of the South Australian Employers Chamber of Commerce and Industry, trading as Business SE, appearing in all three matters.

PN4

MS N. HARDINGHAM: It's Hardingham, initial N appearing for Beerenberg in the matter of Food Beverage and Tobacco.

PN5

MS S. HILLS: Hills, initial S appearing on behalf of South Australian Wine Industry Association in relation to matter number – the Wine Industry Award.

PN6

THE COMMISSIONER: The wine one, yes I understand. Now, perhaps in Sydney.

PN7

MS J. VAN BRONSWIJK: Van Bronswijk, initial J. I appear on behalf of AI Group in relation to the Food Beverage and Tobacco and Poultry Processing Industry.

PN8

MS Z. JENKINS: If the commission pleases, Jenkins, initial Z appearing on behalf of Australian Business Industrial in relation to all three matters.

PN9

MR A. DUC: If the commission pleases, Duc, initial A for the Baking Manufacturers Industry Association of Australia in the Food Beverage Tobacco Award.

PN10

MR K. VELOSO: If the commission pleases, Veloso, initial K appearing for the Australian Manufacturing Workers Union in all three matters.

PN11

MR W. ASH: Ash, initial W. I appear for United Voice in relation to AM2012/158, 178, 244 and we understand AM2012/27 has being discontinued.

PN12

THE COMMISSIONER: Very well, thank you.

PN13

MS Z. ANGUS: If it please the commission, Angus, initial Z on behalf of the Australian Workers' Union, in relation to all three awards.

PN14

THE COMMISSIONER: Thank you, is that it for Sydney?

PN15

MS ANGUS: Yes.

PN16

THE COMMISSIONER: And Melbourne?

PN17

MR A. PORTELLI: If the commission pleases, Portelli, initial A on behalf of the National Union of Workers in relation to the Poultry Processing Award and the Food Beverage and Tobacco Manufacturing Award.

PN18

THE COMMISSIONER: Thank you, Mr Portelli. Perhaps I should indicate the parties should feel free to remain seated. It probably helps with the video. The purpose of this conference is to consider the status of individual applications to the very awards that have been referred to me as a single member as part of the Modern Awards Review 2012. There are three awards concerned and I propose to deal with each in turn. In so doing, I obviously want to confirm the status of the applications, and secondly to confirm whether there is consent or likely consent on any of the matters or elements of the various applications. Thirdly, to understand the extent and nature of the cases that will be led either in support of or in opposition to any of the contested matters.

PN19

The purpose of this is to allow me to shortly issue directions, and hearing dates in relation to each of the three awards. As I indicated earlier, I propose to deal with the awards separately, and I propose to do so in the following order. Firstly, I'll deal with the Poultry Award then the Wine Industry Award, and lastly the Food Beverage et cetera Manufacturing Award. I should indicate bearing in mind that there are at least in respect of the first two matters there are parties that only have an interest in those two. They should feel free to leave the conference when they are concluded unless they wish to stay for some reason which wouldn't be immediately obvious. So perhaps then I'll deal with the Poultry Award. I just want to confirm that there were at least originally two applications with elements that were referred to myself. One of those included the NUW for Mr Portelli that was withdrawn, I think in October last year.

PN20

MR PORTELLI: That's correct, Commissioner.

PN21

THE COMMISSIONER: Which according to my records at least, leaves us one application, being the application filed or at least represented by Minter Ellison. In that context Mr Short, perhaps you might provide some of the background for me and fill in the details that I alluded to earlier.

PN22

MR SHORT: The applicant is applying to amend clause 25.2 of the award dealing with rest breaks. The current clause entitles an employee to paid rest breaks of 10 minutes each in the forenoon and in the afternoon. Arguably, the consequences of the current clause include that night shift employees are not entitled to a paid rest break. Further, that employees working any length either solely before noon or afternoon are entitled to only one paid break and further, that employees working any length that extends across noon, are entitled to two

paid breaks. The terms forenoon and afternoon create ambiguity and uncertainty. The proposed variation would give clarity to employee's entitlements. The proposed variation would entitle an employee to one paid rest break of 10 minutes when working more than three hours, but less than six hours and entitle an employee to two paid rest breaks when working six hours or more.

