



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

**JUSTICE HATCHER, PRESIDENT
VICE PRESIDENT ASBURY
DEPUTY PRESIDENT O'NEILL
DEPUTY PRESIDENT SLEVIN
DEPUTY PRESIDENT GRAYSON**

AM2024/21

s.157 - FWC may vary etc. modern awards if necessary to achieve modern awards objective

Gender undervaluation — priority awards review — Social, Community, Home Care and Disability Services Industry Award 2010

Sydney

10.00 AM, TUESDAY, 28 OCTOBER 2025

Continued from 27/10/2025

PN3409

JUSTICE HATCHER: Yes, Mr Latham.

PN3410

MR LATHAM: Yes, your Honour, members of the Full Bench. Just to begin with, COSS is a national state and territory network of social service organisations that represents the majority of employees in the SACS and crisis accommodation sectors. The COSS network is not explicitly funded to provide submissions in relation to this matter and has got limited capacity to engage in the process further, but does with to make - - -

PN3411

JUSTICE HATCHER: Sorry, can you just say that again? You're not explicitly funded for what?

PN3412

MR LATHAM: To provide submissions in relation to this matter.

PN3413

JUSTICE HATCHER: Sorry. Yes.

PN3414

MR LATHAM: But it does have funding and that funding is explicit, but perhaps not as broad as the exercise today, but we do wish to give a sort of indicative position and it's got an alternative position there, too.

PN3415

In terms of the position on the current award, COSS accepts the criticism of the Full Bench in relation to the utility of the current award and whether it is fit for purpose. The SCHADS Award has its basis, as we know, in a local government award from Queensland from some time ago, and it hasn't significantly been amended, apart from the ERO changes that we're well aware of.

PN3416

Despite the need for award reform, though, COSS does have some significant concerns about the process to date, many of which have been reflected in the submissions of other parties. It is concerned about the revocation of the ERO rates and associated wage rates; it has concerns about the proposed single classification process; in particular, it has concerns about the possibility of salary reduction throughout the sector and, to that extent, has some sympathy with the ASU submissions in relation to that matter.

PN3417

There is also an issue of the possibility of salary increases that are unfunded and without firm resource and commitments from the Commonwealth, state and territory governments, and were there to be significant salary increases, that would have a particular impact upon the sector, particularly in small and medium employers. The lack of a staged introduction of wage increases is also a concern for COSS, given that these pay increases are unfunded, and it also would like to set out its concern that employers have sufficient time to renegotiate funding

arrangements with the Commonwealth and with the states and the territory, and also with philanthropic funders, to deal with those sorts of issues.

PN3418

There is a further concern that the bifurcation of the process will lead to a work value exercise coming shortly after this exercise, which again will require resources and, finally, the speed of this process has meant that COSS has been unable to properly assess the ASU position, which we heard much about yesterday.

PN3419

COSS, in essence, does support the original ASU position in support of an adjournment of the matter. I think realistically the likely prospects of success of that application are limited and, in the alternative, COSS believes that the conferencing process should and may provide an additional opportunity for the parties to resolve some of those outstanding issues, but the COSS network would seek a further hearing after the conferencing process in order to potentially provide written submissions and oral submissions before the Expert Panel before a final written determination is made.

PN3420

JUSTICE HATCHER: Is COSS in a position to participate in the conference process, either directly or through one of the other organisations?

PN3421

MR LATHAM: Could I just have a moment to get some instructions on that point? Sorry, your Honour, for that interruption. COSS will do what it can to participate in that process, but it is very limited financially. Just to give an example, both myself and the solicitors in this case are acting pro bono, so that give some indication, but we'll do our best.

PN3422

JUSTICE HATCHER: That's appreciated, Mr Latham. Just the last proposition, I can understand if the conferencing process comes up with a proposition or a consensus that there might be a need for further submissions in response to that, but if there's no outcome, why do we need a further hearing at that point?

PN3423

MR LATHAM: I can understand that point.

PN3424

JUSTICE HATCHER: Yes.

PN3425

MR LATHAM: I'm not pressing against that door.

PN3426

JUSTICE HATCHER: Yes. All right. Thank you.

PN3427

DEPUTY PRESIDENT O'NEILL: Mr Latham, you said you hadn't had an opportunity to properly assess the ASU alternative proposal. Do you have any preliminary views or anything that you can share about that?

PN3428

MR LATHAM: We would really need some considerable time to be able to do that, and I apologise, we just haven't had that time.

PN3429

DEPUTY PRESIDENT O'NEILL: Thank you.

PN3430

JUSTICE HATCHER: Mr Latham, again I understand your client's position, but I think if you want the opportunity for more time and the chance to make a written submission, we probably wouldn't stop you from doing that, but you might want to think about that.

PN3431

MR LATHAM: Thank you.

PN3432

JUSTICE HATCHER: Yes, all right. So who would like to go next? Ms Cooper?

PN3433

MS COOPER: The Commonwealth, thank you, your Honour. The Panel will have the Commonwealth's primary submission regarding the provisional view dated 12 September. I want to just make brief submissions, mostly related to transition, but I'll just touch on the proposed classification structure.

PN3434

As previously submitted, the Commonwealth would not support the wages of low paid workers going backwards, and the Commonwealth uses the term 'low paid' within the ordinary meaning of the term. The Commonwealth is concerned that the proposed new classification structure will see the wages of some groups of employees reduced, taking into account the breadth and diversity and complexity of the work done in the sector.

PN3435

As previously submitted, the Commonwealth considers that the award structure should recognise the skills and experience of workers and this includes the work value of experience that falls outside formal qualifications including experience in the sector or in community. And it is important that the value of other forms of experience is not undervalued due to a focus on formal qualifications. Turning to transition, the preferable transitional approach – transitional approach is one that avoids employees having their rate of pay reduced and ensures that the gender-based undervaluation identified by the Commission is remedied for both new and existing employees.

PN3436

It's also an approach that minimises complexity and administrative burden on employers and also minimises the prospect of unnecessary disputation between employers and employees. Relatedly, the Commonwealth has not made any decisions regarding whether to make any funding adjustments based on the outcome of these proceedings. The Commonwealth submits that the proposed changes to the classification structure should commence no earlier than six months after the Commission's final decision. And additionally, that appropriate phasing in is necessary to support an orderly transition period for labour markets and for service supply to adjust and to manage macro-economic risks.

