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Sent: Friday, 8 June 2018 5:05 PM
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Subject: RE: AM2017/39 - Registered and Licensed Clubs Award 2010 and the Hospitality Industry (General) Award 2010 [MA-S.FID431329]

Please see attached for filing, and by way of service, Supplementary Statements of Gwynn Rees, Neill Murray, Chris Mossman and George Addison.

Regards

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IN FAIR WORK COMMISSION

FWC Matter No: AM2017/39

Applicant: CLUBS AUSTRALIA-INDUSTRIAL

SUPPLEMENTARY STATEMENT OF GWYN REES DATED 7 JUNE 2018

1. I, Gwyn Rees, am the Chief Executive of The Licensed Clubs Association of the ACT trading as ClubsACT (**'ClubsACT'**), located at Unit 4C, 16 National Circuit Barton, ACT.
2. I provided a statement to the Fair Work Commission dated 21 October 2017 in these proceedings. I stand by that statement and re-affirm the accuracy of the points that were set out in that statement.
3. I have since been provided a copy of the statements filed in these proceedings by several witnesses who oppose the application of CAI and I here provide my reply to that evidence.

Statement of Robert Docker

4. I have read the statement of Robert Docker (**Mr Docker**).
5. I refer to paragraph 9 of the statement of Mr Docker. The penalty rates of 150 per cent on Saturdays and 175 per cent on Sundays currently applies to casual employees under the Clubs Award and will continue to apply to casual employees if the Commission makes the proposed merged award. In the absence of an enterprise agreement, these penalty rates will apply to 103 casual employees of 160 workers at the Canberra Tradies Club.
6. I refer to paragraph 18 of the statement of Mr Docker. The club manager structure in the Clubs Award will continue to apply if the Commission makes the proposed merged award (as the club manager structure is to be moved from the Clubs Award to the proposed merged award). I do not accept that the transfer of the club manager structure from one award to another award will create confusion. The club manager structure will be the same under both the Clubs Award and the proposed merged award. The content of the club manager structure will be the same under both the Clubs Award and the proposed merged award.
7. I refer to paragraph 19 of the statement of Mr Docker. I do not accept that the proposed merged award will create compliance issues for clubs. The two awards (the Clubs Award and the Hospitality Award) as they currently exist have an almost identical

structure (in that they both start with coverage, move to the NES, address individual flexibility, cover consultation and dispute resolution, turn to types of employment, set out classifications and minimum wages, address allowances and payment arrangements, turn to hours of work and related matters, cover leave and public holidays and then address industry specific provisions). The proposed merged award, while being longer, will follow the same structure. The two awards currently have a table of contents. The proposed merged award will have a table of contents. In my view, the proposed merged award will be just as easy to navigate as the Clubs Award.

8. I refer to paragraph 22 of the statement of Mr Docker. I do not accept that the proposed merged award will make compliance more difficult. I repeat the previous paragraph.

Statement of David James Constable

9. I have read the statement of Daniel James Constable (**Mr Constable**).
10. I refer to paragraphs 21 and 22 of the statement of Mr Constable. I do not accept that employees working in the clubs industry only work on weekends due to penalty rates. I have worked in the hospitality and clubs industries for over ten years. I repeat paragraphs 3 to 8 of my earlier statement. I have spoken with literally hundreds of employees working in the clubs industry. Based on those discussions, I am aware that employees working in the clubs industry have various motivations for working on weekends. I am aware that one of the key motivations for employees in the club industry working on weekends is their lack of time during the week to work. I am also aware that, for some employees in the club industry in Canberra who are studying at one of the two universities, have no or limited time during the week to work (due to university and study commitments) and prefer to work on weekends. In my view, such preference will not change as a result of any reduction in penalty rates under the proposed merged award.
11. I refer to paragraph 26 of the statement of Mr Constable. I do not accept that the proposed merged award will be more difficult to use. I do not accept that it will take longer to find and locate the relevant clause. I repeat paragraphs 6 and 7.

Statement of Neale Genge

12. I have read the statement of Neale Genge (**Mr Genge**),
13. I refer to paragraph 34 of the statement of Mr Genge. I do not accept that the club industry will have greater difficulty attracting quality employees and have a greater turnover of employees if penalty rates were reduced. In my view, good quality employees are not attracted or retained by penalty rates but by providing a good and safe working environment and flexibility. Based on my experience in the clubs and hospitality industries, I am not aware of any suggestion that prospective employees make detailed inquiries as to comparative penalty rates offered by clubs and hospitality venues prior to making an application for employment.

