



12 October 2015

Our Ref: 20150415

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Dear Associate,

AM2014/198 - ALPINE RESORTS AWARD 2010

We refer to the above proceedings.

We act for the NSW Business Chamber Ltd, Australian Business Industrial and the Thredbo Chamber of Commerce.

As foreshadowed in our correspondence of 17 July 2015, and confirmed during the hearing on 7 October 2015, our clients are pursuing a variation to the coverage of the *Alpine Resorts Award 2010 (Award)*.

The Amended Directions issued by the Commission on 6 May 2015, which were attached to the Statement of same date ([2015] FWC 3148), required parties to file a written outline of submissions in relation to any substantive claims or variations being pursued by no later than 15 July 2015, with such written outlines identifying the scope of any evidentiary material that is to be filed and indicating whether the matter should be referred to a separately constituted Full Bench.

At the outset, our clients wish to apologise for its considerable delay in filing its outline of submissions in relation to the substantive claim they are seeking. That delay was at least in part due to the fact that the members of the Thredbo Chamber of Commerce have been consumed over the past 4 months with operating their businesses in what is the peak season in the alpine industry.

Our clients are now in a position to confirm that they wish to pursue a variation to the coverage of the Award.

Proposed Variation

The Award's application or coverage is currently limited to a handful of 'alpine resorts' whose businesses, among other things, include 'alpine lifting' (such as Thredbo, Perisher, Falls Creek, Mount Hotham, etc.). The Award is structured to recognise the particular labour market that alpine resorts operate in and how they source and employ labour.



Our clients are seeking to change the definition of what constitutes the alpine industry (or alpine resorts industry) to properly reflect businesses working in alpine resorts who operate in the labour market particular to such resorts rather than have the industry defined on the basis of (amongst other things) operating an alpine lift.

Our clients contend that the 'alpine industry' or 'alpine resorts industry' should not simply be limited to the small number of alpine resorts that operate alpine lifts, but rather should be given a broader definition to include employers that carry on businesses within, or in close proximity to, an alpine resort and which provide services essential to the operation of the alpine resort, including:

- the provision of accommodation services;
- food and beverages services (bars, restaurants, cafes, etc.);
- the provision of ski hire services; and
- retail outlets.

These businesses operate in the same labour market as businesses that are currently covered by the Award. The pattern for sourcing and employing labour is the same as that relevant to businesses covered by the Award.

The Award creates an illogical situation where two businesses of essentially the same nature, located virtually next to each other at a ski resort (such as two restaurants, two ski hire outlets, or two hotels) are governed by different industrial terms and conditions simply by reason of the fact that one of those businesses operates a ski lift and the other business does not even though they are exposed to the same labour markets.

Our clients seek to remedy this illogical situation by redefining the notion of the 'alpine industry' or 'alpine resorts industry' in Australia and making the Award a more appropriate and inclusive industry award.

Scope of evidentiary material to be advanced

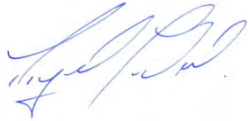
In support of the claim, our clients intend to bring evidence from employers operating businesses at ski resorts who provide accommodation, hospitality and retail services to visitors to the ski resorts; examining in detail the labour market they operate in and how they source and employ labour.

Specially constituted Full-Bench

Having regard to the significance of our clients' claim in respect of coverage (and the fact that there are other claims in respect of coverage), our clients consider it appropriate that all substantive claims in respect of the Award be dealt with by a separately constituted Full Bench.

If you have any questions, please contact Kyle Scott on (02) 9458 7607.

Yours sincerely



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