PN23

This would be excluding any unpaid meal breaks and it would be the case regardless of the time at which or over which a shift was worked. We've heard no opposition to the application and we would not expect any. It clarifies an uncertain situation. It does not appear to diminish employees' appropriate entitlements and there will be instances where employees will be better off by reason of this clarity. The case that would be put forward would be a simple one. We've set out the grounds for the application, and I would be hopeful that it can just be done by consent.

PN24

THE COMMISSIONER: In relation to the particular variation, I think if I read your application correctly or I've understood your application correctly, those words appeared in one of the earlier drafts of the modern award but were changed. Do you know where those words came from or what they were modelled on?

PN25

MR SHORT: No, we tried to sort out – we tried to go back and find where did this come from, what's the history and what was the intent, but we've been unable to get clarity. We think the words were inserted after the exposure draft by consent between AFEI and the AMIEU. It just appears to be an unintended consequence that there is uncertainty following the use of that language.

PN26

THE COMMISSIONER: Thank you Mr Short. Anyone else in Adelaide want to be heard on that question?

PN27

MS HARDINGHAM: Commissioner, we would support Minter Ellison's application, thank you.

PN28

THE COMMISSIONER: Mr Portelli, perhaps I'll throw to you first.

PN29

MR PORTELLI: Commissioner, I can confirm that the NUW does not object to the application.

PN30

THE COMMISSIONER: And those with an interest in Sydney.

PN31

MS VAN BRONSWIJK: Commissioner, the AI Group is looking to reserve its position at this stage until we're given a further consultation with members regarding their views in this application.

PN32

THE COMMISSIONER: Why would you need to do that? This application has been around for six months or so, if not longer - in fact 12 months.

PN33

MS VAN BRONSWIJK: I do understand that Commissioner, but we do request if it pleases the commission, that we could have further time to further consult with our members. On the face of it we don't see that there should be any issue. We're just looking to reserve our position at this time.

PN34

THE COMMISSIONER: I'm not sure I'll be able to accommodate that, but you'll appreciate that not only has it been on the table for 12 months, but there was significant leave time in terms of the notice of listing for these matters.

PN35

MS VAN BRONSWIJK: Thank you, Commissioner I do appreciate.

PN36

THE COMMISSIONER: Anyone else?

PN37

MS JENKINS: Jenkins, for ABI in Sydney. Our position would also mirror AIG. We would probably only need a couple of days to seek further instructions on that part of the application.

PN38

THE COMMISSIONER: The same comments would apply and also I don't know how an organisation of your size would get instructions in a couple of days. Anyone further?

PN39

MR VELOSO: Your Honour, the AMWU would also like to reserve its position on this matter.

PN40

MS ANGUS: From an AWU perspective we haven't had discussion with the applicant about this. It may be that there is some uncertainty in the existing operation of the clause, but we object to a change that results in the provision of only one break for a six hour period. So in that sense, what the applicant is seeking to do is to substantively alter the clause. What we would ask of the commission is the opportunity to have some further discussions with the applicant with a view to seeing if an agreement can be reached about a way to – have we just lost connection?

PN41

THE COMMISSIONER: No, you are all right.

PN42

MS ANGUS: Can you hear me?

PN43

THE COMMISSIONER: Yes indeed.

PN44

MS ANGUS: We've lost the picture.

PN45

THE COMMISSIONER: Ignore the picture, I think for the moment.

PN46

MS ANGUS: If there is a way that interested parties can have a discussion to see if an agreed set of words – an agreement about some words could be reached and the application could proceed by consent, but in terms of the existing words that are being sought, the AWU opposes that variation in its current form.

PN47

THE COMMISSIONER: In relation to the particular issue you've raised, it's not immediately obvious that the current words would guarantee more than one break for a six hour period, and in fact that wouldn't appear to do so, but it doesn't mean that there might not be issues around that, but on face value that would seem to be one of them.

PN48

MS ANGUS: Commissioner, if someone works currently and they're entitled to one break before 12 noon, they might commence work at 8, 9 o'clock in the morning, and then they would receive a break before noon time. On the proposed variation they wouldn't receive a break until mid afternoon. It's a substantive change in our submission and we would ask for some time for some discussions to occur with the applicant. It's unfortunate they haven't occurred up until this point. I apologise for that. It's not a criticism it's a description, but if it is possible to reach an agreed set of words that resolves any uncertainty, then we are open to that, but the wordings that's currently proposed would not be supported by the AWU.