Statement of Peter Cooper

14. I have read the statement of Peter Cooper (**Mr Cooper**).
15. I refer to paragraph 21 of the statement of Mr Cooper. I do not accept that the proposed merged award is more complicated than the Clubs Award. I repeat paragraphs 6 and 7.
16. I refer to paragraphs 25 and 26 of the statement of Mr Cooper. I do not accept that the proposed merged award will not provide a career path for club managers. The career path for club managers, which is set out in the classification clause in the Clubs Award, has been copied from the Clubs Award and will be replicated in the classification clause of the proposed merged award.
17. I refer to paragraph 38 of the statement of Mr Cooper. I do not accept that the proposed merged award will be confusing from a management perspective. The structure of the Clubs Award and the proposed merged award is the same. I repeat paragraph 6 and 7. I also expect that, were the application for the proposed merged award to be successful, Clubs ACT will engage in an education activities to inform its members (including club managers) of the change. I address the features of the education campaign later in this statement.

Competition generally in the ACT

18. In ACT, in the past 8 years, there has been a rapid increase in competition by clubs with venues in the hospitality industry. I am aware of this development because of my extensive interactions (on behalf of Clubs ACT) with the Liquor Advisory Board. I am also aware that the ACT Government has approved, in the period from 2012-2013 to 2016-2017, an average of over 50 new liquor licences in Canberra every year. Annexed to this statement at marked **GR-1** is a copy of an article that records this level of approval.
19. In recent years, I am aware that clubs in ACT have started to offer similar services to hospitality venues. One example of this development is Gungahlan Club (part of the Eastlakes group), which has built an external bar, outside of its club (under a bar license as opposed to a club license), which can be accessed by patrons without those patrons having to be members of the club or sign into the club.

Support for Application and Objections

20. As the Chief Executive Officer of Clubs ACT, I fully support the application by Clubs Australia Industrial for the proposed merged award.
21. My support for the application is based upon the support for the application among the member clubs of Clubs ACT. Prior to the application being made by Clubs Australia Industrial, I kept clubs that were members of Clubs ACT aware of what was happening.
22. I am aware that a number of objections have been filed in these proceedings by various clubs stating that they do not support the application.

23. The only objection to my knowledge that has come from a member of Clubs ACT is the objection from the Austrian Australian Club. No representative of the Austria Australian Club raised an objection with me over the Club Australia Industrial application.
24. I am aware that the Austrian Australian Club is a small ethnic based club catering to the Austrian community. I am also aware that the Austrian Australia Club has a very small revenue base and a small number of employees.
25. I note that the objection has been signed by the Acting President. I do not know whether the Board of the Austrian Australian Club approved this objection being made.

Compliance Education

26. Should the application for the proposed merged award be successful, Clubs ACT will engage in a number [REDACTED]
[REDACTED]
[REDACTED] them of the change;
- (b) alerts to be included on the Clubs ACT website;
 - (c) articles to be included in the Clubs ACT magazine (called Club ACTION), which will highlight the ability of members to call the Clubs NSW advice line for further guidance on the changes if needed.
27. Members of Clubs ACT are generally given access to Clubs NSW seminars and meetings, especially those that deal with workplace relations issues. I anticipate that should the application be successful, such seminars will cover the topic of changes to be made through the merging of the Clubs Award with the Hospitality Award.

[REDACTED]
[REDACTED]
Gwyn Rees

Date: 8/6/18

IN THE FAIR WORK COMMISSION

FWC Matter No: AM2017/39

Applicant: CLUBS AUSTRALIA-INDUSTRIAL

SUPPLEMENTARY STATEMENT OF NEILL MURRAY DATED 7 JUNE 2018

1. I, Neill Murray, of [REDACTED], was formerly the Chief Operating Officer of Community Clubs Victoria (CCV) until May 2018. I am now engaged as a consultant to CCV.
2. I provided a statement to the Fair Work Commission dated 23 October 2017 in these proceedings. In my view, my statement remains accurate.
3. I have since been provided a copy of the statements filed in these proceedings by several witnesses who oppose the application of CAI and I provide in this supplementary statement my reply to that evidence.

Statement of Peter Cooper

4. I have read the statement of Peter Cooper (**Mr Cooper**).
5. In response to paragraph 21 of the statement of Mr Cooper, I deny that the proposed merged award is complicated. The proposed merged award simply combines the provisions of the Clubs Award and the Hospitality Award.
6. In response to paragraph 25 of the statement of Mr Cooper, to the extent that it is implied that merging the Clubs Award and the Hospitality Award would be in any way less beneficial in terms of career development, I deny that this is the case. Careers will still be able to be developed in clubs under the club managers' career path and the merger of the two awards will make no difference to that being the case.
7. In response to paragraph 38 of the statement of Mr Cooper, I deny that the proposed merged award will be confusing to management. The classifications in the Clubs Award have been brought over to the proposed merged award and are separate to the hospitality classifications but contained in the same proposed merged award. That being the case, a club manager will be able to refer to the same document in order to find out what they need to with respect to the classification structure, which is not changing.

