

**From:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>  
**Sent:** Monday, 19 September 2022 10:59 AM  
**To:** 'Sunil Kemppli' <[skemppi@actu.org.au](mailto:skemppi@actu.org.au)>  
**Cc:** 'Ashley Sherr' <[Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)>; Emma Gruschka <[Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)>; Mary Walsh <[marywalsh6@bigpond.com](mailto:marywalsh6@bigpond.com)>; Leigh Svendsen <[leighs@hsu.net.au](mailto:leighs@hsu.net.au)>; Peter Cummins <[peter.cummins@catholiccare.org](mailto:peter.cummins@catholiccare.org)>; Illy Rogers <[illy.rogers@catholiccare.org](mailto:illy.rogers@catholiccare.org)>; Ben Redford <[ben.redford@unitedworkers.org.au](mailto:ben.redford@unitedworkers.org.au)>; Nigel.ward@ablawyers.com.au; Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>; Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>; 'Kirrily Boulton' <[Kirrily.Boulton@endeavour.com.au](mailto:Kirrily.Boulton@endeavour.com.au)>; 'Kerrie Langford' <[Kerrie.Langford@nds.org.au](mailto:Kerrie.Langford@nds.org.au)>; Chris Christodoulou <[chrisc@greenacres.net.au](mailto:chrisc@greenacres.net.au)>; AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Phillip Zlatkovic <[phillip.zlatkovic@aed.org.au](mailto:phillip.zlatkovic@aed.org.au)>  
**Subject:** RE: Further directions - SES Award - AM2014/286 [SPARKE-MATT.FID6015583]

Dear Parties,

I refer to Mr Kemppli's email below. The Vice President has granted the request for an extension to the deadline in paragraph 2 of the directions issued 18 August 2022 (as amended). Paragraph 2 now provides:

2. Any interested party that wishes to respond to the material filed pursuant to item 1 of these directions is to file its submissions by **5:00 pm (AEST) on ~~Friday 23 September 2022~~ Wednesday 28 September 2022.**

Kind regards,  
Caroline

**Caroline Beasley**  
Associate to Vice President Hatcher



## Fair Work Commission

Australia's national workplace relations tribunal

T (02) 9308 1812

E [chambers.hatcher.vp@fwc.gov.au](mailto:chambers.hatcher.vp@fwc.gov.au)

Level 11, Terrace Tower, 80 William Street, EAST SYDNEY NSW 2011  
[www.fwc.gov.au](http://www.fwc.gov.au)

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The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

**This email was sent from Gadigal Country.**

**From:** Sunil Kemppli <[skemppi@actu.org.au](mailto:skemppi@actu.org.au)>  
**Sent:** Monday, 19 September 2022 10:22 AM  
**To:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>  
**Cc:** 'Ashley Sherr' <[Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)>; Emma Gruschka

<[Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)>; Mary Walsh <[marywalsh6@bigpond.com](mailto:marywalsh6@bigpond.com)>; Leigh Svendsen <[leighs@hsu.net.au](mailto:leighs@hsu.net.au)>; Peter Cummins <[peter.cummins@catholiccare.org](mailto:peter.cummins@catholiccare.org)>; Illy Rogers <[illy.rogers@catholiccare.org](mailto:illy.rogers@catholiccare.org)>; Ben Redford <[ben.redford@unitedworkers.org.au](mailto:ben.redford@unitedworkers.org.au)>; [Nigel.ward@ablawyers.com.au](mailto:Nigel.ward@ablawyers.com.au); Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>; Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>; 'Kirrily Boulton' <[Kirrily.Boulton@endeavour.com.au](mailto:Kirrily.Boulton@endeavour.com.au)>; 'Kerrie Langford' <[Kerrie.Langford@nds.org.au](mailto:Kerrie.Langford@nds.org.au)>; Chris Christodoulou <[chrisc@greenacres.net.au](mailto:chrisc@greenacres.net.au)>; AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Phillip Zlatkovic <[phillip.zlatkovic@aed.org.au](mailto:phillip.zlatkovic@aed.org.au)>  
**Subject:** RE: Further directions - SES Award - AM2014/286 [SPARKE-MATT.FID6015583]

Dear Associate to Vice-President Hatcher,

I refer to the below directions, as amended, in matter AM2014/286.

