

## IN THE FAIR WORK COMMISSION

Four yearly review of modern awards – Finalisation of exposure drafts – newly constituted Full Bench  
(AM2019/17)

Exposure draft – *Road Transport and Distribution Award (the Draft)* - AM2014/212

Supplementary Submissions of the National Road Transport Association (NatRoad)

### Background

1. These submissions are filed on behalf of the National Road Transport Association (**NatRoad**) following the proceedings on 9 October 2019 when, inter alia, the Exposure Draft of the *Road Transport and Distribution Award (the Draft)* was considered by the Full Bench.
2. In our prior submission on the Exposure Draft we noted that at clause 12.2 and at Schedule C there is a Commission note that the hourly rates for oil distribution workers are to be considered by a Full Bench in AM2016/32.
3. At PN474 to PN 484 of the transcript of proceedings on 9 October 2019 the following is said:

MS BHATT: Your Honour, can I just raise one issue about that, to the extent that it's relevant to the TWU's consideration of this. The issue arises in the context of the exposure draft because of the schedule of hourly rates.

PN475

JUSTICE ROSS: Yes.

PN476

MS BHATT: As I understand it the debate is should the weekly rates prescribed by the current award be divided by 38 or 35 when being calculated for oil distribution workers. The exposure draft appears to divide the weekly rates by 35.

PN477

JUSTICE ROSS: Yes.

PN478

MS BHATT: That might mean that the issue has resolved itself from the TWU's perspective and there is nothing further to agitate unless any employer party in the context of the exposure draft proceedings takes a

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different view, and to my knowledge no such party has raised that issue in these proceedings.

PN479

JUSTICE ROSS: Okay.

PN480

MS BHATT: But I just raise that for the union's consideration.

PN481

JUSTICE ROSS: Yes. All right.

PN482

MR CALVER: Thank you. That was a similar point to that which I was to make, your Honour. That is that taking out the note does not resolve the issue.

PN483

JUSTICE ROSS: We'll take out the note and when this exposure draft comes up in the tranches when dealing with the finalisation and it's still an issue we can deal with it then.

PN484

MR CALVER: Thank you, your Honour.

4. This submission records the NatRoad position that certain of the Schedules in the Draft should be deleted as there has been no determination of the Commission that the divisor for oil distribution workers in respect of the weekly wage rate is 35. Whilst clause 23 of the current Award specifies that employees engaged in the transport and/or distribution of petroleum products in their raw or manufactured state enjoy a 35 hour week, the dispute arises as to whether the weekly rates are divided by 35 or by 38. If the Draft stands unaltered the question is decided in favour of the divisor being 35. NatRoad advises its members that the current divisor is 38.
5. We note that Schedule C2.3, C2.4, C3.3, C3.4, C4.3 and C4.4 are affected and, in NatRoad's submission, should either be deleted or changed to reflect a divisor of 38.
6. Unless the Transport Workers Union presses its case in this matter, as it is their right to do so as pointed out by the President at PN473 of transcript, the Draft should reflect the status quo.

**Richard Calver**  
**National Road Transport Association**

14 October 2019