Statement of Robert Docker

8. I have read the statement of Robert Docker (**Mr Docker**).
9. I note that Mr Docker states at paragraph 9 of his statement that the Canberra Tradesmen's Union Club is covered by an Enterprise Agreement. The Enterprise Agreement provides for the current penalty rates in the Clubs Award. Regardless of whether the application by Clubs Australia Industrial to merge the Clubs Award and the Hospitality Award succeeds, the penalty rates under this Enterprise Agreement will not change. Whilst the Enterprise Agreement remains in operation, the Canberra Tradesmen's Union Club will not be affected by the outcome of these proceedings.
10. In response to paragraphs 14 and 15 of the statement of Mr Docker, I regard clubs as competing with hotels and restaurants for customers in terms of their food and beverage offerings, even though the clubs have a community focus and have a different taxation arrangement. I provide further examples of the competition later in this statement.
11. In response to paragraph 18 of the statement of Mr Docker, I deny that the proposed merged award will create confusion. The same provisions currently in the Clubs Award will apply. The provisions will merely be in a differently named instrument.
12. In response to paragraph 19 of the statement of Mr Docker, I again deny that the proposed merged award will create compliance issues for clubs. I repeat paragraph 10 above.
13. In response to paragraph 22 of the statement of Mr Docker, I deny that the proposed merged award will make compliance more difficult. I repeat paragraphs 10 and 11 above.

Statement of Neale Genge

14. I have read the statement of Neale Genge (**Mr Genge**).
15. In response to paragraphs 23 to 25 of the statement of Mr Genge, I regard clubs, pubs and hotels as competing with each other for customers in terms of their food, beverage and gaming offerings but I accept that clubs endeavour to focus on their personal relationships with members as providing a point of difference with pubs and hotels. I provide further examples of the competition later in this statement.
16. In response to paragraph 28 of the statement of Mr Genge, I deny that Clubs Australia or CAI is not representative generally of the industry. CCV informed CCV clubs that CAI was proposing to make the application. I outline the steps to inform CCV clubs of the application later in this statement. No representative of a CCV club informed me that the club opposed the proposed merged award. No representative of a CCV club informed me that the club opposed the reduction in penalty rates.

17. In response to paragraph 34 of the statement of Mr Genge, I deny that clubs would have more difficulty in recruiting staff. I also deny that there would be greater turnover in clubs. When I was the Chief Operating Officer of CCV, many CCV clubs informed me of their recruitment experiences. Based on that information, my view is that employees working in CCV clubs are not attracted to working in particular clubs solely because of the penalty rates they offer. In my experience, the motivation of many employees is in fact the total earnings they can get through the total amount of hours that can be offered.

Victorian club workforce

18. I am aware from my role as Chief Operating Officer of CCV that, in Victoria, the clubs workforce has a very high proportion of casual employees. In my statement of 23 October 2017, I annexed the 2015 National Clubs Census at NM-1. That document shows that at the time of the census, 62% of employees in the Victorian clubs industry were casual (see page 41).
19. However, I am also aware from my role as Chief Operating Officer of CCV that clubs in Victoria (which are not-for-profit operations) compete with a much larger for-profit hospitality and entertainment industry. For example:
- (a) Club Kilsyth is a not-for-profit club located at Canterbury Road, Bayswater North which operates a 260 seat bistro (serving modern Australian cuisine), a bar, gaming rooms, a function centre and a community bus. The Dorset Gardens Hotel is a commercial (for profit) venue located at Dorset Road, Croydon (approximately 1.5 kilometres from Club Kilsyth) which operates a 250 seat bistro (serving modern Australian and international cuisine), a sports bar, gaming rooms, a function centre and a hotel. The Manhattan Hotel is a commercial (for profit) venue located at Canterbury Road, Ringwood (approximately 6 kilometres from Club Kilsyth) which operates an (approximate) 200 seat buffet, a bar, gaming rooms, six function rooms and a small motel. In my view, Club Kilsyth, the Dorset Gardens Hotel and the Manhattan Hotel offer the same or similar food and beverage offerings to the same type of customers in a local area. On my understanding of the operations of all three venues, each employs kitchen and bar staff (such as chefs, cooks and food and beverage attendants), gaming attendants and guest services staff.
 - (b) Club Noble is a not-for-profit club located at Moodemere St, Noble Park, which operates a 150 seat bistro, a children's indoor play area, a coffee bar, a sports bar, a further licensed bar, a lounge area and a range of sporting facilities and activities. The Keysborough Hotel which is located at the corner Corrigan Rd & Cheltenham Road, Keysborough (approximately 1.6km away from Club Noble) is a large multi-function area site and operates a dine in bistro, a bar, a children's indoor play area, entertainment and function facilities and accommodation. In my view, Club Noble

and the Keysborough Hotel offer the same or similar food and beverage offerings to the same types of customers in the local area. On my understanding of the operations of each of the venues, they each employ kitchen and bar staff (such as chefs, cooks and food and beverage attendants), gaming attendants and guest services staff;