PN3437

Looking at the NDIS specifically, the disability support worker cost model is uses cost assumptions based on four levels of skills and experience required to meet the different means of NDIS participants and these four levels each use an assumed classification under current schedule B of the SCHADS award. So if the Commission's provisional view is confirmed, the NDIA will need to review these assumptions that underpin the DSW cost model.

PN3438

Outside of the NDS, other parts of the sector also rely on Commonwealth Government Funding as well as other funding sources including state and territory funding and non-Government funding and those sources of funding will also require time to adjust.

PN3439

The Commonwealth also submits that a sector should not be phased in, in a manner, where it receives a wage rise at a faster rate than other sectors, merely because it's predominantly Commonwealth funded as this can lead to labour market distortions. So it's – for those reasons the Commission should allow time between its final decision and implementation and the Commonwealth submits that a six month period is proportionate to the object in assuring that funding and pricing arrangements can be appropriately reviewed while balancing fairness to employers and employees in the sector.

PN3440

Those are the submissions that I wish to make for the Commonwealth, but I am available to answer any questions from the panel.

PN3441

JUSTICE HATCHER: Mr Madden?

PN3442

MR MADDEN: Yes. Your Honour, the panel already have the written submissions filed by the New South Wales industrial relations minister on 1 September 2025. Those submissions were labelled with File A and 2024/25 rather than this matter that they're relied on in this context. The Minister's overarching position is certainly to support the efforts of the Commission in readying the gender-based undervaluation but like the Commonwealth has certain concerns and indeed like COSS has certain concerns but would only be – we'd only seek to be heard in respect of – for principles rather than the – of the detail that the panel has already heard. The first being of course that no employee

should be disadvantaged. The second that the structure should adequately reflect the complexity and diversity of work within the social and community services sector. The third, that the award should be practical, clear and easy to apply and the fourth that appropriate transition arrangements be enforced.

PN3443

I certainly wouldn't want to be heard at length on no employee being disadvantaged. That's a matter that has been covered at length and certainly in the Commission's statement of just last Friday. In respect of the (indistinct) reflection of the complexity and diversity of work, another matter that the Commission has heard from and has heard from parties over the last two days. The value of lived experience and cultural or community knowledge is a matter that the New South Wales Industrial Minister would draw to attention.

PN3444

Certainly a matter that the Minister considers in the State of New South Wales to be important in building community trust and delivering high quality outcomes to people who benefit from the sector.

PN3445

The third principle in respect of changes being clear, practical and easy to apply, I draw attention to the prospect of grandfathering existing employees and one particular example of how any grandfathering clauses should be treated with some caution. Put simply, grandfathering is likely to be more challenging for employers that are community organisations. The panel has heard from COSS already in respect of the resources of those organisations. Those organisations are likely to have some limited industrial relations capacity more generally and so having two parallel streams of employee, even for some limited period of time, may be more challenging for those organisations to manage.

PN3446

The second issue arising from grandfathering clauses is the manner in which they are applied. Employees in the community and disability sectors move between employers more frequently than the workforce, generally. That's a matter that the New South Wales Parliament responded to by dragging the last 12 months a portable long service leave program to recognise the fact that notwithstanding, employees in this sector continue to work in the sector for a long period of time. It's uncommon for employees to engage in very long term employment that would ultimately give rise to being entitled to long-service leave.

PN3447

If grandfathering clause were attached to particular employment, that is the employment relationship between an employee and employer, those clauses would be less likely to benefit employees where they move more frequently.

PN3448

JUSTICE HATCHER: So was that a submission against any form of grandparenting protection?

PN3449

MR MADDEN: Not against any form of grandparenting protection. It's only in respect of the manner in which grandparenting should be applied. It would not give rise to the same issue. If grandparenting were to apply to an employee personally, rather than in respect of a particular employment relationship, but of course, there's no doubt that would give rise to its own issues, it's merely something that the Minister would urge that the Commission take into account in deciding the value of those grandparenting clauses and in particular, whether that could inadvertently give rise to disadvantage to employees in this sector.

PN3450

VICE PRESIDENT ASBURY: So are you saying that the complexity could arise where grandparenting provision follows the employee to other employment?

PN3451

MR MADDEN: If the grandparenting provision followed the employee to other employment, the Minister's concern as to the rate of movement would fall away, but there would certainly be a complexity for organisations including community organisations to apply those community organisations with limited industrial relations capacity in determining whether particular employees were the subject of those grandfathering clauses. Ultimately, the Minister's submission is what it is. That the application of those grandparenting clauses, the particular application is something that should be treated with some care in a particular way in which this sector in fact works.

PN3452

The fourth and final principle on which the New South Wales Minister would submit concern is the transitional arrangements. That's a matter that the Commonwealth has already made submissions on.

PN3453

Ultimately, it goes hand in hand with the third principle as to the clarity of any changes. It's certainly the case that where changes to the structure more generally are clearer, they are easier to manage and so transitional arrangements would not be so burdensome.

PN3454

But again, on that point, the Minister draws to attention, the limited industrial relations capacity particularly of community organisations in the sector. And the Minister acknowledges the Commonwealth's already submitted that a six-month lead time should be appropriate. Those are the New South Wales Minister submissions.

PN3455

JUSTICE HATCHER: Thank you. And finally, Ms Anderson.

PN3456

MS ANDERSON: Thank you very much, your Honour. So on behalf of the Minister for Industrial Relations in Victoria, I wanted to say the following: the Victorian Government is strongly supportive of the review being conducted by this Commission on its own initiative of the five priority awards, including the Social, Community, Home Care and Disability Services Industry Award, which

we have been calling the SCHADS award. For the purpose of considering whether the classifications have been the subject of gender-based undervaluation requiring remedy by way of variation on work value grounds.

PN3457

The Victorian Government filed a substantive submission on 3 October 2024 and subsequent to the provisional views expressed by the panel on 16 April 2025 the minister for industrial relations made further submissions for consideration, by correspondence to the Commission dated 23 June 2025. The Victorian government strongly supports remedying gender undervaluation and makes these oral submissions in further support of remedying gender undervaluation for current and future workers in relation to the SCHADS award. The Victorian government welcomes the expert panel's finding that social and community services employees, crisis accommodation employees, home care employees and the disability care covered by the SCHADS award have been the subject of gender-based undervaluation and that there are work value reasons justifying the variation of the minimum wages under the SCHADS award.