On account of the public holidays on 22 (National) and 23 September (Victoria), I request that the date for responding to the materials filed by the Commonwealth (pursuant to 1, below) be amended to Wednesday 28 October.

Regards,

Sunil Kemppli

**Sunil Kemppli**

Senior Legal & Industrial Officer

Australian Council of Trade Unions  
Level 4/365 Queen Street, Melbourne, Victoria 3000  
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Twitter [@UnionsAustralia](https://twitter.com/UnionsAustralia)  
Instagram [@AusUnions](https://www.instagram.com/AusUnions)

We acknowledge the Traditional Owners of country throughout Australia and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders past, present and emerging.

**From:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>

**Sent:** Friday, 19 August 2022 5:13 PM

**To:** 'Ashley Sherr' <[Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)>; Emma Gruschka <[Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)>; Mary Walsh <[marywalsh6@bigpond.com](mailto:marywalsh6@bigpond.com)>; Leigh Svendsen <[leighs@hsu.net.au](mailto:leighs@hsu.net.au)>; Peter Cummins <[peter.cummins@catholiccare.org](mailto:peter.cummins@catholiccare.org)>; Illy Rogers <[illy.rogers@catholiccare.org](mailto:illy.rogers@catholiccare.org)>; Ben Redford <[ben.redford@unitedworkers.org.au](mailto:ben.redford@unitedworkers.org.au)>; [Nigel.ward@ablawyers.com.au](mailto:Nigel.ward@ablawyers.com.au); Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>; Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>; 'Kirrily Boulton' <[Kirrily.Boulton@endeavour.com.au](mailto:Kirrily.Boulton@endeavour.com.au)>; 'Kerrie Langford' <[Kerrie.Langford@nds.org.au](mailto:Kerrie.Langford@nds.org.au)>; Chris Christodoulou <[chrisc@greenacres.net.au](mailto:chrisc@greenacres.net.au)>; AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Phillip Zlatkovic <[phillip.zlatkovic@aed.org.au](mailto:phillip.zlatkovic@aed.org.au)>; Sunil Kemppli <[skemppli@actu.org.au](mailto:skemppli@actu.org.au)>

**Subject:** RE: Further directions - SES Award - AM2014/286 [SPARKE-MATT.FID6015583]

OFFICIAL

Dear parties

I refer to Mr Sherr's email below. The Vice President has granted the request to vary paragraph 1 of the directions issued on 18 August. Paragraphs 1 and 2 of those directions now provide as follows:

1. The Department of Social Services (Department) is to file submissions:
  - a. responding to the jurisdictional submissions of the AED Legal Centre filed on 13 May 2022, including its position on the proper construction and interrelationship of ss 153 and 284 of the Fair Work Act 2009, s 94 of the Social Security Act 1991 and s 47 of the Disability Discrimination Act 1992;
  - b. on whether the implementation of the award variations proposed in the 3 December 2019 and 30 March 2020 decisions in this matter would affect the entitlement of any disabled employee working in an Australian Disability Enterprise to the disability support pension; and
  - c. on whether the Department intends to implement the recommendations set out in section 6.3.3 of ARTD Consultants' Fair Work Commission New Wage Assessment Structure Trial Evaluation – Final Report (pp 126-7)

by 5:00 pm (AEST) on ~~Friday, 26 August 2022~~ **Friday 9 September 2022**

2. Any interested party that wishes to respond to the material filed pursuant to item 1 of these directions is to file its submissions by 5:00 pm (AEST) on ~~Friday, 2 September 2022~~ **Friday 23 September 2022**

Kind regards,  
Caroline

**Caroline Beasley**  
Associate to Vice President Hatcher



**Fair Work Commission**

Australia's national workplace relations tribunal

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The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

