

**From:** Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>

**Sent:** Friday, 21 October 2022 2:59 PM

**To:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>; Ashley Sherr <[Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)>; Emma Gruschka <[Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)>; Mary Walsh <[marywalsh6@bigpond.com](mailto:marywalsh6@bigpond.com)>; [louised@hsu.net.au](mailto:louised@hsu.net.au); Peter Cummins <[peter.cummins@catholiccare.org](mailto:peter.cummins@catholiccare.org)>; Illy Rogers <[illy.rogers@catholiccare.org](mailto:illy.rogers@catholiccare.org)>; Ben Redford <[ben.redford@unitedworkers.org.au](mailto:ben.redford@unitedworkers.org.au)>; Nigel Ward <[Nigel.Ward@ablawyers.com.au](mailto:Nigel.Ward@ablawyers.com.au)>; Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>; 'Kirrily Boulton' <[Kirrily.Boulton@endeavour.com.au](mailto:Kirrily.Boulton@endeavour.com.au)>; 'Kerrie Langford' <[Kerrie.Langford@nds.org.au](mailto:Kerrie.Langford@nds.org.au)>; Chris Christodoulou <[chrisc@greenacres.net.au](mailto:chrisc@greenacres.net.au)>; AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Phillip Zlatkovic <[phillip.zlatkovic@aed.org.au](mailto:phillip.zlatkovic@aed.org.au)>; Sunil Kemppi <[skemppi@actu.org.au](mailto:skemppi@actu.org.au)>

**Subject:** Re: AM2014/286 - SES Award - Request re ABI and NDS 8 July submissions

Dear Associate

We refer to the email below.

As identified by the Full Bench, our clients proposed an alternative classification structure in its submission of 8 July 2022 (please refer to paragraphs 78-84 of our written submission, and Attachment A to that submission).

While Attachment A did not contain any rates of pay in respect of the proposed alternative classification structure, the rates proposed by our clients can be found in the attachments to various witness statements, including:

- Attachment D to the statement of Mr Christodoulou; and
- Attachment H to the statement of Mr Dauncey.

For convenience, the proposed rates are:

| Grade | Minimum Hourly Rate |
|-------|---------------------|
| A1    | \$5.00              |
| A2    | \$6.00              |
| B1    | \$9.00              |
| B2    | \$11.50             |

We apologise that these proposed rates were not more clearly identified in our submission and materials.

If it assists the Commission, we make the following brief comments about these proposed rates:

- The rates proposed by our clients were developed with the intention of achieving wage outcomes that are comparable to (or in many cases more beneficial than) the rates that would be achieved under the Commission's proposed classification structure, while also remaining consistent with work value grounds.
- Our clients' proposed rates for A1 and A2 are 71% and 86% (respectively) of the Commission's proposed rate of \$7 per hour for its proposed Grade A, and the proposed rates for B1 and B2 are 64% and 82% (respectively) of the Commission's proposed rate of \$14 per hour for its proposed Grade B.
- If this is compared to likely rate outcomes under the Commission's proposed structure, the ARTD Trial found that the average overall productivity outcome was 61% (see page 9 of the ARTD Report).
- Therefore, the rates proposed by our clients under its alternative classification structure would result in higher wages for the vast majority of employees compared to the Commission's proposed structure, while also removing the need for the SWS assessment process.
- The witness statements of Messrs Christodoulou and Dauncey detail their application of this proposed alternate classification structure to a sample of their workforce along with the rate outcomes. We refer to paragraphs 27-37 and 'Attachment C' of Mr Christodoulou's statement, and paragraphs 34-44 and 'Attachment G' of Mr Dauncey's statement.
- Lastly, we note that the proposed wage rates contained in the Full Bench's decision of 3 December 2019 (and our proposed rates under the alternate classification structure) may need to be adjusted upwards having regard to the annual wage review decisions arising from subsequent years.


Please do not hesitate to contact us should you require any further information.