PN3458

The Victorian government supports these findings and has noted its concern with concern in its materials that lower wages in woman-dominated sectors reflect the continued undervaluation of work undertaken predominantly by women and are not commensurate with the value they create. The government has expressed its strong support for the Commission's efforts to address gender pay and equity to more fairly compensate women for the work they do, to address pressing shortages and critical skilled workforces and to reduce gender desegregation in the care economy. The SCHADS award is the key industrial instrument for many workers providing government-funded community and social services across Victoria and while the review provides an important and welcome opportunity to address the complexity of the SCHADS award and create industrial arrangements that are better suited to contemporary social and community services the government reiterates the importance of recognition by the Commission of the complexity and diversity of social and community services work, the breadth of knowledge and capabilities of this skilled workforce and the potential for cost, complexity or unintended consequences for community sector employers and employees for major changes to the award.

PN3459

In addition, changes to the SCHADS award need to be clear and easy for employers and employees to interpret and apply and should adequately recognise and remunerate the different levels that in scope workers play and also reflect the different types and levels of specialist capability, professional judgment and operational complexity with which these employees work. As the Commission is aware, concerns have been raised by various stake holders in relation to the provisional views in the decision of 16 April, both in written form and yesterday and today in oral submissions.

PN3460

There appears a significant risk that the proposed changes may have an unintended consequence of not fully recognising the skills and complexity of social and community services work which could result in a reduction in pay for

some workers and fail to establish and support this recognition for new workers and experienced workers who change employers. For example, the four fundamental principles said by the expert panel to guide in the development of the new classification structure include - the first principle was the classification structure should be straightforward, not requiring complex evaluative judgments and the third principle as enunciated by the panel was that the classification structure should appropriately recognise the acquisition of relevant qualifications at each level while making allowance for recognition of equivalent experience and training, for example, through lived experience.

PN3461

Whilst noting these principles and that the expert panel noted that transitional arrangements should not result in a reduction in pay for workers, the proposed new classifications may result in a reduction in pay, firstly for the new employees, and secondly for existing employees who may, after the structure is implemented, move to a higher classification. In that, the criteria that is set for level 3 to 5 - and this has also been referenced by others who have been making oral submissions - the criteria for level 3 to 5 and the provisional views that are expressed in that decision reference is made to qualification or equivalent. For example, in level 3, Cert III qualification or equivalent, it does not state equivalent experience or equivalent expertise and experience as we find in relation to level 6 and additionally, no detail is provided as to how an employer should evaluate equivalent experience if those words are used for grades 3 to 5, whether this is to be evaluated by a number of years working in the sector and/or how lived experience is to be evaluated.

PN3462

Our respectful submission is that further clarity on these matters is needed to ensure employees who are covered by the SCHADS award are appropriately classified at all stages of their employment. In addition an appropriate implementation timeframe is also important to support employers to adapt to any changes and comply with their workplace obligations. In conclusion the Minister strongly supports the work of the expert panel to remedy gender undervaluation and appropriately address gender pay inequity under the SCHADS award and in so doing to compensate women covered by the award for the work they do but it is vital that the real wages of low-paid predominantly female workers under the SCHADS award both current and future are not reduced.

PN3463

The government urges the Fair Work Commission to consider and develop - to continue to consider and develop the proposed classification structure based on submissions, evidence and materials being provided to it as well any conferencing that might be held over the next few days and ensure the highly-feminised workforce of current and future workers are not subject to any unintended consequence in their wages and recognition of their skills going backwards. Thank you.

PN3464

JUSTICE HATCHER: Thank you. Mr Saunders, do you want to respond to anything, or Mr Blewett?

PN3465

MR BLEWETT: If it's convenient to the Commission I thought I might respond first and then Mr Saunders. There are only three points that I wish to make: the first is in respect to implementation. Following both what we understood from the ASU yesterday that it is looking for directions to file its evidence in the work value case - that is it's intended to progress relatively quickly - but also the discussion that fell from your Honour Hatcher J and Mr Scott yesterday about implementation dates but coupled with interim increases for the schedule E employees. My clients have reflected overnight and we think there is some force in the idea of implementation of the changes arising from these proceedings to be timed for 1 July 2027 to enable the work value case to occur in the interim such that there is only one change for employers. If that were to be coupled with interim increases for schedule E employees who the ones who are most directly suffered generally in gender undervaluation here. In regard to the steps of phasing in of those increases, I think that what fell from Mr Scott was three annual increments. In that regard we think for those schedule E employees, they ought be quicker than that and more significant than that we and just make three points: the first is at paragraph 379 of the expert panel's decision it found that this work they are performing is primarily funded by the NDIS and that the NDIS costs model is based upon schedule B and ERO rates.

PN3466

It was that finding that enabled - sorry, coupled with its provisional structure - that enabled the finding of the expert panel that it did not anticipate any significant cost increase from the provisional structure including the bringing in of schedule E employees to schedule B as a result of its decision. And so yes, bringing in schedule E employees to schedule B would involve a significant increase but to an extent that increase - sorry, the rate that they will be brought to is already being funded and so it is a less of an impact, in our view, on employers than for instance the impact would have been in the aged care decision if there had been no additional Commonwealth funding.

PN3467

So in short, we are comfortable with the idea of a 1 July '27 implementation date bearing in mind the looming work value case but in respect for those interim increases for schedule E employees we think they ought be two increases 12 months apart. The other two points I wanted to make were in respect to administration and support work. The first of those points is that Mr Scott submitted yesterday that I'd overlooked Deputy President O'Neill's decision in the Uniting AgeWell decision. We of course have considered that at reasonable length in paragraph 12 of our reply, where, essentially, we make the same submission that I made in a different context yesterday, which was, yes, the new Schedule F self-evidently does not expressly incorporate any administrative or support work.

PN3468

That just raises the questions I raised yesterday, (1) given its derivation from Schedule E, what did Schedule E cover in respect of administration and support work, and (2) did the Full Bench in the aged care decision intend to alter or disturb that arrangement. In respect to the first question there, whether Schedule

E, prior to Schedule F, incorporated administrative and support work, it's clearly the case. Paragraphs 3.3 and 3.4 set out a series of indicative tasks which are fundamentally administrative and support type tasks.

PN3469

The suggestion yesterday was that they were mere tasks within what is otherwise direct care work. But I think if one looks at paragraphs E3.3 and E3.4 in particular, but in the context of their surrounding accountabilities and responsibilities, it is very difficult to construe 3.3 and 3.4 as merely indicating tasks which are otherwise within direct care tasks. When one looks at some of those tasks, like data management and recreating folders and files, they are quintessentially administrative roles which are not part of direct care roles.

