

**The Hon. Justice Ross**

President  
Fair Work Commission  
11 Exhibition Street  
Melbourne VIC 3000

19 May 2016

Dear Justice Ross

**Re: AM2014/229**

We refer to the correspondence sent you by Minter Ellison dated 16 May, in which Bond University seeks to be viewed as an interested party to the proceedings and seeks to be heard at the hearing of outstanding matters on 6 and 7 June 2016.

We note, in particular, the following statement in that letter:

On review of the transcript from 10 May 2016 and other documents that form part of the AM2014/229 file, reference has been made a number of times to Bond University. Bond University would like to clarify that it does not share the same position as BUASA in respect of clause 10.2.

It is evident that Bond University was referred to in conference on 10 May 2016 as being aware of the proposed variations to clause 10.2 and it appears to have been suggested that Bond University does not object to the variations being proposed by BUASA and the National Tertiary Education Union (**NTEU**).

Bond University was not aware of the representations that appear to have been made on its behalf and does not agree with them. It seeks to be heard at the hearing on 6 and 7 June 2016.

We note that the reference to 'Bond University' apparently referred to in the second paragraph above refers to the brief exchange at PN 61 - PN 62 between Mr Pill of the Group of Eight Universities and Ms Pugsley of the AHEIA (incorrectly referred to in the transcript as Ms Gale of NTEU). There is nothing in the transcript which supports the claim that it was "suggested that Bond University does not object to the variations being proposed by BUASA and the NTEU".

It is quite clear that *no representations* have been made at any stage that purported to be on behalf of the University, and *no suggestion* was made on 16 May as to the University's position on the application of BUASA. There is nothing in the transcript which supports the claim that it was "suggested that Bond University does not object to the variations being proposed by BUASA and the NTEU". Bond University should not be permitted to argue that it has been misrepresented as the basis upon which to be allowed to appear at this late stage, when it had ample opportunity to participate earlier.

BUASA notes that:

1. Bond University has had since October 14 2014 to ensure it is informed of the current Award review process (19 months);
2. The Award review process is important to any employer whose main activity is in the tertiary education sector, and therefore it would be expected that such an employer would in fact inform itself of this process;
3. Bond University has stated that it will prepare submissions opposing BUASA's application by 23 May. This is a little less than two weeks prior to the full hearing of the remaining contentious matters, at which Bond University has sought leave to appear. We note that the

process agreed to by the parties by which to prepare submissions, responses and responses to responses to matters that currently remain contentious, occurred over a period of many months;

4. Bond University's proposed timeline would allow BUASA, and any other party who wishes to be heard on the matter, only a short time within which to evaluate and prepare submissions in response and to arrange evidence to present to the hearing. We note that up until this week, the matter was regarded as non-contentious, and no expectation in this regard was held;
5. We note BUASA is a small staff organisation with limited resources, and the preparation of a fully formulated response in this time (we note that it is also currently during a teaching period) would be extraordinarily onerous, especially when such preparation will be in light of materials compiled and collated by a large organisation with a dedicated Human Resources department who have engaged top tier lawyers to represent them.

The above facts suggest that BUASA (and potentially all interested parties) will suffer significant prejudice by allowing what until this point has been an uncontentious matter, to be dealt with in the way proposed by Bond University.

We note in this regard, that the latest correspondence from Ms Gale dated 18 May listing the institutions that are bound by clauses 5.6(a) and 6 of AM2014/229 and clauses 6.6(b) and (v) of AM2014/230 concludes with the comment '[w]hether or not Bond University would be added to this list is a matter in contest in the substantive proceedings.'

We would suggest this is not an accurate description of the current situation. BUASA's application and suggested amendment to the Award remains 'uncontentious' until Bond University has been given leave to appear and to make submissions. No University or their representative, or any other party, who has been heard at the proceedings over the past 19 months, has objected to the change proposed by BUASA.

Regards

Joel Butler, per BUASA

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