PN49

THE COMMISSIONER: Any further contributions in Sydney?

PN50

MR VELOSO: No.

PN51

THE COMMISSIONER: Mr Short, anything further?

PN52

MR SHORT: I'm gobsmacked. This application has been on foot for a year, and there's been no approach by anyone. Nothing has been hidden here. This is very disappointing. I take on board the exchange about people working across noon. I accept that there may be different situations. This makes a clear entitlement. At present as I have indicated, if someone works at night time they have no entitlement. They may work 10 hours; they would get no paid break under this language. If someone wants to put wording forward, well and good, otherwise it appears since there is not consent it needs to be programmed. I don't know what more I can say, Commissioner.

PN53

THE COMMISSIONER: Well look, I will consider what has been said and issue some directions. My preliminary view is that a very short period should be allowed for some further discussions to see whether or not a consent position can be reached. If not, then it seems to me that this is the sort of issue that could be argued on first principles. So if as a result of those further discussions a consent position doesn't emerge then the directions will indicate that proposal file submissions, and any evidence to the extent which that's necessary by a date which will be set out in the directions, and then subject to short hearing. So

unless there is anything further in relation to the Poultry Award I will consider that, and issue the directions in due course.

PN54

MR SHORT: Thank you Commissioner.

PN55

MR SHORT LEAVES

PN56

THE COMMISSIONER: I turn now to the Wine Industry Award 2010. Just to clear the decks in relation to the live matters, there were originally according to my records at least, three applications with elements that were originally referred to myself. An application from United Voice being 2012/27 which was withdrawn on 31 May, and another application I think made by Business SA which is 2012/271 which was withdrawn in February 2013 which then leaves us with one substantive application from the Wine Industry Association of which one element which was originally claim 6 has been withdrawn, and that is to do with the new clause cashing out annual leave, but the remainder of that application remains on foot. Ms Hills, is that correct?

PN57

MS HILLS: Yes that is at the current time, correct your Honour.

PN58

THE COMMISSIONER: Tell me in terms of the six remaining matters, what matters you propose to agitate.

PN59

MS HILLS: I guess today I was seeking the opportunity to have a report back. We have had an opportunity to meet with the AWU and United Voice in April in relation to aspects of the claim or the application, and we also have been seeking legal advice on the intotality of the application which we've only received this week to some degree. So on those two matters I was seeking today to get a report back to the commission for the purposes of going back, and speaking with the AWU and United Voice to see how far apart we are on aspects of the application, and also the second reason is sought to consult with our members, and our interstate counterparts and other interest parties to the extent of our application, and whether there's aspects of it we will withdraw. I'm not pre-empting that, but I'm just saying that's what we would be going out to seek instructions on.

PN60

THE COMMISSIONER: You will appreciate that given there is full bench decisions that have been made as part of this process. One of the first issues that I will want to consider of course is whether or not these matters were agitated as part of the original process.

PN61

MS HILLS: I do understand that.

PN62

THE COMMISSIONER: And of course if they were then there's a reasonably higher bar to advance the claim in that context.

PN63

MS HILLS: Absolutely.

PN64

THE COMMISSIONER: Different approaches are taken if the matter wasn't dealt with at all, or is the subject of some form of clarification (indistinct) situation.

PN65

MS HILLS: Yes.

PN66

THE COMMISSIONER: If I were to accommodate that, what sort of time period would you be look at?

PN67

MS HILLS: We've briefly been discussing dates in terms of meeting, and that could be early July, but in terms of coming back to the commission, because we'd then need to go back out to members but I was hoping for something in the vicinity of the week commencing 22 July, somewhere there. Whilst I've discussed the request today with Business SA and AIG, AWU and the United Voice, there are other interested parties that I haven't had that opportunity, but I'll leave that up to those parties, but that was my request today, your Honour.

PN68

THE COMMISSIONER: I understand. You'll appreciate from the tone of my approach of the earlier matters; I am keen to get on with this.

PN69

MS HILLS: Yes I understand.

PN70

THE COMMISSIONER: What I don't want is the 2012 review running into the 2014 review, and we do run a risk if we don't get a very tight handle on these things. Perhaps just for convenience then, in Adelaide, Ms West.

