



2 August 2017

**Our Ref:** 20170665

**Your Ref:** AM2014/196 & AM2014/197

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Dear Vice President

**AM2014/196 AND AM2014/197 - CASUAL AND PART-TIME EMPLOYMENT - RACING INDUSTRY**

We refer to the above matters and the recent decision and directions issued by the Full Bench [2017] FWCFB 3541 (**Decision**).

The Australian Turf Club Limited (**ATC**), while not participating in these proceedings, has recently become aware of the Decision and the impact it will have on the racing industry and the operation of its four racing clubs.

ATC has instructed us to seek leave to make an application in respect of the *Racing Clubs and Events Award 2010* and the *Racing Industry Ground Maintenance Award 2010* (**Racing Awards**).

Should the Fair Work Commission (**Commission**) grant leave to make an application, it will seek more flexible part-time provisions to be inserted into the Racing Awards having regard to the Hospitality and Restaurant Industry claims which sought similar amendments to their respective awards.

**1. BACKGROUND**

1.1 ATC employs approximately 1,800 casuals, 11 part-time and 270 full-time employees across four racing clubs: Warwick Farm Racecourse, Canterbury Park, Rosehill Gardens and Royal Randwick.

1.2 ATC engages employees (mostly casuals) under a combination of:

- (a) The Racing Clubs and Events Award 2010;
- (b) The Racing Industry Ground Maintenance Award 2010;
- (c) The Hospitality Industry (General) Award 2010 (**Hospitality Award**); and

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- (d) Enterprise Agreements (that incorporate the terms of the above modern awards or use the above modern awards as the basis for the better off over all test required for enterprise agreement approval).

## 2. THE DECISION AND THE RACING INDUSTRY

2.1 Relevantly, for the purpose of this submission, the Fair Work Commission (**Commission**) has identified its intention to:

- (a) insert a model casual conversion clause into the Racing Awards (**Casual Conversion Claim**);
- (b) insert a more flexible part-time clause into the Hospitality Award (**Hospitality Claim**);
- (c) hear the merits of inserting a more flexible part-time clause into the Restaurant Industry Award 2010 (**Restaurant Industry Claim**).

2.2 Having regard to the proposed changes to the Racing Awards, ATC submits that the relevant industry principles considered in granting the Hospitality Claim are also applicable to the Racing Industry. These similarities include:

- (a) part-time employment provisions are essentially a “dead letter” due to the restrictive nature of part-time arrangements under the Racing Awards, which is evidenced by the 1,800 casuals and 11 part-time employees of ATC;
- (b) the part-time clause in the Racing Awards is similar to the current restrictive clause in the Hospitality Award, in particular the requirement to agree on a regular pattern of work including the number of hours as well as start and finish times on each day;
- (c) an inability (under the current award provisions) to adjust rosters of part-time employees to meet a highly variable workload and client demand resulting in a highly casualised workforce;
- (d) the nature of part-time provisions under the Racing Awards means that the insertion of the model casual conversion clause is unlikely to have any effect.

## 3. ATC APPLICATION

3.1 This submission therefore, constitutes what is, in effect, an application to vary the Racing Awards in similar terms to the variation that will be inserted into the Hospitality Award (**Racing Industry Claim**).

3.2 ATC considered the content of the Decision, in particular:

- (a) the determination of the Full Bench in relation to the Hospitality Claim; and
- (b) the invitation of the Full Bench to those in the Restaurant Industry to make an equivalent claim,

and considers the most appropriate course of action would be that ATC becomes involved in the proceedings now and seeks to have similar part-time provisions inserted into the Racing Awards.

3.3 Unfortunately, due to staff turnover at the relevant time, ATC had not previously been aware of the nature of the variations being considered in these proceedings regarding part-time employment.

3.4 It seems appropriate that the Racing Industry Claim and the Restaurant Industry Claim be heard in tandem, or at least decided upon at the same time, given the overlap of subject matter.

**4. NEXT STEPS - DIRECTIONS**

4.1 Given that ATC was not involved in the proceedings to date, it is regrettably not in a position to prepare any evidence by 2 August 2017.


4.2 ATC therefore seeks a direction from the Commission (should it grant ATC permission to run the Racing Industry Claim) to allow the filing of evidence in relation to that claim by **16 August 2017**.

If you have any questions, please contact Sophie Whish on (02) 9458 7431.

Yours sincerely



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