- (c) Maroondah Sports Club is a not-for-profit club located at the corner of Mount Dandenong and Dublin Roads in Ringwood East which operates a 150 seat bistro, 3 bars, an entertainment stage, a sports bar, 2 heated outdoor smoking areas, function rooms that can cater for between 50 and 120 people and a range of sporting facilities and activities. Daisy's Hotel is located at 6 Mt Dandenong Rd, Ringwood (approximately 850 meters away) is a for profit establishment offering a 260 seat bistro, a children's playground, a nightclub-style entertainment area (which is available for functions), a sports bar and a drive through bottle shop. The Croydon Hotel, located on the Maroondah Highway (approximately 3 kilometres away from the Maroondah Sports Club) is also a for profit establishment which operates a bistro, a sports bar, a children's play area, a bottle shop and a bar called 'the Social' which features live music on weekends. In my view, Daisy's Hotel and the Croydon Hotel offer the same or similar food and beverage offerings to the same types of customers in the local area. On my understanding of each of the venues, they each employ kitchen and bar staff (such as chefs, cooks and food and beverage attendants, gaming attendants and guest services staff.

20. In such circumstances, a highly profitable hospitality operation could employ full time permanent staff in their establishment and benefit from the penalty rate structure in the Hospitality Award while a not-for-profit club has to pay a higher penalty rate structure to its permanent employees. I also note that many hotels have the ability to offer liquor packages to patrons.

Compliance Education

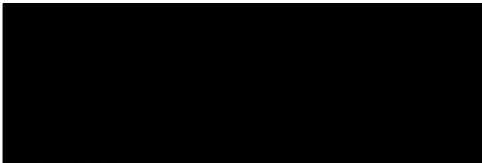
21. Should the application for the new proposed award be successful, CCV will have in place support mechanisms designed to ensure each club is informed of the proposed new award. These support mechanisms would be similar to what is currently in place.
22. By way of example, when the Penalty Rates Decision was handed down by the Full Bench of the Fair Work Commission in February 2017, CCV advice line staff received 15 to 20 calls per day in the three weeks after the decision from its club members requesting confirmation as to the penalty rates which applied. I was one of the CCV employees that took the calls. I provided advice to the members of CCV. Other employees of CCV also provided advice to members. CCV prepared an information sheet for distribution to the members.

23. Similarly, if the application for the proposed merged award was successful, CCV would prepare and distribute information sheets for members and would also make available CCV advice line staff who would be able to answer any questions from the membership.

Objections raised by individual clubs and support for the application from CCV members

24. I am aware that five Victorian clubs have provided objections to CAI's application and have advised that they support the continued operation of the Clubs Award and the current penalty rates under that Award.
25. Through my role as Chief Operating Officer of CCV, I had to be familiar with the operations, employment relations, management and real estate associated with member clubs of CCV. This knowledge extended to Club Merbein, the Lalor Bowling Club and the Mildura Working Man's Club (all whom were members of CCV) and, as a result, I regard myself as having a good working knowledge of the operations of those three clubs.
26. The Moe RSL Club and the Darebin RSL club are not members of CCV and I make no comment with respect to them.
27. The Mildura Working Mans' Club was traditionally a regional social club established to provide social amenity in the first decade after the area was settled by 'Europeans'. To my knowledge, it employs approximately 60 employees. From memory, a large proportion of its employees are casual and therefore the penalty rate reductions in the proposed merged award would not apply to those employees.
28. Lalor Bowling Club is small bowls club with 2 bowling greens and a bar that provides snack food. To my knowledge it employs approximately 3 full time employees with the remainder being employed as casuals.
29. Club Merbein is to my knowledge a very small operation and employs very few employees.
30. Despite these objections, the majority of members of CCV are in support of the application sought by Clubs Australia Industrial.
31. The support of the membership of CCV for the current application was ascertained through consultation with members. I, as Chief Operating Officer of CCV, convened a number of regional consultation meetings in Victoria with various members of CCV. I attended these meetings. These meetings included:
 - (a) a meeting of the Club Managers Advisory Council on 4 April 2017; and
 - (b) an information session at Caulfield on 31 May 2017.
32. In addition the CCV AGM was held on 28 November 2017 and the CCV Club Conference was held on 17 October 2018.

33. At these meetings, the proposal to merge the Clubs Award into the Hospitality Award was discussed and members were briefed on the proposal. I led the discussions and provided the briefing. In those meetings, there was no dissent from the attendees in respect of the proposed application. I note that Club Merbein, Lalor Bowling Club and Mildura Working Mans' Club did not attend any of these meetings.
34. As I explained to the members, the application was proposed to be made to support the sustainability of the not for profit clubs sector in an environment where they were at an obvious cost disadvantage.
35. These meetings were in addition to previous information sessions that I attended such as the information session held at Bendigo on 7 June 2016 at which industrial relations generally and penalty rates in particular were discussed.
36. To my knowledge, since the CAI application has been made and during the proceedings, no CCV club has expressed to CCV any misgivings about the CAI application.



