

Christopher Nowland

From: Christopher Nowland
Sent: 20/10/2017 2:46 PM
To: 'Luis Izzo'; 'Muddagouni, Kamna'
Cc: David Bates; Michael Harmer; Kyle Scott; Emily Slaytor; 'Andrew Crabb'; 'Matt Galbraith'; 'Sean.Morrissey@ahansw.com.au'; 'Ralph, Sarah'
Subject: RE: Alpine Resorts Award 2010 (AM2016/30) (2823197)[NRF-APAC.FID1412034]

Dear Parties,

Alpine Resorts Award 2010 (AM2016/30)

We refer to the objections made by the Mount Hotham Resort Management Board, and Australian Business Industrial/New South Wales Business Chamber/Thredbo Chamber of Commerce (“together **ABI**”) to certain aspects of the witness statement of Gavin Girling.

Without exception, the objections are technicalities, going to form rather than substance and based on legal issues such as whether the evidence is hearsay, or a conclusion, or a submission.

Firstly, we would point out, in accordance with section 591 of the *Fair Work Act 2009* (Cth) (“**Act**”), the Fair Work Commission (“**Commission**”) is not bound by the rules of evidence. Further and more significantly, section 577(b) of the Act directs the Commission to exercise its powers in a manner that “is quick, informal and avoids unnecessary technicalities”. These technical objections can all be resolved without the need for legal arguments on technical points by the Commission dealing with the issues as they arise in evidence and giving the evidence the necessary weight (or no weight at all, if that was appropriate).

In summary, the Australian Ski Areas Association maintains its original position, as set out in our email dated 19 October 2017, that any evidentiary issues can be resolved through cross examination and submissions on weight.

Kind regards,

Christopher Nowland
Solicitor

D | M | T +61 2 9267 4322 | **F** +61 2 9264 4295
E christopher.nowland@harmers.com.au | **W** www.harmers.com.au
A Level 27, St Martins Tower, 31 Market Street, Sydney NSW 2000



Harmers Workplace Lawyers

2017 Workplace Relations & Employment Team of the Year, Lawyers Weekly Australian Law Awards
2017 Employment Law Specialist Firm of the Year, Australasian Law Awards
2017 Employment & Industrial Law Firm of the Year, Global Leading Lawyers
2017 Employment Litigation Law Firm of the Year in Australia, CorporateINTL Magazine Global Award
L&E Global - an alliance of employers' counsel worldwide
2017 Band 1 Global-Wide Employment Law Network, Chambers Global
2016 Global Network of the Year, The Lawyer European Awards