

14 March 2017

Via Email | amod@fwc.gov.au

Dear AMOD

Response to [2018] FWC 1405

1. Business SA provides this letter in response to [217] of [2018] FWCFB 1405. Parties were invited at [217] to comment on Ai Group's submission regarding the wording of clause 8.1 in the *Wine Industry Award* exposure draft.
2. Business SA is providing comment at this stage in proceedings given the importance of the wine industry to South Australia's economy. The review of the *Wine Industry Award 2010* should ensure the intent and legal operation of the revised award remains consistent with that applying before the review.
3. It is Business SA's understanding, based on Deputy President Clancy's Report to the Full Bench dated 25 August 2016, that the parties agreed to wording proposed by the AWU being inserted at clause 8. Clause 8 deals with ordinary hours of work and rostering. The agreed wording read: "The following provisions in clause 8 apply to day workers and shift workers except for clause 8.5" and these words would be inserted at the start of clause 8.
4. DP Clancy's report related to the exposure draft as published on 29 July 2016. In this version of the exposure draft clause 8.5 was titled 'Ordinary hours of work – day workers'. We submit, given the content of the agreed wording and the version of the exposure draft being discussed, the agreed wording applied to clause 8.5 – Ordinary hours of work – day workers.
5. In their submission of 24 November 2017, Ai Group identified an anomaly in the exposure draft at clause 8. Business SA also recognises the anomaly in clause 8.
6. To incorporate the agreed wording a new clause 8.1 needed to be inserted. This caused the rest of clause 8's sub-clauses to be renumbered. What was clause 8.5 in the July exposure draft became clause 8.6.
7. Business SA agrees with Ai Group that clause 8.1 does not reflect the agreed position of parties. We submit clause 8.1 be amended to refer to clause 8.6 instead of 8.5.

Yours sincerely

Chris Klepper
Policy Adviser



Business SA
Chamber of Commerce
and Industry South Australia

ABN 000 14 725 309 328
Level 1, 136 Greenhill Road
Unley South Australia 5061
T: +61 8 8300 0000

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