Neill Murray

Date:

7th June 2018

IN FAIR WORK COMMISSION

FWC Matter No: AM2017/39

Applicant: CLUBS AUSTRALIA-INDUSTRIAL

STATEMENT OF CHRIS MOSSMAN DATED 8 JUNE 2018

1. I, Chris Mossman, am the Executive Manager – Workplace Relations for Clubs NSW and the Executive Director/Secretary of Clubs Australia Industrial (CAI), located at 51 Druitt Street, Sydney.
2. I have held these roles since December 2016.
3. Prior to December 2016, I was a solicitor and principal at Macpherson Kelley Lawyers.

Clubs, the Penalty Rates Decision and My Role

4. At the time that the Fair Work Commission started the four yearly review commencing on 1 January 2014, I was not employed in my current roles.
5. Upon being appointed to my current roles, I became aware that the Commission had assembled a Full Bench to hear and determine variations proposed by employers relating to penalty rates (the *Penalty Rates Case*). I also became aware that CAI participated in the hearings for the *Penalty Rates Case* and sought a reduction in penalty rates payable under the *Registered and Licenced Clubs Award 2010* (the **Clubs Award**).
6. When I commenced in my current roles, CAI maintained its position for a reduction in penalty rates payable under the Clubs Award. As far as I am aware, CAI has not altered its position for a reduction in penalty rates since 1 January 2014.
7. Soon after I commenced in my current roles, I met representatives of members of ClubsNSW, including directors, chief executive officers, senior managers and human resource managers from across all regions of New South Wales. I also met with representatives of each of the State and Territory clubs industrial associations, including Clubs Queensland, Clubs ACT, Community Clubs Victoria, Clubs SA, Clubs WA and Clubs Northern Territory. During my meetings, the representatives raised a variety of issues. No representative raised me with a concern of the position of CAI in seeking a reduction of penalty rates under the Clubs Award.

Consultation with Club Members

8. As at 1 February 2017, ClubsNSW had approximately 1,100 members.
9. On 23 February 2017, the Commission published the *Penalty Rates Decision*. At [2044] of that decision, the Commission set out two options for CAI to pursue being either:
 - (a) to seek the revocation of the Clubs Award and the inclusion of clubs within the Hospitality Award; or
 - (b) to bring a further case to the FWC seeking changes to penalty rates in the Clubs Award.
10. Following the decision, each of the clubs industrial associations commenced a process of consulting with their members regarding what should be done in respect of the two options presented. This process included:
 - (a) circulars being distributed to members (as detailed below);
 - (b) conversations with members generally be held; and
 - (c) regional meetings being held at which updates were given to members including regarding industrial relations issues.
11. On 28 April 2017, ClubsNSW issued a circular to directors, CEOs and Human Resource Managers of its members concerning the *Penalty Rates Decision* (Circular No 17-055). The Circular foreshadowed a proposed merged award if negotiations with the United Voice were unsuccessful. Annexed to this statement and marked **CM-1** is a copy of that circular.
12. After the issue of the Circular, only three representatives of any clubs (among our approximately 1100 member clubs) raised a concern regarding the proposed merged award or to a reduction in penalty rates for club employees under the proposed merged award.
13. On 12 May 2017, ClubsNSW issued another circular to directors, CEOs and Human Resource Managers of its members concerning the *Penalty Rates Decision* (see Circular No 17-066). The Circular foreshadowed a proposed merged award (with a separate chapter relating to classifications and club managers) if negotiations with the United Voice were unsuccessful. Annexed to this statement and marked **CM-2** is a copy of that circular.
14. After the issue of the second circular, no additional representative of a club (apart from the three clubs that had previously objected) raised with me an objection to the proposed merged award or to a reduction in penalty rates for club employees under the proposed merged award.
15. On 28 July 2017, CAI filed the application for the proposed merged award.

16. Later on 28 July 2017, ClubsNSW circulated a circular to directors, CEOs and Human Resource Managers of its members concerning the application (see Circular No 17-116). Annexed to this statement and marked **CM-3** is a copy of that circular.
17. After the issue of the third circular, two further representative of a club (the first from a club in Western Sydney and the second from a club in the Mullumbimby region) raised with me an objection to the proposed merged award or to a reduction in penalty rates for club employees under the proposed merged award. I deal with these clubs later in this statement.
18. I refer to paragraph 30 of the statement of David Constable. Having checked the records of ClubsNSW, I have confirmed that the Port Macquarie Golf Club was on the distribution list for each of the three circulars.

