

## IN FAIR WORK COMMISSION

FWC Matter No: AM2014/305

Applicant: CLUBS AUSTRALIA INDUSTRIAL

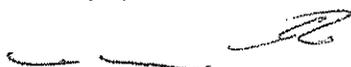
### AFFIDAVIT OF GWYN REES

1. I, Gwyn Rees of Unit 18, 16 National Circuit Barton, ClubsACT make oath and say/affirm:
2. I am the Deputy Chief Executive of ClubsACT and have been in this position for two years.
3. The Licensed Clubs Association of the ACT was established in 1974 and operates as ClubsACT. ClubsACT is an industry association recognised by the ACT Government and its agencies as the principal representative of the ACT club movement.
4. ClubsACT represents 51 of the 54 clubs trading in the ACT and 100% of all clubs holding a gaming machine licence.
5. The clubs vary in size but in a similar fashion to other states are varied in their purposes, examples of which include ethnic, workers, and religious types. Clubs also maintain and operate the vast majority of the ACT's sport & recreational infrastructure including bowls, golf and football.
6. The entire purpose of the club industry is to provide services to club members and invest in the support of local communities. In the last full financial year over 1100 individual organisations received support from clubs in the ACT. Over the past ten years, clubs have provided more than \$150 million in community contributions.
7. We welcome the opportunity to contribute to the work being undertaken by Clubs Australia Industrial (CAI) on behalf of the clubs industry and in this instance specifically, discussion around penalty rates on employee wages. For clubs in the ACT there are many issues at play other than that just outlined, however it forms part of the overall position clubs find themselves in.
8. A recent decision by the ACT Legislative Assembly to establish a wide ranging inquiry into the future of Canberra's community clubs has been an important one. This inquiry comes after successive decisions by the ACT Government that have negatively impacted the financial viability of clubs as well as placing clubs at a distinct competitive disadvantage to those just over the border in NSW.

Filed on behalf of:  
Prepared by:  
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9. These decisions by Government are in the form of regulatory changes which have notably included ATM restrictions unique to the ACT, bank note denomination limits and changes to outdoor smoking.
10. Increases to fees, charges, taxes et al are also stifling clubs, affecting their ability to reinvest or grow and the differences compared to other states are varied and stark. For example, a club liquor licence for trading late in NSW is \$5000 compared to \$17,000 for an ACT club. In the ACT a club will pay usage charges for water captured in own source on-site dams; a charge which does not currently occur in NSW. Other source water accessed by clubs, such as from bores or river water, is charged at rates well above other Australian jurisdictions, and potable water charges are twice that of Sydney's.
11. The ACT has also embarked on a new tax regime as a result of recommendations in the Henry Tax Review which removes Government reliance on stamp duty through changes to land tax and general rates. As an example, this change has seen one small golf club, who was already struggling with the exorbitant costs of water, experience rate and land tax bill increases from just under \$14,000 to over \$42,000 between 2012 and 2014.
12. Government decision making however, is not the only factor at play. Demographic shifts, growth in other hospitality businesses, changes to the way people game and wager, and importantly economic conditions all contribute to the position ACT clubs are currently in.
13. On the back of historical lows in gaming revenue (ACT Gross Gaming Machine Revenue annexed and mark A), clubs have also experienced dramatic falls in food and beverage revenue in the last two to three years. Much of this impact is likely attributed to federal public service job cuts – real and threatened – which put a stranglehold on discretionary spending.
14. It is without doubt a perilous time for Canberra's clubs and many have recorded their first ever trading losses. Profitability of the industry as a whole remains fairly bleak.
15. In this challenging economic climate, clubs are trying to strike a balance between service provision for their members, the wider community, and the need to run clubs as businesses with sound financial decision making.
16. This is a difficult concept to achieve given that clubs exist principally to serve the interests of their members and the core purpose of the club itself. It involves maintaining assets that are inherently unprofitable and meeting funding obligations for sporting teams, ethnic organisations and the like. This is what distinguishes clubs from other businesses. A normal, for-profit business simply would not carry the kind of unprofitable assets that the club sector maintains. The inescapable truth is that clubs will only be able to maintain these assets if the revenue is there to do so and indeed where the trading environment allows them to do so.
17. With all of this in context, our support for change in the form of penalty rate relief is motivated by the necessity to explore all avenues that are available to maintain the viability of Canberra's clubs, their ability to serve the community, and the opportunities for employment they create, whilst balancing their conditions of trade against other hospitality businesses.
18. We support therefore the imperative outlined by CAI to the Productivity Commission that the