Yours sincerely,

**Claudia Simmons**

Associate  
Australian Business Lawyers & Advisors

Suite 402, Level 4  
Watt Street Commercial Centre  
45 Watt Street, Newcastle, NSW 2300  
Dir: [02 4989 1012](tel:0249891012) | Mob: [0482 161 314](tel:0482161314)

Tel: [1300 565 846](tel:1300565846) | Web: [ablawyers.com.au](http://ablawyers.com.au) | : [LinkedIn](#)

**Workplace Relations and Employment Team of the Year  
Commercial Team of the Year**



This is an email from Australian Business Lawyers & Advisors Pty Limited (ACN 146 318 783). It is confidential to the named addressee and may contain copyright and/or legally privileged information. No-one else may read, print, store, copy, forward or act in reliance on all or any of it or its attachments. If you receive this email in error, please telephone us on +612 9458 7005 or email [ablawyers@ablawyers.com.au](mailto:ablawyers@ablawyers.com.au). We do not accept liability in connection with computer virus, data corruption, delay, interruption, unauthorised access or unauthorised amendment. Liability limited by a Scheme approved under the Professional Standards Legislation. Legal practitioners employed by or being directors of Australian Business Lawyers & Advisors Pty Limited are members of the Scheme. This notice must not be removed.

**Fraud warning: Please be aware that there is a significant risk posed by cyber fraud, specifically relating to email accounts and bank account details. Our bank account details will never change during the course of a transaction, and we will never change our bank details via email. Please check account details with us in person. We will not accept responsibility if you transfer money into an incorrect account.**

---

**From:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>

**Sent:** 19 October 2022 16:53

**To:** Ashley Sherr <[Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)>; Emma Gruschka <[Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)>; Mary Walsh <[marywalsh6@bigpond.com](mailto:marywalsh6@bigpond.com)>; [louised@hsu.net.au](mailto:louised@hsu.net.au) <[louised@hsu.net.au](mailto:louised@hsu.net.au)>; Peter Cummins <[peter.cummins@catholiccare.org](mailto:peter.cummins@catholiccare.org)>; Illy Rogers <[illy.rogers@catholiccare.org](mailto:illy.rogers@catholiccare.org)>; Ben Redford <[ben.redford@unitedworkers.org.au](mailto:ben.redford@unitedworkers.org.au)>; Nigel Ward <[Nigel.Ward@ablawyers.com.au](mailto:Nigel.Ward@ablawyers.com.au)>; Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>; Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>; 'Kirrily Boulton' <[Kirrily.Boulton@endeavour.com.au](mailto:Kirrily.Boulton@endeavour.com.au)>; 'Kerrie Langford' <[Kerrie.Langford@nds.org.au](mailto:Kerrie.Langford@nds.org.au)>; Chris Christodoulou <[chrisc@greenacres.net.au](mailto:chrisc@greenacres.net.au)>; AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Phillip Zlatkovic <[phillip.zlatkovic@aed.org.au](mailto:phillip.zlatkovic@aed.org.au)>; Sunil Kempfi <[skempfi@actu.org.au](mailto:skempfi@actu.org.au)>

**Subject:** AM2014/286 - SES Award - Request re ABI and NDS 8 July submissions

OFFICIAL

Dear parties,

I refer to the annexure to the ABI and NDS submissions dated 8 July 2022 which set out a proposed alternative classification structure. The Full Bench cannot identify that any wage rates were ever proposed in respect of this classification structure. If ABI and NDS have any proposal for such wage levels could they please provide urgent advice of this to the Vice President's Chambers by **5:00pm Friday 21 October 2022**.

Kind regards,  
Caroline

**Caroline Beasley**  
Associate to Vice President Hatcher



# Fair Work Commission

Australia's national workplace relations tribunal

T (02) 9308 1812

E [chambers.hatcher.vp@fwc.gov.au](mailto:chambers.hatcher.vp@fwc.gov.au)

Level 11, Terrace Tower, 80 William Street, EAST SYDNEY NSW 2011

[www.fwc.gov.au](http://www.fwc.gov.au)

---

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

**This email was sent from Gadigal Country.**