Clubs NSW Council Meetings

19. ClubsNSW holds regular Council meetings. In these meetings there are representatives from each district across NSW. ClubsNSW has structured itself into 13 districts across NSW.
20. The representatives from each of the districts are from individual club members of ClubsNSW.
21. Since 23 February 2017, I have attended all of the Council meetings. No objection was raised at the Council meetings to the proposed merged award or to a reduction in penalty rates for club employees under the proposed merged award.

Regional Meetings

22. ClubsNSW holds regular regional meetings. In these meetings there are representatives of individual club members of ClubsNSW within specified regions within the Clubs NSW districts.
23. From 23 February 2017 to 31 December 2017, ClubsNSW held approximately 45 regional meetings. Annexed to this statement and marked **CM-4** is a list of all of the regional meetings during 2017. For each regional meeting, representatives of each clubs in the regions were invited to attend and did attend. I attended the following meetings:
 - (a) Far North Coast AGM on 20 July 2017
 - (b) Western Metropolitan Sydney on 23 August 2017
 - (c) Northern Metropolitan Sydney on 9 November 2017;
 - (d) Newcastle and Hunter Valley on 23 November 2017
24. The structure of each of these regionals meetings followed the same pattern.
25. During the regional meetings, one of the topics raised was the *Penalty Rates Case*. During these meetings, the representatives were informed of the *Penalty Rates*

Decision and the possibility of the Clubs Award being revoked and of club employees coming under the Hospitality Award.

26. At the regional meetings I attended, only two objections were raised. The first objection was raised by a club in Western Sydney. The second was from a club in the regional meeting held at Mullumbimby.
27. No other representative of a club raised with me an objection to the proposed merged award or to a reduction in penalty rates for club employees under the proposed merged award.
28. Other regional meetings were held and chaired by various ClubsNSW councillors and executive representatives. I have spoken with some of the councillors and executive representatives that attended the regional meetings that I did not attend. I have been informed by one of those representatives that only one objection was raised in a meeting that he attended. Apart from that one objection, I am not aware of any objections being raised at the regional meetings to the proposed merged award or to a reduction in penalty rates for club employees under the proposed merged award.
29. I have read the statement of Neale Genge dated 8 May 2018. I refer to paragraph 30 of the statement. Mr Genge did not speak to me about the CAI application. I do not know whom Mr Genge spoke to at ClubsNSW. No person from ClubsNSW informed me that Casino Returned Servicemen's Memorial Club opposed the application. Until I read the statement, I did not understand that Casino Returned Servicemen's Memorial Club opposed the application. Having checked the records of ClubsNSW, I have confirmed that Casino Returned Servicemen's Memorial Club was on the distribution list for each of the three circulars. I understand that the Casino Returned Servicemen's Memorial Club was sent each of the three circulars.

Club Life Magazine

30. ClubsNSW publishes a monthly magazine known as "Club Life". I understand that ClubsNSW has published the magazine for over thirty years. I understand that the circulation of the magazine is approximately 10,000 copies.
31. One part of the monthly magazine relates to current issues. I anticipate that, were the Commission to revoke the Clubs Award and merge the contents of the Clubs Award into the Hospitality Award, ClubsNSW will include a column or an article in the magazine on the change. The purpose of the column or article will be to inform clubs and their employees (including club managers and payroll staff) of the effect of the change. One area that I anticipate will be addressed in the column or article is the shift in classifications from the Clubs Award to the Hospitality Award. Another area I anticipate will be addressed in the column or article is the ability of a member to contact ClubsNSW to obtain an explanation or receive advice on the change.

Club Directors Magazine

32. Clubs NSW publishes a quarterly magazine known as "Club Directors Magazine". I understand that the circulation of the magazine is approximately 2,000 copies.
33. I anticipate that, were the Commission to revoke the Clubs Award and merge the contents of the Clubs Award into the Hospitality Award, ClubsNSW will include a column or article in the Club Directors Magazine regarding the change. I also anticipate that, in such a column or article, is the ability of a member to contact ClubsNSW to obtain an explanation or receive advice on the change.

Publications in other states and territories

34. As a result of my current roles, I am aware that the club industrial associations in each of the States and Territories has a similar publication to Club Life Magazine.
35. I anticipate that, were the Commission to revoke the Clubs Award and merge the contents of the Clubs Award into the Hospitality Award, each of the industrial associations will include a column or article in their respective magazines regarding the change. I also anticipate that one of the issues that will be dealt with in such a column is the ability of members of each of the industrial associations to call their respective advice lines to receive an explanation or advice with respect to the change.

ClubsNSW Website

36. ClubsNSW operates a website. I understand that ClubsNSW has one section of the website which allows members to sign into secure webpages by entering a login and a password. Currently, the secure webpage includes information on the operation of the Clubs Award.
37. I anticipate that, were the Commission to revoke the Clubs Award and merge the contents of the Clubs Award into the Hospitality Award, ClubsNSW will include information on the merged award on the secure webpages. I also anticipate that, were the change to be made, the secure webpage would refer to the ability of a member to contact ClubsNSW to obtain an explanation or receive advice on the change.

