

From: Melissa Harvey [mailto:Melissa.Harvey@minterellison.com]

Sent: Thursday, 14 February 2019 12:43 PM

To: Chambers - Hampton C

Cc: campbell.duignan@mua.org.au; Andrew Short

Subject: Notice of Listing - AM2019/1 - Application to vary the Viterra Bulk Handling and Storage of Grains Pulses and Minerals Award 2015 [ME-ME.FID4446318]

Dear Associate

I refer to the Notice of Listing issued to Mr Andrew Short on 6 February 2019 by email.

I have spoken to Mr Campbell Duigan of the CFMMEU today. Mr Duigan has advised he was not aware of the scheduled hearing, and may not be able to attend due to a prior engagement.

Mr Duigan has confirmed that the CFMMEU has no objection to the employer's Award Variation Application, and is comfortable with the hearing proceeding in his absence. Mr Duignan is copied into this email for reference.

As a courtesy, I set out the matters the employer proposes to raise at the hearing (which I have also discussed by telephone with Mr Duignan today):

- **In relation to the draft Determination:**

The employer notes a minor correction for completeness: The title of the document referred to in paragraph 5 of Draft Determination should have the word "Procedure" to be inserted before the work "Manual" (in the third line of paragraph 5).

We understand Mr Duignan takes no issue with this.

- **In relation to the operative date of the Determination:**

The employer's preference is for the determination to come into effect as soon as possible, and says the start of the next pay period is Saturday, 16 February 2018.

We understand Mr Duignan takes no issue with this.

- **In relation to the details of the Grandfathering Arrangement:**

The relevant background about the nature of the review arising from the obligations in the Viterra Bulk Handling and Storage of Grains, Pulses and Minerals Award 2015 (**Award**), the proposed changes to the Current SBCP Structure and the proposed changes to the classification structures in the Award are set out in the Application.

The employer notes under both the Current and Updated SBCP Structures:

- An employee will accumulate points for a skill if the Applicant requires the employee to perform that skill and if the employee is assessed by a qualified assessor as competent to do so.
- Both structures set out a process for what will happen if an employee is no longer be required by the Applicant to use a particular skill.

- In this case – the employee will be given 6 months (which may be extended to 2 years) to achieve other required skills to maintain their current skills point total.
- If at the end of this time they have not achieved the other required skills to maintain the current skills point total – then their Award classification level may be reduced in line with the correctly calculated skills point total.

The employer says:

- Its explicit intention is that no existing employee is unreasonably disadvantaged because of the Award variation and the implementation of the Updated SBCP Structure.
- If an existing employee will attract a skill point total that is lower under the Updated SBCP Structure compared to their existing skill point total and this would have the effect of a lower classification level under the varied Award - the employer will not reduce their classification level or wage rate and the employee will retain their existing skills points.
- If it is reasonable in the circumstances, the employee will be required to be trained in and to use other relevant skills set out in the Updated SBCP Structure - provided:
 - those additional skills are required for their current role; and
 - they are ultimately assessed as competent to perform those skills.

If under the Award variation an existing employee will retain the same Award classification level despite the implementation and effect of the Updated SBCP Structure, any additional points they subsequently accumulate will go towards assessing whether an increase to a higher Award classification level is appropriate in future (but will not be backdated to the operative date of the Determination).

If under the Award variation an existing employee is entitled to be classified at a higher Award classification level on the basis of current skills points total, the employer will classify the employee at that higher Award classification level with effect from the applicable date in the Determination. The employer notes it may take some time to assess existing employees who fall into this category, but will back pay those employees as necessary.

The Employer will require any alteration to an existing employee's skill points total, Award classification level or wage rate to be approved by its HR department to ensure the grandfathering arrangements are implemented appropriately.

We understand Mr Duignan takes no issue with this.

Please let me know if the Commission does not wish to proceed with the hearing today. Otherwise, I confirm the employer's HR Manager (Ms Alyson Gilbey) and HR Advisor (Ms Madeline Farr) will attend with me.

Regards

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