PN71

MS WEST: Commissioner, we would support having discussions. We would be interested in having further discussions with the Wine Industry Association. So it's really up to you in terms of the timelines of when would be amenable to yourself.

PN72

THE COMMISSIONER: Thank you. So those in Sydney with an interest in the Wine Award.

PN73

MS JENKINS: Commissioner, its Ms Van Bronswijk for the Australian Industry Group. I originally didn't give a mention or an appearing in relation to this award. Would it be possible to give a late appearance? This was an issue on my first instructions.

PN74

THE COMMISSIONER: Very well and do you have a view?

PN75

MS VAN BRONSWIJK: We have an interest in this award and we have had discussions with Ms Hills, and we don't object to her request.

PN76

THE COMMISSIONER: Thank you.

PN77

MS JENKINS: Jenkins in Sydney for ABI. We don't object to Ms Hills request to have further discussions, and we'll get in contact with them regarding our application.

PN78

THE COMMISSIONER: Very well.

PN79

MS ANGUS: Angus, AMWU, Commissioner. There have been discussions between the AWU, and United Voice can speak for themselves, but United Voice, and the applicant. Our view is that all of the claims in relation to this application with the possible exception of one are matters that were squarely dealt with in the award modernisation process, and the applicant is seeking essentially a comprehensive overhaul of the award, and a fresh look, and an attempt to have another go. The possible exception that we referred to is in fact a proposal to change the classification structure. We've indicated to the applicant that we oppose all of their claims, but are happy to discuss, and have discussed the proposed classification structure.

PN80

We're still quite far apart, but there is some utility we believe, in allowing an opportunity for those discussions to continue. We'd certainly oppose any programming of this matter before it is clear what aspects of the claim are being pursued and which are to be withdrawn. So from our discussions with Ms Hill, we would agree or suggest to the commission that there be some four to six weeks to enable a genuine attempt between the parties to reach an agreed position in relation to the classification structure, and that it may be appropriate then to report back to you, and if possible even for a conference if there is any unresolved issues that you might be able to assist the parties with, and that not until that process has concluded, and there is clarity around which additional claims are being pursued. Not until that clarity is received would we support you programming the matter.

PN81

THE COMMISSIONER: I understand, thank you.

PN82

MR ASH: Ash, for United Voice. We would support the proposal to have the matter listed for a third report back in no more than six weeks to allow for discussions.

PN83

THE COMMISSIONER: Thank you.

PN84

MR VELOSO: Veloso for the AMWU. We'd support the position of the AWU. I have nothing further to add.

PN85

THE COMMISSIONER: Thank you. Is that it?

PN86

MR VELOSO: Yes your Honour.

PN87

THE COMMISSIONER: Ms Hills is there anything further you want to add?

PN88

MS HILLS: No I don't believe so, your Honour.

PN89

THE COMMISSIONER: Just in relation to the classification. The only thing that appears in the application itself is the stated person's names (indistinct) any details. Have you provided a draft classification?

PN90

MS HILLS: Yes I have.

PN91

THE COMMISSIONER: Okay. Well I haven't heard the parties in this matter. I think firstly some further discussions would be appropriate. Secondly I think it is important before I launch into setting a matter which potentially has this number of elements to be determined. Before I set that down it's appropriate there be an understanding which of the matters are being actively pursued, and settle in relation to something like the classification structure is important that the parties at least a clear understanding of what is on the table as far as the applicant is concerned before I commit them to either a position, or having to file detailed submissions et cetera. In that context I will accommodate the report back. I'll confirm a date subsequently, but something in the order that's been suggested by the parties would appear to be appropriate, subject of course the need to be able to respond quickly. If the matter is not resolved then you can expect a pretty expedited process for hearing and any remaining issues.

PN92

MS HILLS: I appreciate that.

PN93

THE COMMISSIONER: So that deals with the wine industry matter and leaves us lastly with the Food Beverage and Tobacco Manufacturing Award 2010. This is more complicated in terms of the number of applications. So I will again try, and make sure there's a common understanding of which matters are presently before the commission, and I'll just deal with these in the order that they were made. Firstly there was an application from the AMWU and the NUW. This is matter 2012/89. There were originally four matters. They were subsequently withdrawn except for one element of the application concerning apprentice juniors and minimum wages. Given the complexity associated with some of the others, can I confirm that those two applicants that that's correct.