Other websites

38. As a result of my current roles, I understand that each of the club industrial associations in each of the States and Territories operates a similar website to the ClubsNSW website and that they each allow members to sign into secure webpages by entering a login and a password. I also understand that each of the relevant websites includes information on the operation of the Clubs Award.
39. I anticipate that, were the Commission to revoke the Clubs Award and merge the contents of the Clubs Award into the Hospitality Award, each of the respective industrial associations will include information on the merged award on the secure webpages. I also anticipate that, were the change to be made, the secure webpage would refer to the ability of a member to contact their respective advice line to obtain an explanation or receive advice on the change.

ClubsNSW Workplace Relations Team

40. ClubsNSW has a workplace relations team comprising 8 persons, including me. One of the purposes of the team is to explain and advise on the operation of awards to members. The team handles telephone inquiries and email inquiries. I anticipate that, were the Commission to revoke the Clubs Award and merge the contents of the Clubs Award into the Hospitality Award, the team will provide explanations and advice to members on the change.

Workplace Relations Advice Lines for other States and Territories

41. As a result of my current roles, I am aware that each of the club industrial associations in each of the States and Territories has a workplace relations service in place for its members. The services provided are as follows:
- (a) Community Clubs Victoria has made arrangements with an external provider, the Service Industry Advisory Group (a human resources and workplace relations law service), to provide workplace relations advice and support for its members;
 - (b) Clubs Queensland has a team of two advisors internally who deal with workplace relations issues for their members;
 - (c) Clubs SA has an internal team of workplace relations advisors who deal with issues for members;
 - (d) Clubs Western Australia has made arrangements with ClubsNSW for the ClubsNSW advisors to provide advice to its members;
 - (e) Clubs ACT has also made arrangements with ClubsNSW for the ClubsNSW advisors to provide advice to its members;
 - (f) Clubs Northern Territory relies on workplace relations advice and support provided by the Australian Hotels Association.
42. I anticipate that, were the Commission to revoke the Clubs Award and merge the contents of the Clubs Award into the Hospitality Award, the team providing advice in each State and Territory will provide explanations and advice to members on the change.

Workshops

43. Were the CAI application for a merged award to be successful, Clubs NSW will run workshops throughout NSW to inform club manager, directors, HR officers and others of the changes.

Other Resources

44. The Fair Work Ombudsman operates a website. One feature on the website is a tool known as the "Pay and Conditions Tool". The purpose of the tool is to calculate pay, allowances and other conditions for employees covered by a modern award. One part

of the tool can be used by employees; another part of the tool can be used by employers. I anticipate that, were the Commission to revoke the Clubs Award and merge the contents of the Clubs Award into the Hospitality Award, the FWO would update its website to reflect the change.

45. I also anticipate that, were the Commission to make the changes, a column or article in the Club Life magazine, as well as a secure webpage, relating to the merged award will refer to the tool.

Small Clubs Committee

46. ClubsNSW runs a small clubs committee. ClubsNSW regards a small club as a Club with less than \$1 million per annum gaming revenue
47. The meetings of the small clubs committee are held quarterly.
48. I anticipate that, were the Commission to revoke the Clubs Award and merge the contents of the Clubs Award into the Hospitality Award, ClubsNSW will conduct a presentation to the small clubs committee and their members on the change. I anticipate that the presentation will include a reminder that ClubsNSW can provide explanations and advice to members on the change.

Professional Golfers

49. I have read the statements of Mark Unwin and Vicki Crowe filed in this matter.
50. In response to these two statements:
- (a) I am not aware of any golf professionals actually being employed by golf clubs in regional NSW. I say this from my experience of my direct dealings with golf clubs through our Members Inquiry Centre and from my discussions with Member Services officers in Clubs NSW visit all golf clubs in NSW.
- (b) On the basis of (a) above, it is not possible that 40% of golfing professional annual income is derived from penalty rates and I strongly suspect either that golfing professionals would be sub-contracted or given annual salaries.
51. I have also read the statement of Geoff Stewart. In response to paragraph 9 of that statement:
- (a) I do not agree that 640 out of 1497 golf clubs actually employ a PGA professional. This is based on the discussions I have alluded to above.
- (b) On the basis of what I have said in preceding paragraphs, I do not agree whether there are actually 1,237 PGA professionals actually employed either under the Registered and Licensed Clubs Award or the Amusement, Events and Recreation Award.
52. As a result of my current roles, I am aware that approximately half of golf clubs in New South Wales are in financial distress. The majority of these golf clubs in financial

distress are in regional NSW but a number of golf clubs in metropolitan Sydney are also affected.