PN3470

So our answer is, Schedule E, from which Schedule F is derived, continues to cover administrative and support work. And then, the answer to my second question, which is, did the Full Bench in the aged care case intend to disturb those arrangements, in my submission, there is certainly no findings in the aged care decision suggesting that. And that paragraph in the implementation decision, which I drew the Commission's attention to yesterday, which is paragraph 342 of the decision in *Re Aged Care Award 2010 (2024) FWCFB 298*, which is the implementation decision of June last year, there, the Commission rejects the submission that there ought be an addition to the translation table for employees performing particular administrative functions.

PN3471

The Commission rejects that submission, but it doesn't do so on the basis that those functions are not within Schedule F. Rather, it rejects that submission on the basis that it's unnecessary, because they are already captured, and secondly, to insert the additions that were sought by the unions at that stage would be to give those employees an increase beyond that which was contemplated. That is no suggestion that the Full Bench was intending to disturb the pre-existing arrangement.

PN3472

And then, lastly, also in respect of administrative and support work, the Ai Group submitted that there was a common understanding amongst employers, whatever the legal position might be, that administrative and support work was not covered in respect of home care, and therefore, I think that was in support of the submission that there should be a sort of separate process for administrative and support work. In my submission, that overstates the evidence, with respect. At best, the evidence that's before this Commission shows that there's some confusion or misunderstanding about that.

PN3473

The only evidence that I can find on this particular topic is the evidence of Claire Bailey, who's an ABI witness, the one statement that the ABI submitted. She's the head of workplace relations of Ageing Australia. She identifies at paragraph 19 that she has had discussions with a number of providers which expressed their belief that the new Schedule F does not cover non-direct care work. She expressed that she's been at pains trying to explain to them that it does in fact

cover non-direct care work. She sets the fact of the discussion out at paragraph 19. She sets the fact of her sort of frustration, if you like, and her efforts to set out the true position at paragraph 21.

PN3474

She expresses a view that that's a misinterpretation of that which occurred in respect of Schedule F. She expresses that at paragraph 25, and really seeks that this process address that misinterpretation, and ensure that it's not repeated in respect of Schedule B. So all I say about that is that that is – it contraindicates the submission that was put yesterday, that there is a sort of consensus out there amongst employer groups that administrative and support work is not comprehended by Schedule E, or indeed the new Schedule F.

PN3475

And so for both those reasons, in my submission, there is no barrier to Schedule B or the new structure properly comprehending administrative and support work. Those are my only submissions in reply, unless there's anything further.

PN3476

JUSTICE HATCHER: Thank you. Ms Saunders.

PN3477

VICE PRESIDENT ASBURY: Sorry. Before you sit down, could you just go back and clarify what you said about the operative dates for increases?

PN3478

MR BLEWETT: So perhaps I'll - - -

PN3479

VICE PRESIDENT ASBURY: I didn't understand the bit about the interim – what you intended to say there.

PN3480

MR BLEWETT: So perhaps I'll start where we were yesterday, which was, I'd submitted that we supported a date of 1 July 2026, and then I think I said it was a bit premature to discuss phasing in, because we weren't quite of what the arrangements were. Then, there was a discussion between his Honour Justice Hatcher and Mr Scott, on behalf of ABI, about two things, which was a 1 July 2027 implementation date – and his Honour raised, well, if that were contemplated, would we contemplate an interim arrangement for Schedule E employees? And I think Mr Scott indicated a preparedness to do that, or at least an openness to do that.

PN3481

Our submission is, yes – sorry, we don't adhere to the position yesterday, about implementation on 1 July 2026. We see the force of 1 July 2027. In respect of that interim increase for Schedule E employees, we think the increase should be 1 July 2026 and 1 July 2027, in two phases, rather than three annual phases, and the first of those being significant, given that there is – there ought already be funding for those positions, given the way in which the funding model works and given the work that those people perform. Is that - - -

PN3482

VICE PRESIDENT ASBURY: That clarifies it. Thank you.

PN3483

MR BLEWETT: Thank you.

PN3484

JUSTICE HATCHER: Thank you. Mr Saunders.

PN3485

MR SAUNDERS: The reason I'm going second is that there was something that I wanted to say in response to what I anticipated Mr Blewett to be about to advance in respect of operative date, phasing in. The ASU's position is, as it was yesterday, in respect of any changes to Schedule B and C, it should be post the determination of our work value case, whenever that is. I can see the force in the suggestion that that can itself lead to drift, and we have no opposition to the alternative proposal that Mr Blewett has put forward.

PN3486

JUSTICE HATCHER: Mr Saunders, in respect of the stage 3 claim, is there a claim? Because I'm not even sure what you're asking for. I'm not sure whether it's across-the-board wage increases. Is it targeted towards particular roles? Does it seek new classifications? It's very hard to assess the merits of that proposition without knowing what it actually is that you're going to ask for.

PN3487

MR SAUNDERS: I can't argue with that, your Honour, and I can't answer that question today. It's shaped by these proceedings, in a way. We're responding to what's being put forward, rather than developing something organic. However, your Honour would recall that the directions proposed by the ASU on the last occasion included us putting in a draft determination that answers this question by a date. We have to do that at some point.

PN3488

JUSTICE HATCHER: When do you think your client will be in a position to do that?

PN3489

MR SAUNDERS: The date proposed on the last occasion was 12 December, but if the Commission is minded to make us do it quicker, I cannot resist that. The difficulty is, with all work value claims, the end result rarely ever bears any resemblance to what's advanced in the initial proposal, and it would change, depending on any changes to this, and would change potentially following any conferencing process.

PN3490

DEPUTY PRESIDENT SLEVIN: You did talk yesterday about a dream, though, Mr Saunders. What is the dream?

PN3491

MR SAUNDERS: Nothing has come to me in a dream.

PN3492

JUSTICE HATCHER: I think you described it as a competency - - -

PN3493

MR SAUNDERS: It's the aspiration – and her Honour Vice President Asbury correctly identified the difficulty with what I'm about to say. The dream is a full scale competency standards base model that's developed over some time with industry, government and many participants. That is incredibly difficult. We haven't tried to do that because it's not possible or practical in these circumstances, but that's the high water mark, and I'm not doing that by 12 December. I don't want that suggestion to be made.

PN3494

DEPUTY PRESIDENT SLEVIN: I understand that, Mr Saunders, but the question is – that's the end point. Is the draft determination that your client's filed now a stepping stone to that end? Is there any impediment to making the changes that arise from these proceedings along the lines that your client's suggested and will be the subject of the conferences, and then allowing the work value to build from that?

