

**From:** Chambers - Ross J <[Chambers.Ross.j@fwc.gov.au](mailto:Chambers.Ross.j@fwc.gov.au)>  
**Sent:** Wednesday, 29 April 2020 6:02 PM  
**To:** Luis Izzo <[Luis.izzo@ablawyers.com.au](mailto:Luis.izzo@ablawyers.com.au)>  
**Cc:** Chambers - Ross J <[Chambers.Ross.j@fwc.gov.au](mailto:Chambers.Ross.j@fwc.gov.au)>  
**Subject:** RE: AM2020/18 - Social, Community, Home Care and Disability Services Industry Award 2010

Dear Mr Izzo,

I write in response to your **attached** letter dated 29 April 2020 regarding the application to vary the Social Community Home Care and Disability Services Award 2010 (AM2020/18).

I understand your concerns in relation to the AM2020/18 application are as follows:

1. that you were not notified of the Application prior to its filing;
2. that you were not notified by any party of the Application following its filing; and
3. that you were not consulted with respect to the Directions before they were made.

The application was received by the Commission on Tuesday 28 April 2020 and was published on the website at 10:17am. A notification about the filing of the application and the making of directions was sent by the Commission to the 415 subscribers to the SCHDS award at 11:31am on Tuesday 28 April. The subscribers to the SCHDS award include the following 3 people with email addresses using the email domain @ablawyers.com.au:

1. [REDACTED]@ablawyers.com.au
2. [REDACTED]@ablawyers.com.au
3. [REDACTED]@ablawyers.com.au

If you would like to subscribe to updates to the SCHDS award you can register on our website by [creating an account](#). You will be sent a link and then you can login to your account and subscribe to the awards you have an interest in "My awards – Updates" and the "My awards – All matters" email subscription services.

Thank you,

**Tahleah Gillard**  
**Associate to The Hon. Justice IJK Ross**  
**President**

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



29 April 2020

BY EMAIL - chambers.ross.j@fwc.gov.au

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Dear Associate

**AM2020/18 - S157 APPLICATION TO VARY THE SOCIAL COMMUNITY HOME CARE AND DISABILITY SERVICES AWARD 2010 ("SCHDS AWARD")**

We act for Australian Business Industrial (**ABI**) and the New South Wales Business Chamber (**NSWBC**).

We refer to the application (**the Application**) filed in the above proceedings by the ASU, HSU, UWU and National Disability Services.

Our office (and subsequently our clients) inadvertently became aware of the Application when reviewing the Fair Work Commission website this morning with respect to a section 157 application in unrelated proceedings.

Our clients were not notified of the Application by any of the four applicants (nor any other person), notwithstanding our clients' longstanding representation of employers covered by the SCHDS Award.

The Application was accompanied by an Application for Directions, which sought (amongst other things) that:

1. The Applicants file and serve evidence and submissions in support of the Application by 4:00pm 29 April 2020 (today).
2. Any party opposing the Application file evidence and submissions in opposition by 4:00pm on 1 May 2020.
3. The matter be listed for a hearing on 4 May 2020.

These directions were made by the Commission yesterday, 28 April 2020 (**the Directions**).

**1. RESPONSE TO THE APPLICATION**

- 1.1 At the outset, NSWBC and ABI wish to notify all parties that they are urgently seeking instructions in relation to the Application and may wish to oppose the Application. ABI and NSWBC have not yet had the opportunity to finalise their position regarding the Application.

**2. CONCERNS REGARDING THE DIRECTIONS**

- 2.1 The Directions contemplate an expedited process for determining the Applications.
- 2.2 This arises in circumstances where parties with significant interests with respect to the SCHDS Award (namely, ABI and NSWBC):
- (a) had not been notified of the Application prior to its filing;
  - (b) have not been notified by any party of the Application following its filing; and
  - (c) were not consulted with respect to the Directions before they were made.
- 2.3 We are urgently attempting to obtain instructions regarding the evidence and submissions ABI and NSWBC may wish to file in response to the Application.
- 2.4 For the sake of abundant caution, should ABI and NSWBC oppose the Applications, they wish to put the Commission and all parties on notice that, having regard to the above circumstances, ABI and NSWBC:
- (a) have concerns that they (and their members) have been prejudiced by the fact that no opportunity was provided to be notified of or comment upon the Directions before they were made; and
  - (b) may be substantially prejudiced by the truncated timetable for the determination of the Application having regard to the time required to file substantive evidence in response to the Application.
- 2.5 ABI and NSWBC may this week wish to formalise an objection to the Application being determined in the manner contemplated by the Directions, once instructions from members have been obtained.

Yours faithfully



**Luis Izzo**  
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**From:** Luis Izzo <[Luis.Izzo@ablawyers.com.au](mailto:Luis.Izzo@ablawyers.com.au)>

**Sent:** Wednesday, 29 April 2020 3:53 PM

**To:** AMOD <[AMOD@fwc.gov.au](mailto:AMOD@fwc.gov.au)>

**Cc:** Chambers - Ross J <[Chambers.Ross.j@fwc.gov.au](mailto:Chambers.Ross.j@fwc.gov.au)>; Stephen Bull <[Stephen.Bull@unitedworkers.org.au](mailto:Stephen.Bull@unitedworkers.org.au)>; [mrobson@asu.asn.au](mailto:mrobson@asu.asn.au); [rachell@hsu.net.au](mailto:rachell@hsu.net.au); [david.moody@nds.org.au](mailto:david.moody@nds.org.au); Nigel Ward <[Nigel.Ward@ablawyers.com.au](mailto:Nigel.Ward@ablawyers.com.au)>; Sam Cahill <[Sam.Cahill@ablawyers.com.au](mailto:Sam.Cahill@ablawyers.com.au)>

**Subject:** AM2020/18 - Social, Community, Home Care and Disability Services Industry Award 2010

Dear Sir/Madam

Please see **attached** correspondence.

Yours faithfully

**Luis Izzo**

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