

*Fair Work Act 2009*

FAIR WORK COMMISSION

s.157 - FWC may vary etc. modern awards if necessary to achieve modern awards objective

EAGERS AUTOMOTIVE SUBMISSION

APPLICATION TO VARY THE VEHICLE REPAIR, SERVICES AND RETAIL AWARD 2020

Application to vary modern award to achieve the modern awards objective –  
Schedule I and X – Award flexibility during the COVID-19 Pandemic.

## BACKGROUND

1. On 11 May 2020 the Fair Work Commission issued a Decision 1 granting an application filed by the Victorian Automobile Chamber of Commerce (VACC), the Motor Trade Association of South Australia Inc, the Motor Traders Association of New South Wales, the Motor Trades Association of Queensland Industrial Organisation of Employers and Ai Group to insert a new schedule, Schedule J – Award flexibility during the COVID-19 Pandemic, into the Vehicle Repair, Services and Retail Award 2020 (the Vehicle Award) (note Schedule J has been renumbered and is now Schedule I). Schedule I came into operation on 11 May 2020 and was to cease operation on 30 June 2020.
2. On 30 June 2020 the Fair Work Commission issued a Decision 2 granting an application to vary Schedule I to extend the operation of some of the clauses contained in Schedule I for a limited period, until 31 July 2020.
3. On 29 July 2020 the VACC, Motor Trade Association of South Australia Incorporated, Motor Traders Association of New South Wales, Motor Trades Association of Queensland Industrial Organisation of Employers and Ai Group (the applicants) made an application to extend the operation of Schedule I–Award Flexibility During the COVID-19 Pandemic of the Award (as varied by PR720601) for a limited period, until 31 August 2020.
4. On 31 August the VACC, Motor Trade Association of South Australia Incorporated, Motor Traders Association of New South Wales, Motor Trades Association of Queensland Industrial Organisation of Employers and Ai Group (the Applicants) made an application to extend the operation of Schedule I–Award Flexibility During the COVID-19 Pandemic of the Award (as varied by PR722261) for a limited period, until 30 September 2020.

5. Accordingly, Eagers Automotive Ltd. provides the following submission below as an application to the Fair Work Commission for consideration of the further extension of Schedule I and X of the Vehicle Repair, Services and Retail Award 2020 to 29 March 2021, or a suitable date deemed reasonable by the Fair Work Commission under the current pandemic conditions.

## SUBMISSION

6. Eagers Automotive has a long and proud history in Australia operating within the automotive industry that extends for over 100 years.
7. We have shown resilience and innovation throughout the ever-changing automotive landscape while being true to our heritage and have become the number one oldest listed automotive retail group in the country, with over 250 locations across Australia and New Zealand, employing over 8,000 staff nationwide.
8. Our business consists of the ownership and operation of motor vehicle and truck dealerships. We provide full facilities including the sale of new and used vehicles, service, parts, aftercare and the facilitation of allied consumer finance. Our dealership locations service over 1 million vehicles across Australia and New Zealand per year.
9. During the course of COVID-19, a significant number of staff employed by Eagers Automotive have been affected by government mandated standdowns, particularly across the states of Victoria and New South Wales.
10. In many instances, a large number of staff across our organisation have been required to transition onto Jobkeeper due to government mandated stand down procedures, and in cases where employees or entities of our organisation have not been eligible for Jobkeeper, Eagers Automotive Limited has made several ex-gratia payments of the prescribed Jobkeeper amount to staff who have had their employment temporarily halted or displaced as a result of the pandemic on a "good faith" basis, even though there was no legal obligation for us to do so.
11. In addition to this, although a change in government regulations in Victoria has now allowed us to resume some limited servicing of customers' vehicles, our workshops and parts distribution operations are only operating in a limited capacity and we remain unable to sell vehicles across Victoria, resulting in a substantial loss of trade and a significant impact on our current operations in this location.
12. It is unknown when these current government-imposed conditions and restrictions will lift in Victoria, and furthermore, it is expected that many of our operations are set to lose their Jobkeeper eligibility in coming weeks. This will place a serious imposition on our ability to continue to retain staff in Victoria without further ongoing assistance and flexibility generated through the temporary concessions and variations to staff employment conditions afforded through Schedules I and X of the Award.

13. We note that a recent statement handed down by President Ross of the Fair Work Commission [2020] FWCFB 4986 (AM2020/93) indicates that Schedules I and X of the Vehicle Repair, Services and Retail Award 2020 are due to cease operation on 30 September 2020, and in order to ensure that any applications to extend the operation of the COVID-19 schedules can be dealt with prior to the Schedule ceasing operation, interested parties are requested to send forth any applications at least 2 business days prior to the expiry date.
14. The ongoing and constant changes in circumstances necessitated by the COVID-19 pandemic have required Eagers Automotive to mobilise a much more dynamic, flexible and responsive workforce than ever before, and the implementation (and subsequent retaining to date) of Schedule's I and X to the Vehicle Repair, Services and Retail Award 2020 to date have been a significant and instrumental concession within this industrial instrument that have allowed us to retain staff, and ensure that as many staff in our employ as possible have been able to be fully utilised to their maximum potential in whatever capacity possible across our organisational network during this unprecedented time.
15. Accordingly, as Australia's largest employer in the Automotive industry, Eagers Automotive puts forward the submission that we will continue to rely upon the concessions granted within Schedule I and X of the Vehicle Repair, Services and Retail Award 2020 to retain and continue the ongoing meaningful employment of staff across our organisation for the foreseeable future during the course of the ongoing global pandemic conditions that we find ourselves operating in.
16. On this basis, Eagers Automotive Limited therefore humbly submits the request for consideration by the Fair Work Commission to afford the same extension of the Schedule I and X provisions within the Vehicle Repair, Services and Retail Award 2020 for the same duration as the other Awards provided for in the most recent statement (AM2020/93) [2020] FWCFB 4986 handed down by President Ross on 16 September 2020 – that is to continue to Schedules I & X of the Vehicle Repair, Services and Retail Award 2020 until at least until the conclusion of the Jobkeeper program on 29 March 2021.

END  
18 SEPTEMBER 2020

Yours Faithfully,



Corey Dyer  
National ER / IR Advisor (Acting)  
Eagers Automotive Limited