PN3495

MR SAUNDERS: We have sort of two significant structural issues with the proposed structure that we've used. Our fall-back position follows along the structure for expediency reasons so it can be conveniently tracked and compared, but we still have a difficulty with the striation at level 1 and 2 introducing a secondary introductory level, whether that's truly going to achieve what we understand the aim to be, having basic admin work and truly introductory SCHADS work, or if it's going to create a silo for SCHADS worker as the AiG submissions and proposed amendments suggest. So structurally there's that concern.

PN3496

Also, adding a level makes the whole thing harder to translate, and there's a problem at the top end in compressing current level 6 and 7 into new level 8. You've now got a level that encompasses people at one role and then the person who is presently supervising them in a grade above, not uniformly across the board, but that is part of it, and so we have a difficulty there as well.

PN3497

The work is not wasted. We have drafted some of this with an eye to – I don't want to do it from scratch twice, but I can't say with certainty, and I certainly don't have finalised instructions that it would necessarily follow the nine-level structure precisely.

PN3498

VICE PRESIDENT ASBURY: Is it the case, though, that – I understood your submission yesterday, and correct me if I'm wrong, was to the effect that this matter would deal with the gender undervaluation area and that the work value case would deal with other issues or other matters, such as lived experience, et cetera, and so could that build on what happens here?

PN3499

MR SAUNDERS: I can't say it couldn't. I think it would be difficult because it needs to be done at a holistic level and the answer is different in respect of workers covered by schedules E and F, correctly covered by schedules E and F, and there are some - in respect of E I mean - and workers covered by B and C because of the different way that gender undervaluation is affecting those rates at the moment, so notionally for B and C with the award rates, but not in reality because of - well, to a degree not in reality because of the equal remuneration order and actually in respect of schedule E, actually and undeniably.

PN3500

What it does contemplate, though, and again this is why - as well as to constructively participate in these proceedings but with an eye for the future, what it does, what we do anticipate it doing, obviously, is addressing the classification descriptors and the current problems with B and C, rather than saying it's a 15 per cent uplift, leave it as it is. It has to be a more complex proposition than that.

PN3501

DEPUTY PRESIDENT SLEVIN: Well, it's going to be complex anyway. Now that you know that no one's going backwards, taking the step to address the concerns raised in the April decision about the way the classifications currently work, taking that step to address those as best we can in these proceedings and then hearing your client on the work value and competency changes that you seek, it just seems to me that taking that stepped approach may assist your client, and the changes that you've proposed in your client's proposal in the current draft determination that it's provided and the willingness to sit down and discuss that further seems to be the sensible approach, rather than sitting and waiting - it seems to be accepted now by the HSU and UWU as well - until 1 July 2027 to do everything at once, as it were. I just don't understand why you are resisting that sort of stepped approach, given the way things have developed in recent weeks.

PN3502

MR SAUNDERS: I'm not resisting that stepped approach. The Commission might recall that my client proposed that stepped approach repeatedly some weeks ago and some months ago. We want - and that was the initial indication - a tripartite process to work through this, similar to what the Commission has proposed, a list of principles of what we're trying to achieve and then working towards achieving that. That's always been the goal, but we also live on earth and are dealing with the provisional views and foreshadowed changes in law with that in a way that ultimately, let's be frank, we consider optimises the chances of the largest increase possible. So we're not resistant to it and will continue to participate in the processes.

PN3503

We do now understand that the Commission's intention is that no employee moves backwards, new or old. The difficulty is here the provisional views don't do that, our (indistinct) views don't do that. To the extent that we've concocted a protection clause that is challenging - - -

PN3504

JUSTICE HATCHER: I think we've fully heard you about that topic.

PN3505

MR SAUNDERS: Yes, and so there's the aspiration, but how you do it is a different question.

PN3506

VICE PRESIDENT ASBURY: Because, Mr Saunders, speaking for myself, on one view, the current classification structure already doesn't prevent people from going backwards. It's amorphous, and the documents that you speak of that protect people's positions really don't, so leaving it as is is really not any guarantee that people won't go backwards, and the proposal seems, you know, for my part, accepting that no one will go backwards, we're actually trying to create an award structure that puts that into effect.

PN3507

MR SAUNDERS: I can't resist that, and I haven't resisted that. That's the whole point of the ASU's application and its staged version. The Expert Panel described the stage 1 and 2 suggestions as 'an interim fix'. I think we expressly said that in the submissions, that that's what we want to do. We're on the same page, it's just how it's done and the process one follows.

PN3508

VICE PRESIDENT ASBURY: So the do nothing, leave it as it is approach is not
- - -

PN3509

MR SAUNDERS: Not as a permanent solution, and we wouldn't make it if this other project wasn't in train. That relates to that question, a matter that the Council of Social Services raised of what happens after the conference. We actually hadn't turned our mind to the prospect of a further hearing, but it may well be possible. We would agree with Your Honour Justice Hatcher's observation that that rather depends what happens at the conference and whether there's any point.

PN3510

The directions in respect to the conference are broader than consensus/no consensus, though. It's entirely possible that there could be a high level of agreement between the ASU and a large number of industry stakeholders and not one or two other industry groups. We would say that might be something that shouldn't necessarily preclude the parties coming back. That would be significant in its own way, and I mean granular consensus, not the high level degree of agreement we have now, and the limited practical suggestions from – it's not a criticism, it's just that's the position that's been put, but that could emerge as well.

PN3511

Your Honour Deputy President O'Neill asked me a number of questions yesterday. I was proposing to answer them by way of a short note for two reasons. One, I'm not in a position to – I can answer some of them at a high level, but I think it will be better done by that, and that means people can respond in a considered way rather than now.

PN3512

There is one matter I can clarify immediately. It's this question of instructors and the AEU decision in that regard. I'm instructed that is not a common job title. You do see it from time to time in Victoria. The work that it contemplates is within the scope of disability support worker in those degrees that those workers work. It's more an artefact of historical union coverage disputes than anything else, and that may well be why that was the characterisation of the employee in the case the AEU brought.

PN3513

In terms of that particular employee, where she was working with people with a disability to teach them everyday life skills, effectively, she had a Bachelor of Occupational Therapy. Where she would translate to in both the Commission and the ASU's structure depends on whether that occupational therapy degree is considered relevant to her work, and there can be a debate about occupational therapy in disability support work.