**This email was sent from Gadigal Country.**

**From:** Ashley Sherr <[Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)>

**Sent:** Friday, 19 August 2022 4:51 PM

**To:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>; Emma Gruschka

<[Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)>; Mary Walsh <[marywalsh6@bigpond.com](mailto:marywalsh6@bigpond.com)>; Leigh Svendsen <[leighs@hsu.net.au](mailto:leighs@hsu.net.au)>; Peter Cummins <[peter.cummins@catholiccare.org](mailto:peter.cummins@catholiccare.org)>; Illy Rogers <[illy.rogers@catholiccare.org](mailto:illy.rogers@catholiccare.org)>; Ben Redford <[ben.redford@unitedworkers.org.au](mailto:ben.redford@unitedworkers.org.au)>; [Nigel.ward@ablawyers.com.au](mailto:Nigel.ward@ablawyers.com.au); Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>; Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>; 'Kirrily Boulton' <[Kirrily.Boulton@endeavour.com.au](mailto:Kirrily.Boulton@endeavour.com.au)>; 'Kerrie Langford' <[Kerrie.Langford@nds.org.au](mailto:Kerrie.Langford@nds.org.au)>; Chris Christodoulou <[chrisc@greenacres.net.au](mailto:chrisc@greenacres.net.au)>; AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Phillip Zlatkovic <[phillip.zlatkovic@aed.org.au](mailto:phillip.zlatkovic@aed.org.au)>; Sunil Kempfi <[skempfi@actu.org.au](mailto:skempfi@actu.org.au)>

**Subject:** RE: Further directions - SES Award - AM2014/286 [SPARKE-MATT.FID6015583]

Dear Associate,

We refer to the above matter and the directions issued by Vice President Hatcher on 18 August 2022 (**Directions**).

At commencement of proceedings on 18 August 2022, the Full Bench had granted the Department of Social Services (**Department**) 7 days to provide submissions on section 153 of the *Fair Work Act* (2009). The Directions now refer to submissions on a range of topics, broader than those initially contemplated on 18 August 2022.

While the Department remains ready and willing to assist by making these submissions, it respectfully requests an extension of time until **9 September 2022** to do so. This additional time will enable the Department to engage in the necessary inter-departmental consultation required to address the topics identified.

If you have any questions, please let us know.

Kind regards

**Ashley Sherr** | Senior Associate | Workplace (Safety, Employment & IR)  
**Sparke Helmore Lawyers** | Level 40, 600 Bourke Street, Melbourne VIC 3000  
t: +61 3 9291 2224 | f: +61 3 9291 2399  
e: [Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au) | [www.sparke.com.au](http://www.sparke.com.au)

**From:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>

**Sent:** Thursday, 18 August 2022 4:46 PM

**To:** Ashley Sherr <[Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)>; Emma Gruschka <[Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)>; Mary Walsh <[marywalsh6@bigpond.com](mailto:marywalsh6@bigpond.com)>; Leigh Svendsen <[leighs@hsu.net.au](mailto:leighs@hsu.net.au)>; Peter Cummins <[peter.cummins@catholiccare.org](mailto:peter.cummins@catholiccare.org)>; Illy Rogers <[illy.rogers@catholiccare.org](mailto:illy.rogers@catholiccare.org)>; Ben Redford <[ben.redford@unitedworkers.org.au](mailto:ben.redford@unitedworkers.org.au)>; [Nigel.ward@ablawyers.com.au](mailto:Nigel.ward@ablawyers.com.au); Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>; Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>; 'Kirrily Boulton' <[Kirrily.Boulton@endeavour.com.au](mailto:Kirrily.Boulton@endeavour.com.au)>; 'Kerrie Langford' <[Kerrie.Langford@nds.org.au](mailto:Kerrie.Langford@nds.org.au)>; Chris Christodoulou <[chrisc@greenacres.net.au](mailto:chrisc@greenacres.net.au)>; AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Phillip Zlatkovic <[phillip.zlatkovic@aed.org.au](mailto:phillip.zlatkovic@aed.org.au)>; Sunil Kempfi <[skempfi@actu.org.au](mailto:skempfi@actu.org.au)>

**Subject:** Further directions - SES Award - AM2014/286

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OFFICIAL

Dear parties,

Please find attached further directions following today's hearing.

**Edrea Venal**  
**Associate to Vice President Hatcher**



**Fair Work Commission**  
Australia's national workplace relations tribunal

T (02) 9308 1812

E [chambers.hatcher.vp@fwc.gov.au](mailto:chambers.hatcher.vp@fwc.gov.au)

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