PN94

MR VELOSO: That's correct your Honour.

PN95

MR PORTELLI: That's correct Commissioner.

PN96

THE COMMISSIONER: And then the next application in order number was 2012/147 application by ABI. There are four elements of that application, but two are matters that have been referred to the full bench leaving one element concerning 12.8, part-time employment, and the last one for clause 33.1(a) payment for working overtime which I imagine is a related issue.

PN97

MS HARDINGHAM: Yes that's correct, Commissioner.

PN98

THE COMMISSIONER: The next application is application 22 of 176 from Beerenburg, and I understand Ms Hardingham, that that application is still on foot.

PN99

MS HARDINGHAM: Yes.

PN100

THE COMMISSIONER: The next application is 2012/178 from the Baking Industry Association of Queensland. Unless there's a representative for them, then I don't believe they will be participating in this process. In which case I will issue directions as part of this process to the effect that unless BIAQ indicate that they are proposing to participate in the process, and actually provide materials in support of their application then those elements will be dismissed. The next application is 2012/244 from the BMIA of Australia. An application concerning clause 31.3(c) shift allowances. I take it that's still on foot.

PN101

MR DUC: Yes Commissioner.

PN102

THE COMMISSIONER: The final application at least according to my list, is an application Business SA 2012/259. There are two elements of this one. Both are to do with clause (b)2.3; some changes to the classifications at sub paragraph (f) and (J) concerning level 3.

PN103

MS WEST: Commissioner, just in relation to the variation BSA2, it should read, Schedule B.2.5(J) level 5, not level 3.

PN104

THE COMMISSIONER: Thank you for that clarification. Those elements remain on foot?

PN105

MS WEST: That's correct, your Honour.

PN106

THE COMMISSIONER: So perhaps I'll now invite one of the applicants to inform me about any discussions that have been occurring, and any proposed process to deal with these matters.

PN107

MR VELOSO: Your Honour, the AMWU has been in contact with a few of the employer associations in relation to the matter. We've scheduled a conference

either with or without the commission's assistance to occur sometime on 27 June, or if that's in agreement with all the parties, 27 June, and of course we ask that the hearing wouldn't be made before that time. There hasn't been any further discussions, the substantive issues that the parties are going to press.

PN108

THE COMMISSIONER: So in terms of those parties that you've had discussions with around 27 June, what were the arrangements? Was that going to be in a particular location or by video link?

PN109

MR VELOSO: We proposed that it was going to be by teleconference.

PN110

THE COMMISSIONER: So are there any parties that have not been subject to that arrangement.

PN111

MR VELOSO: We got in contact with ABI Business SA, and the Baking Manufacturers Industry Association of Australia, and also AIG I believe, but that's the only parties that we've contacted.

PN112

MR PORTELLI: Adam Portelli from NUW here in Melbourne. We had some discussions with the AMWU in relation to such a conference over the coming weeks, and we're comfortable with that course. The only point we'd make is, if possible our preference would be for the week after 27 June, but if that's not possible we could make ourselves available on the 27th.

PN113

THE COMMISSIONER: So for those parties that have not been subject to those discussions, perhaps Ms Hardingham.

PN114

MS HARDINGHAM: We'd be happy to be included in those discussions.

PN115

THE COMMISSIONER: Ms Hardingham, obviously I read your application. It did strike me though, that some further detail might be necessary to assist, ultimately the commission if the matter proceeds, but certainly other parties to understand precisely what's being proposed as an alternative to deal with the situation that you've raised in your application. Have you got a different proposal?

PN116

MS HARDINGHAM: No I appreciate that whilst the quality patient may be applicable at those levels for other industries, I'm happy to talk about how it impacts on other business and our industry specifically.

PN117

THE COMMISSIONER: Very well.

PN118

MS WEST: Commissioner, if I may, we've had discussions with Beerenburg and that we have said that we'd participate in having further discussions with them,

and assisting them with their application as well, as they're members of Business SA. So we would be happy to do that.

PN119

THE COMMISSIONER: That would probably assist the process as well. Does anyone else want to be heard in relation to these proceedings?