PN3514

VICE PRESIDENT ASBURY: Can there be a debate about that?

PN3515

MR SAUNDERS: Yes. It depends on precise of the nature of what's being taught, and it's one of the difficulties with the broad evaluative descriptors without links to indicative tasks, indicative roles. But, yes, in some circumstances occupational therapy can be relevant to disability work. The point, it doesn't need to be resolved today and the other observation there would be it is not possible to create the classification structure that you can't have a debate about (indistinct) or otherwise. If it's relevant in both the ASU's version and the Commission's version she goes to level 6. If it's not it's level 3.

PN3516

There's some minor matters that the ABI and AiG raise that I will deal with first before turning to the more significant question of actual sectoral impact and some positions advanced by the industry group. Proposed B.10 in the ASU's classification structure is utile. In the draft the way the drafting works is in each clause with internal pay points the translation through is subject to clause B.10.

PN3517

If one goes to B.10 it indicates at B.10.2 that the progression happens in (indistinct) if the service is satisfactory. We did think that was simply simple enough, but if it's not obvious to someone whose job is to read and apply classification structures what that means is it needs to be redrafted, but that's the intent, it's that skill and service acquisition.

PN3518

It is an important point, it is a variation as your Honour Deputy President O'Neill observed yesterday to the current clause. The current clause is based on the current structure, a structure that increases the level of employer discretion as this broader evaluative assessment is absent other ways to convince and argue your way into your appropriate classification. It changes the balance. So the point of

making it more prescriptive is to address that and provide the movement that we say can be correctly achieved.

PN3519

I made (indistinct) yesterday. There is no epidemic of people negotiating their way into classifications that (indistinct) value their work. It's about allowing people to translate up.

PN3520

Disability support workers – I think some of the difficulty between the ASU and ABI is the way that phrase is used. It's a job that contains multitudes. There's levels of disability support worker. It's not all one position or job, and it's represented through the grading system, which is true of most of the classifications – I'm sorry, most indicative positions in this industry. That's why that scope of responsibility, indicative task, level of supervision, et cetera, degree to which work is structured or self-directed matter in terms of finding someone within.

PN3521

There was a criticism of the ASU's proposal as using the phrase 'buckets of employees'. So community work, home care work, administrative work, et cetera, and those are the same, we just use the same buckets that the Commission's provisional views use. They're also just the obvious classifications and the award, and we just deploy them in a slightly different way so it looks different, but it's the same general concept that there's broad categories, which of course there are.

PN3522

There was some suggestion about progress between grades always being in the way of official appointment. Not the case. Not the case in any award, not the case in the aged care award for example. Sometimes it's not here's your letter, you're level 4 now. It's I am requiring you to do particular tasks at a particular level and responsibility, that's your job, and it is important that that level of objectivity finds its way into a classification structure. Otherwise we may well abandon the whole system and say (indistinct) suggests and just do it by whatever is written in the employer's job description letter.

PN3523

JUSTICE HATCHER: Just to clarify this is in response to Ai Group's submission that it should be the employer's assessment as to equivalency of qualifications or experience; is that right?

PN3524

MR SAUNDERS: Both to that and to the ABI position that progress between grades must always be by appointment rather than moving through.

PN3525

DEPUTY PRESIDENT O'NEILL: When the current provisional view also has by appointment this is (indistinct) the top two levels?

PN3526

MR SAUNDERS: As does the ASU, at least to the top level. I would need to check.

PN3527

JUSTICE HATCHER: So what was the point you made about job descriptions?

PN3528

MR SAUNDERS: That was a point raised by AiG, how one assesses the size of the job is by looking at the job description. It's just how the employer classifies it, that that has its obvious difficulties. It's a balancing act is the point I'm making, and you need that degree of focus on what the work actually is and where that falls within a pay scale.

PN3529

JUSTICE HATCHER: Assuming the job description accurately describes the job as the premise why wouldn't that be an appropriate basis to assess the role by reference to a classification structure which works by reference to equivalent experience and lived experience, and that sort of thing?

PN3530

MR SAUNDERS: With that assumption, yes, of course, but that's just a matter of proof really. It's saying there's an accurate description of the job somewhere whether it's by someone in a witness statement doing it or a document that conveniently describes it. But it's not the document that's driving it, it's the nature of the work being accurately captured.

PN3531

We had in fact considered the question of some sort of bespoke dispute resolution process for classification issues. The question of power is challenging. Of course conciliation fixes a number of these problems, but not all of them. I mean applying private arbitration means it couldn't be done, but some question as to whether an administrative arbitration focus could allow it. Possibly so complicated that it would slow these proceedings down further, and we had also contemplated within the award mandating workplace committees to make decisions.

PN3532

It was in a sort of reasons and appeal process, but that really only reflected the fact that my instructor comes from the NTEU and so we decided not so much. The point is we thought about it and couldn't really work something out in that respect.

PN3533

VICE PRESIDENT ASBURY: Well, there is precedence back in the award restructuring days with a specialist dispute resolution procedure for classification disputes, because there wasn't in the award from recollection. It was in an agreed implementation manual, but that's not beyond the realms of possibility in a sector where the parties do engage frequently.

PN3534

MR SAUNDERS: I think it would be productive to explore in conferences. It would have to be by agreement I think for it to work, and the question is what

level of agreement, by who do we do that deal with, and perhaps to be every individual employer.

PN3535

We did also think of an industry committee. So if the Commission is minded to bring those back my clients – they are coming back in New South Wales apparently.

PN3536

VICE PRESIDENT ASBURY: Boards of reference.

PN3537

MR SAUNDERS: Yes, and some tribunals that don't follow the wage fixing principles. I think that was particularly productive from a wage growth perspective.

PN3538

The main point is the sectoral impact. What we say this does - the provisional view, the ASU's view - does to wages. A lot of time was spent yesterday criticising Dr Cortis's work in the two reports that we've relied on here. A lot of fairly strongly worded submissions about defect without actually identifying really specifically what they were, or any attempt of course to cross-examine. I want to be clear. The data is limited, the outcome is limited. All research work is – those limitations and Dr Cortis's assumptions are clearly set out in the report.

PN3539

They are this: firstly she assumed that all qualifications that people held would be treated as required for a position, so moving them up to the highest level below 6 that that is. Supervision. An assumption was made that if it was up to 10, level 8, over that level 9, that is conservative. It reflects both the smaller focus, but some organisations are much larger than that.