*“...penalty rates structures do not act as a deterrent for employment growth and in particular do not impede the objective of Clubs to serve their members and the communities in which they operate.”<sup>1</sup>*

19. With the aforementioned in mind, there a number of more pressing challenges some of which have been outlined that are overwhelming the ACT club industry, penalty rates therefore have not been a key feature in the dialogue between ClubsACT and our club members in recent times. However, it is not to say that a change in this space would not result in either change to trading conditions for clubs or indeed further opportunity for employment.
20. Where discussion has occurred it has been generally with smaller clubs where staff numbers are below twenty employees per club or where the club relies heavily on volunteers.
21. For example, The ACT Rugby Union Club (The RUC) in Barton closes their club on Sundays and public holidays due to high wage rates for the club on those days. If a meaningful level of penalty relief were obtained there is no doubt this club would open its doors on those days, increasing employment opportunities and maximising its ability to service members and the community. However the present situation this club finds themselves in, having recently acquired a lawn bowls site in Turner is whether the Barton club can remain viable and the club is considering options to sell the site.
22. Another smaller lawn bowls facility, the Canberra Bowling Club is run primarily by volunteers and has struggled with rising water costs and rates. Its capacity to create employment is limited to one full-time staff member, one part-time staff member and one casual employee.
23. Another smaller ethnic club the Polish White Eagle Club at a recent hearing summarised their situation as:
 

*“...Sustainability for us is remaining open. As a bonus to that, over five years, if we were able to employ a full-time manager, just a single staff member, that would significantly decrease the risks we face through a diminution of our volunteer pool.”<sup>2</sup>*
24. It is this final point that frames the position of many smaller clubs. Penalty rate relief would not only further opportunities for employment, but in some cases would be an opportunity to employ in the first instance. This would assist clubs to be in a position to employ staff rather than leveraging the good-will of volunteers.
25. It is not only the smaller clubs however that are facing times of distress. A further reflection on the economic conditions in Canberra, the Canberra Southern Cross Club, a large club with a membership of 80,000 has off-loaded four facilities which became financially unviable, including a lawn bowls and a pitch and putt facility. Many clubs including this one have recorded their first ever trading losses, inevitably resulting in decisions impacting on employment.
26. Ian Mackay, Chief Executive of the Canberra Southern Cross Club also made statements at the aforementioned public hearing and mentioned that in the last 12 months up to ten employees had been lost.
27. In the context of the overall economic position of clubs in the ACT, we would highlight that an objective of the award modernisation process was in part about creating “...the principle of equal

<sup>1</sup> Clubs Australia Industrial – Submission to the Workplace Relations Framework Inquiry, March 2015 p.11

<sup>2</sup> Standing Committee on Public Accounts. Inquiry into elements impacting on the future of the ACT Clubs sector. June 2015

remuneration for work of equal or comparable value.” It therefore raises a question, particularly in light of clubs not-for-profit status, as to why a club should have to pay their employees – who are equal and comparable to those found in a restaurant or bar - different penalty rates where they are full-time and part-time, just because it is a club and operating on a Saturday.

28. Clubs as both hospitality businesses and as facilities that in the majority of cases maintain some form of sport and recreational infrastructure, operate over weekends because of the demand from their members. Members of clubs expect these facilities to be open and available for use.

29. For the ACT club industry the benefit of operating under the same conditions as the hospitality and restaurant awards would seem obvious and would allow more or in some cases a new ability to roster staff on weekends. Clubs in the ACT are seeking certainty and with many in the industry making tough decisions about how they operate, rate relief may play a part in preserving employment, where it may otherwise be lost altogether.

Sworn/Affirmed by the Deponent: 

Declared at 121 Murrumbidgee Clarke St, Canberra, 2600

on 26 June 2015

Before me:

Signature of Witness: 

Name of Witness: William Ward

Qualification of Witness: Solicitor

# "A"

## ACT Gross Gaming Machine Revenue

Source:

ClubsACT Monthly Gaming Figures – data sourced from the ACT Gambling & Racing Commission