PN120

MS VAN BRONSWIJK: Commissioner, just for clarification, have we moved on to the Beerenburg application as well?

PN121

THE COMMISSIONER: Yes.

PN122

MS VAN BRONSWIJK: We would request that we have some further time (indistinct) with our members and whether that can be further discussions with Business SA and Beerenburg.

PN123

THE COMMISSIONER: All right. My understanding is unless someone tells me the contrary, is that what is proposed in the sense of a global conference with everyone that has an application before the commission participating with a view to trying to sort out which matters are going to proceed. If those matters are proceeding which are likely to be opposed et cetera, and in that context – and I appreciate this is actually quite difficult over the video, but I was just pointing out to Ms Hardingham, that to facilitate those discussions it might be useful for the other parties at least to have a better idea as to precisely what might be seen as the solution to what is seen as the problem, but Ms West from Business SA has indicated that as Beerenburg are a member of theirs, they will also be participating, and assisting in that process. So I think that would be the right venue to try and gain a better understanding as to what's proposed. Are there any other issues the parties want to raise about any of the applications?

PN124

MS ANGUS: Commissioner, from an AWU perspective?

PN125

THE COMMISSIONER: Yes.

PN126

MS ANGUS: I'm not sure if I'm speaking out of turn here to be honest. I just might have missed some of the things that you were saying there in Adelaide, Commissioner, but perhaps if I could just summarise the AWU's position in relation to the four claims. In terms of the AMWU application in relation to junior wages, we support that application. In terms of ABI's application in relation to part-time employment, we oppose that application. It's been dealt with previously in award modernisation. They had (indistinct) a generic claim; they had a go at the Nurseries Award and it was rejected and we oppose it in relation to this award. In terms of the application by Beerenburg, we're not entirely sure what's being sought there, and I think I heard you Commissioner, say that the applicant should file a draft order so the parties can properly understand what's being sought there, and that's what would ask for, whether that's volunteered or if

that's part of your directions, we'd want to see the precise proposal before we could comment any further on that.

PN127

THE COMMISSIONER: Just on that, I didn't go quite that far, but I may well do so, but I've certainly indicated that they should provide some details, particularly to facilitate those discussions which are foreshadowed later this month.

PN128

MS ANGUS: Thank you your Honour. In terms of the application by Baking Industry Association of Queensland, who are not present, we oppose all of that application. We also oppose the application by the Baking Manufacturers Industry Association of Australia in relation to excluding casual employees from shift allowances, and then the final application by Business SA, it may be that that can be resolved through direct discussions between the parties, but we would ask just for a short period of time to have some discussions with the applicant. In our preliminary view there's a problem with where they have located the first, as basic quality control level, but it may be that those issues can be sorted out through discussions. So at this stage we don't have a firmly formed view on the Business SA application.

PN129

THE COMMISSIONER: Thank you. Does anybody else wish to be heard? Not in Sydney?

PN130

MR VELOSO: No Commissioner.

PN131

THE COMMISSIONER: Mr Portelli?

PN132

MR PORTELLI: No Commissioner.

PN133

THE COMMISSIONER: In Adelaide?

PN134

MS WEST: No Commissioner.

PN135

THE COMMISSIONER: What I propose to do is as follows. Firstly I note the constructive discussions at least around the process and in particular the likelihood of a party conference in late June. I think given the arrangements that are in place, that's a matter the parties should deal with amongst themselves, and I think the phone conference is certainly the way to do that. To facilitate that process I will have to give some thought to whether some directions should be issued in relation to some further and better particulars in relation to the Beerenburg application, and I'll also deal with the BIAQ application along the lines that I've already suggested, to ensure that if that is going to proceed, that will be part of the process and if it's not then it will be dismissed.

PN136

I will also subsequently set a report back allowing for some time after the late June discussions to find out where we're up to. Unless there is anything further? I appreciate the contribution of the parties to process and I also understand that you, like the commission are being pulled in various directions around the modern award 2012, but I do need to make it clear that once we know what matters are running, and if they are to be opposed then you can expect reasonably expeditious processes, and you need to be as ready as you can to conduct your various cases so that I can get this matter resolved prior to the start of the next review. Having said that the tribunal will be adjourned.

<ADJOURNED INDEFINITELY

[11.10AM]