PN3540

Experience. The role of experience and automatic progression based on experience the provisional views do provide. The dataset itself has some limitations in that regard, in the sense that people's (indistinct) is tracked in bands, 5, 10, et cetera, and they don't align within 4 and 7. So she's taken the lower end of that. Again conservative.

PN3541

Pay points, again it's a data issue. It doesn't precisely identify where people are within a grade. So she's taken the mid point. That's a reasonable assumption. The reasonableness is backed up by the data in the survey report annexed to Ms Thomas's report which shows there's a clustering at the higher ends, but for these people to work out.

PN3542

The full (indistinct) submissions about fundamental flaws. What we understand ABI to be talking about is the question of equivalence across the board, including at level 3, but particularly at level 6. The complaint as we've sort of inferred is that Dr Cortis hasn't assumed that everyone who doesn't otherwise meet a

particular threshold for a level that would keep them at their rate or higher will be presumed or regarded by their employer to have equivalent skill or qualification as the case may be. But of course she doesn't do that. That would be totally unsafe. It was impossible to have that assumption. It's just assuming everything will be okay. What it's given you is a picture of what could happen, not what definitely will happen. It's not possible to get that absolute definite snapshot. But what it is is a realistic snapshot of what could - the genuine risks. The Cortis report is a serious and good faith piece of modelling. It's unreasonable for it to be disregarded entirely on the basis urged. It is as safe as it can be.

PN3543

DEPUTY PRESIDENT SLEVIN: It's the worst-case scenario, isn't it?

PN3544

MR SAUNDERS: She's got ranges within it but it certainly presents the worst-case scenario. That would be the 7 per cent figure. But worst-case doesn't mean impossible and there's a degree of variance here.

PN3545

DEPUTY PRESIDENT SLEVIN: Things have moved on, though, since then, haven't they, since the report was done.

PN3546

MR SAUNDERS: Certainly the ASU's structure leads to a different outcome. That's what we - I mean, we were pleased that that was the result. That's what we were trying to achieve. Dr Cortis's modelling still shows people going backwards and it's at that higher end of the scale. That's the difficulty I'm talking about with compressing 6 and 7 into one rate. ABI seems to think that that fact, that we still go backwards despite our genuine best efforts, demonstrates some flaw in the methodology. That misses the point. Our fall back position adheres to the provisional view structure as much - as closely as possible for obvious reasons. We're responding to a structure we wanted to do. So more constructively than saying, 'Here's a completely different idea that we hadn't mentioned previously'.

PN3547

But it replicates some of those aspects that caused these difficulties, including at the higher level. We could not fix it and I think I've been as clear as anyone could possibly be. We have serious reservations about our own suggestion. That's why it's option 2. It improves it but it's not a total fix and that's why we need to - the issues would be different if we were also pursuing a - if it was a different situation and it also involved wage uplifts because there's that (indistinct) effect. That's not what we're doing here so the issues arise. The bigger concern we have about the approach that's taken by - this is really a bit global, ABI and AIG, as to the impact of both the provisional views in the ASU's suggestions is these broad assertions without evidence, just saying, 'We've consulted and we think this is it, this is what's going to happen'. ABI in particular made a number of sweeping statements about small pockets going backwards, anomalies. It has not made any effort to look at what the impact is in a longitudinal way. Same with AIG. There's no evidence from AIG. ABI has looked at some of our witnesses but that's about it.

PN3548

This is a real world exercise. It's informed by industry. It needs to reflect the reality of the work, not assumptions. We haven't seen the Commission's modelling, which I take it exists but we've just worked with what we've got. We've got 88 or whatever it is witnesses that we've modelled. Some of them it was easier than others. It's not a straightforward in either case to apply them. We do have to make some jumps about equivalence, about requirements. That's the basis that we say if either of these are applied it will drive wages back in the sector for existing employees - I'll return to the red circling question in a moment - and for new employees in particular.

PN3549

The examples, as I say - there is some work notional examples in the written submissions. Again we've picked what we think are realistic examples. There's the witnesses. There's a data set. The reason the red circling is so difficult, complex, is raising all these legitimate concerns, identified by the government and employer parties, is because of the potential scale. The only thing I wanted to say in response to any government - and it was the Victorian Government - is that we just don't see it as may drive wages backwards in the sector. We say it will. That does not appear to be the Commission's - sorry, it expressly now is not the Commission's intention for new and existing employees. That ambiguity has been resolved.

PN3550

JUSTICE HATCHER: Mr Saunders, presumably the new classification and the translation table for the implementation of the classification structure will ensure by itself that the large majority of employees can't go backwards.

PN3551

MR SAUNDERS: We don't think so on the modelling. The translations themselves, a number of people do move backwards on the Commission's translations. That's, I thought, uncontroversial.

PN3552

JUSTICE HATCHER: I'm not necessarily talking about the provisional view but the outcome. So that is presumably either by consent of the parties or by us taking into account the various submissions that have been made we can design a translation table which will ensure that the large majority of employees don't go backwards on translation so that the red circling would be really to protect those who maybe fall between the cracks because there's some anomaly of the way they've been classified.

PN3553

MR SAUNDERS: That's how it conventionally works. That's why it's not usually as big a drama as it is here. Yes, of course that could be done. The difficulty is one of - it's twofold. It's one of principle. In translating someone to a wage rate, to a classification based on a wage rate, leaves them - if it's not consistent with what their classification actually covers and what their work does - does leave them practically misclassified. So it doesn't hold. It doesn't provide any guidance for applying it for new employees and can lead to confusion in that

respect. Does nothing for people coming in to the sector who are equally as significant and protecting the rates for their jobs is equally as important.

PN3554

There's no reason that the rate for a new graduate starting at a community legal centre needs to go backwards. ABI is correct in the submission that the ASU's primary position doesn't meet the requirements of the statement issued by the Commission last week. I think I made that submission expressly. We accept that. One aspect of that was to a degree inadvertent: the disturbance of the aged care outcome. We agree with what the HSU/UWU has said in that regard. The answer is not aged care, it was true in aged care, thus it must apply everywhere. It's to treat aged care workers at level 3, level 5 differently to disability support workers.

PN3555

Again that raises questions about whether it's truly a unified structure but that's the solution. Otherwise it's putting a hard limit for disability support workers that isn't reflected in the sector, the nature of the work, the spread of qualifications there. I think I said this yesterday but for completeness, the provisional view doesn't meet all six elements of the statement - and this is 3 and 5 and 2. It is not as - it's clearer than the current SCHADS being C. Most things would be but it does present complexities in its application that are difficult if not impossible to consistently surmount. The difficulty is inconsistent application, inconsistent views, inconsistent approaches.

