

2 July 2014

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General Manager
Fair Work Commission
Terrace Tower
80 William Street
East Sydney
ATTENTION Associate to Deputy President Booth

Dear General Manager

Four yearly review of modern awards - Stevedoring Industry Award 2010; AM2014/90

Ports Australia is a peak body that represents the interests of port and marine authorities in Australia.

We refer to the proposed variations to the Stevedoring Industry Award 2010 (**Stevedoring Award**) filed by the Maritime Union of Australia (**MUA**) on or around 25 June 2014. In accordance with the directions issued by Deputy President Booth on 10 June 2014, Ports Australia provides the response below.

Ports Australia only recently became aware of the MUA's proposed variations and has not yet had an opportunity to consult fully with its members. However, many of Ports Australia's members have expressed concern in relation to clause 14 of the MUA's submission, which proposes a new definition of "Stevedoring Industry" in clause 3 of the Stevedoring Award.

The definition proposed by the MUA would significantly extend the coverage of the Stevedoring Award to include types of work that are not currently covered. For example, the MUA's proposed definition includes the following:

...

*(f) **clerical functions** involved in the tallying, receipt, delivery, sorting and stacking, storage, or other work connected with the loading or unloading of cargo into or from ships (whether in containers or not) or involved in the receipt, delivery, packing, unpacking, loading, unloading or storage of containers in preparation for loading into ships or after their discharge from ships. In connection with the foregoing work it may include those engaged in manifesting, freighting, preparation of ship's cargo disposition, timekeeping, labour allocation, roster preparation, preparation and distribution of payrolls, maintenance stores functions, computer operation, operation of other equipment used in connection with electronic data processing, or any other clerical work in or in connection with stevedoring operations or a wharf office on a wharf or on a ship;*

*(g) **maintenance, construction and repair work** where such work is performed in relation to stevedoring operations by maintenance tradespersons and maintenance tradespersons special class in relation to any vehicles, mechanical and/or electrical equipment, buildings, materials or facilities;*

*(h) **watching, guarding and protection duties** in relation to the operational activities and functions specified in this definition;*

..

(Emphasis added)

Many of the types of activities and work that the MUA is seeking to include in the definition of Stevedoring Industry are effectively activities or types of work performed by Port Operators covered by the Port Authorities Award 2010 (**Ports Award**) and by the employees of Port Operators. For example, the classification structure at Schedule B of the Ports Award includes clerical, maintenance and security work.

The MUA supports its proposed variation to the definition of "Stevedoring Industry" by reference to difficulties the MUA says it has faced in identifying what is, and what is not, stevedoring work with employers, port authorities and government. However, expanding the definition of the "Stevedoring Industry" simply expands the range of employers potentially covered by the Stevedoring Award. It does not deal with issues about whether employees of an employer covered by the Stevedoring Award fall within a classification of the award.

During Stage 3 of the award modernisation process, the Commission made a decision that there should be a separate Ports Award due to "*the desirability of comprehensive coverage of port authority employees so that only one award applies to each employer, but also of confining the award to those types of employers*".¹ The reasons for adopting this approach are clear and remain as valid as ever.

Ports Australia opposes the MUA's proposed variation to the extent that it is intended to, or would have the effective of, potentially extending coverage of the Stevedoring Award to cover work performed by Port Operators and the employees of Port Operators.

Ports Australia looks forward to the opportunity to provide a more detailed response at the appropriate time.

Yours faithfully



David Anderson
Chief Executive Officer

¹ See paragraph 168 of [2009] AIRCFB 450.