

Fair Work Commission
Level 10, Terrace Tower, 80 William Street
East Sydney NSW 2011
Via email: AMOD@fwc.gov.au

13 March 2018

Re: AM2016/30 Alpine Resorts Award

BACKGROUND

1. On 8 March 2018, the representatives for the Australian Ski Areas Association (**ASAA**) filed with the Fair Work Commission (**FWC**) correspondence regarding the Determination made by the FWC on 22 December 2017.
2. The correspondence on behalf of ASAA is primarily concerned with the interaction between the casual loading and overtime rates for employees covered by the *Alpine Resorts Award 2010* (**Alpine Award**).
3. The AWU response to these matters is below.

Casual Loading on Overtime

4. As stated in submissions previously¹, it is the position of the AWU that the general principles stated in the Casual and Part-Time Decision of 5 July 2017² - that casual loading does not compensate a casual employee for working overtime³ and that the normal approach to calculating overtime for casual employees is for the overtime rate to be paid in addition to the casual loading⁴ - should apply to employees covered by the Alpine Award.

¹ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201630-sub-draft-determination-awu-081217.pdf>

² [2017] FWCFB 3541

³ Id. At [667]

⁴ Id. At [550], [677]

5. The AWU notes negotiations between ASAA and the AWU occurred prior to the Casual and Part-Time Decision and the articulation of a general principle concerning the method of calculating overtime rates.
6. Despite assertions by ASAA to the contrary, the Determination made by the Full Bench of the FWC on 22 December 2017 has introduced no uncertainty in the calculation of overtime rates for casual employees covered by the Alpine Award. It is clear that the overtime rates are payable in addition to the casual loading.

The AWU Position

7. The AWU's position is that the determination made by the FWC on 22 December 2017 finalised the AWU's claim regarding casual overtime conditions for the Alpine Award and that any further variation sought by the ASAA would need to be justified by a merit case with reference to the modern awards objective.

Yours faithfully,



Zachary Duncalfe
NATIONAL LEGAL OFFICER
The Australian Workers' Union