PN3556

JUSTICE HATCHER: Mr Saunders, I think somebody said that possession of qualifications in the aged care sector was ubiquitous. Does that extend to home care in aged care?

PN3557

MR SAUNDERS: My recollection was that it did but can I come back to - because I am just - it was now a while ago and frankly I did have a tendency to get home care confused. I'll come back to your Honour in that respect.

PN3558

JUSTICE HATCHER: Because I know if qualifications are ubiquitous in schedule F, if we can call them that, then it may be that introducing a general provision for equivalent experience is not really going to disturb the aged care outcome because nearly everyone's got qualifications in the first place. That is an equivalent experience provision across the board may not actually have much meaning in the aged care sector.

PN3559

MR SAUNDERS: Yes, which would be consistent with the rationale for applying because it didn't lock people out in any significant way. So it may be less a problem than it first appeared. The final matter - I was hoping I could ignore the written submissions as they sort of were bit of a rush of blood to the head but enough has been said yesterday about allegations about the ASU's conduct that I do need to briefly respond to some aspects. I want to say at a general level and as a matter of principle accusing a person of an intimidating or attempting to

intimidate another person or a court in respect of legal proceedings is a serious matter. It's not something that ought be brought lightly.

PN3560

A baseless allegation - and I'm not suggesting one has been made but as a matter of principle a baseless allegation of such nature is itself capable of constituting a contempt. The suggestion that a court or tribunal could or would be improperly influenced by another party - different to bias - but improperly influenced by an external force, including a union, classically, that suggestion is capable of itself being a scandalising contempt, very rarely applied and a very high threshold because of obvious freedom of speech considerations but these are things that need to be approached with care. If it is going to be done, if those allegations are going to be made, they have to be done properly. Either bring the charge, make the allegation or don't.

PN3561

Doing it in this - doing it this way has its own chilling effect on the way people conduct proceedings and the reason I am raising this is my concern is primarily about the conferences, which we all want to participate in constructively and in a facilitative way.

PN3562

This brings me to the second part of what I need to say. There has been nothing improper about the ASU's conduct in respect of these proceedings. What has happened is the Fair Work Commission has put forward a provisional view that, on our view, inadvertently leads to significant wage reductions, both in level and scale, across the board. Throughout these proceedings, we have enthusiastically attempted to persuade the Commission not to embark on this provisional view, which we were invited to do, and probably would have done absent an invitation anyway. That's a completely normal exercise of a union's role, and a completely appropriate way to proceed.

PN3563

AiG has participated in these proceedings, as it is entitled to. It has put forward a position, purportedly on behalf of industry, that the view should be confirmed, in a way that reduces rates in the sector; that it should go further for existing employees. That's what the additions to the transitional provisions in fact do, that is, an active submission being advanced, and that it is said in writing that both wage increases and wage decreases should be phased in, that wages should immediately move backwards in the sector. They are entitled to make that submission.

PN3564

As a public position, it is a position that affects potentially thousands of workers. It is a political statement about an inherently political matter, and it affects – those workers are the ASU's members and community of interest. The ASU is putting public pressure on AiG in respect of this position in this respect, mostly by telling people about it and saying – I mean, public rallies; yes, there was – it's the ASU. It was a short dance party outside AiG's office, so if we can just focus on the degree of intimidation that's being involved here. But that is an

important part of this union's culture, and it's an important part of – it's a trade union putting pressure on employers about positions they take on wages.

PN3565

That does happen. There's nothing improper about that. And if that was somehow contrary to the Fair Work Act, there would be a difficulty with the constitutionality of section 676. And this idea of intimidation isn't properly raised, and we ought all just pretend it never happened. What that's shown by is what's actually happening here. There has been no chilling effect on employer participation. The Commission has heard from actual employers and peak bodies, including the Council of Social Services participating today, with a significant number of written submissions putting forward their views, enthusiastic both in the content and the volume.

PN3566

The fact that those employers, who were perfectly happy to turn up and say whatever they wanted to say, overwhelmingly disagree with the position advanced by the Australian Industry Group does not reflect some sort of mass terror campaign in the industry. It reflects an apprehension that the AiG's position might be on the fringes. They're entitled to participate. Ms Cruden was correct; we're not making any contention as to standing. They're not an applicant. These are open public proceedings.

PN3567

The reason we say their scope of interest matters is their moral authority to advance this position, and that question I adverted to earlier, as to what happens in a conference, and the degree of consensus that is necessary. It does emphasise the difficulty and complexity of own motions matters. We do accept that, to some degree, there needs to be a role for something like an objector. And to a degree, marginally interested but experienced industry groups can play a role in that, but it's how it's done and what is said. And the Commission needs information brought forward to it, as well as its own research capacity, which we've now attempted to do with the lay evidence of the ASU, as presented.

PN3568

What can't be right is that that's solely done by these groups turning up and making highly prejudicial assertions that the ASU simply can't do anything about it. And that is the extent of what I think I need to say about that aspect of the Ai Group's submissions, and there's otherwise nothing further in reply.

PN3569

JUSTICE HATCHER: Just one procedural matter, Mr Saunders. Your client wrote to us on the 26th about the exhibit marked SCH76. I don't know if you're familiar with that.

PN3570

MR SAUNDERS: I'm not across this issue, but people will start telling me things your Honour talks, I'm sure.

PN3571

JUSTICE HATCHER: Yes. All right. There was an application for redaction of
- - -

PN3572

MR SAUNDERS: Yes. This, I am across. I'm sorry. Yes.

PN3573

JUSTICE HATCHER: Yes. So obviously, there'll be no publication of addresses, but if you want redaction of the person's name and the employer's name, then you'll have to find some proper basis for us to do that.

PN3574

MR SAUNDERS: We do have one, and we will communicate that to your Honour's chambers.

PN3575

JUSTICE HATCHER: Yes. All right. Thank you.

PN3576

MR SAUNDERS: Thank you.

PN3577

JUSTICE HATCHER: All right. We thank the parties for their very detailed submissions. We won't reserve our decision at this stage. We'll await the outcome of the conference process, recognising that, depending upon the outcome, there may be a need for further hearing, and we may at some later stage explore with the parties what a convenient date for that hearing would be if it emerges to be necessary. So thank you. We'll now adjourn.

ADJOURNED TO A DATE TO BE FIXED

[11.15 AM]