

**IN THE FAIR WORK COMMISSION**

**MATTER: AM2016/25 HORTICULTURE AWARD 2010 (MA4028)**

**4 Yearly Review of Modern Awards**

Email: amod@fwc.gov.au

**SUBMISSION IN RESPONSE TO DIRECTIONS**

1. Macpherson Kelley act on behalf of Gayndah Packers Pty Ltd (**Gayndah Packers**).
2. Gayndah Packers Pty Ltd carries on a business which packs and sorts fresh produce from related entities and other horticultural entities.
3. On 12 September 2016, the Fair Work Commission issued Directions inviting any interested party to file a draft determination specifying the terms of the variations (or the variations) sought by close of business on 21 October 2016 (**Directions**).
4. The terms of the variation we propose are set out at **Attachment 1**.
5. The variation proposed is limited to Clause 4 Coverage of the Horticulture Award.
6. The affect of the changes set out at Attachment 1 would confirm that a packing shed which operates as a separate but related legal entity would be covered by the Horticulture Award.
7. Gayndah Packers intends to provide further submissions to support the basis for the variation as required by paragraph 2 of the Directions.

Please contact the writer should further details be required.

Yours faithfully

  
**Macpherson Kelley**  
CHRIS MOSSMAN  
Principal

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Encl.

## Attachment 1

**horticultural crops** includes all vegetables, fruits, grains, seeds, hops, nuts, fungi, olives, flowers, or other specialised crops. ~~unless they are specifically named as a broadacre field crop in the Pastoral Award 2010~~

### 4.3 Horticulture industry does not mean:

- (a) the wine industry;
- (b) silviculture and afforestation;
- (c) sugar farming or sugar cane growing, sugar milling, sugar refining, sugar distilleries and/or sugar terminals;
- (d) any work in or in connection with cotton growing or harvesting; cotton ginneries and associated depots; cotton oil mills and the extraction of oil from seed;
- (e) plant nurseries; ~~or~~
- (f) ~~a broadacre mixed farming enterprise as defined in the Pastoral Award 2010~~ a broadacre mixed farming enterprise which combines the growing of crops and the management, breeding, rearing or grazing of livestock.

### 4.2 Horticulture industry means:

- (a) ~~agricultural holdings, flower or vegetable market gardens in connection with the sowing, planting, raising, cultivation, harvesting, picking, washing, packing, storing, grading, forwarding or treating of horticultural crops, including fruit and vegetables upon farms, orchards and/or plantations in connection with a horticultural enterprise; or~~
- (b) clearing, fencing, trenching, draining or otherwise preparing or treating land or property in connection with the activities listed at 4.2(a) for the sowing, raising, harvesting or treating of horticultural crops, including fruit and vegetables.

Proposed new definitions:

**Enterprise** means a business, activity, project or undertaking, and includes:

- An employer that is engaged with others in a joint venture or common enterprise; or
- Employers that are related bodies corporate within the meaning of s50 of the Corporations Act 2001 (Cth) or associated entities within the meaning of s50AAA of the Corporations Act 2001 (Cth).

**Horticultural enterprise** means an enterprise which as an important part of its enterprise engages in the raising of horticultural crops.