Recruitment of Club Employees in Regional Areas

53. I have read the statements of club managers filed in the proceedings: Neale Genge, David Hiscox, Matthew Dagg, and Tim Wright.
54. I am aware that these statements claim that there is a difficulty in attracting quality staff to clubs, especially in regional areas, and suggest an adverse effect of a reduction in penalty rates on the ability of clubs to recruit.
55. In relation to all of these claims and suggestions:
 - (a) In my view, a reduction in penalty rates would not make clubs automatically less attractive to work in as opposed to other hospitality venues. This is particularly the case considering that other hospitality venues in the same regional areas already have the option of penalty rates arising from the *Penalty Rates Decision* and so club employees under the proposed merged award will not be at a wage disadvantage as compared with workers in those venues that choose to reduce penalty rates;
 - (b) Should it not suit particular clubs to reduce penalty rates (for whatever reason), such clubs are entitled to pay above award pay rates for any and all hours worked by their employees – the proposed new award will only have the effect of setting a minimum standard.
 - (c) In my experience, employment in Clubs is highly regarded, and Clubs are generally considered to be an employer of choice as they offer a good working environment and treat their employees well.

Clubs and Hospitality Venues

56. As a result of my current roles, I am aware that the services being offered by clubs are expanding. Many clubs are now providing a larger number of services and hospitality offerings including restaurants and accommodation (whether they be internally controlled or externally contracted).
57. As a result of my current roles (including being the head of the workplace relations team that has advised members on their internal operations), I am aware of the following examples of the expansion in these offerings:
 - (a) The Goanna's Club now has a motel attached to it, which it owns and operates;
 - (b) The Southport Sharks Club now has accommodation facilities (but which are not owned or operated by it);
 - (c) The Hellenic Club in Sydney now includes a restaurant called Alpha;
 - (d) Souths Juniors now has a branch of the Imperial Peking on the premises;

- (e) The Campbelltown Catholic Club now has a hotel on its premises (operated by the Rydges group);
- (f) Wests Newcastle now has ten different restaurant offerings;
- (g) Penrith Panthers now has a wide variety of restaurant and accommodation facilities (including a Mercure hotel and two sets of apartments); and
- (h) Bankstown Sports Club owns a commercial building, includes a function centre, and now operates its own craft beer brewing facility.

.....

Chris Mossman

Date:

Annexure CM-1

CIRCULAR

ClubsNSW

Subject	MODERN AWARD REVIEW			
Circular No	17-055			
Date	28 April 2017			
Appropriate for	<input checked="" type="checkbox"/> Directors <input checked="" type="checkbox"/> HR Mgr	<input checked="" type="checkbox"/> CEO <input type="checkbox"/> Marketing Mgr	<input type="checkbox"/> Gaming Mgr <input type="checkbox"/> Food and Beverage Mgr	<input type="checkbox"/> Entertainment Mgr

As advised in circular 17-033, on 23 February 2017 the Fair Work Commission (FWC) handed down its decision to maintain the existing penalty rates in the Registered and Licensed Clubs Award 2010 (Clubs Award).

Clubs Australia Industrial (CAI) had sought a modest reduction in penalty rates to gain consistency with other businesses in the hospitality space, and to gain some relief from the high rates that apply on public holidays (at the same time, CAI through a separate application pursued the maintenance of the flexible part-time arrangements that many Clubs utilise, to the benefit of both the Club and the employees).

On penalty rates, in its decision the FWC left open the option of Clubs merging into the Hospitality Award, with any provisions relating specifically to Clubs being dealt with in a separate schedule to the consolidated Award. In this way, if approved, Clubs would gain access to the penalty rates in the Hospitality Award including those for public holidays, while maintaining the clauses specific to Clubs, including classifications.

Immediately following the FWC decision, CAI reached out to the relevant union, United Voice, and advised its willingness to achieve an agreed, consent position on issues including the retention of flexible part-time, the removal of the double up of public holidays when those days fall on a weekend or on a rostered day off and penalty rates for weekends and public holidays. We also notified the FWC of our desire to hold a conference with United Voice under the auspices of the FWC to try to reach agreement. This was opposed by the union.

We are now required by the FWC to indicate our intention in relation to the merger of Clubs into the Hospitality Award by today (Friday, 28 April), if we wish to keep that course of action open. In advance of this deadline, both ClubsNSW and Clubs Australia Industrial have considered the best course of action and taken the decision that we should express interest in merging the Clubs industry into the Hospitality Award. At the same time we would restate our willingness to reach an agreed position with United Voice.

CAI has consulted with as many Clubs and stakeholders as possible in relation to this potential change. Our feedback indicates that there is broad support for this option, provided there is no disadvantage to Clubs.

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It is important to remember that the Award sets the minimum terms and conditions of employment. All Clubs are free to adopt arrangements at their own workplace which are over and above the minimum Award conditions and many Clubs already have their own Enterprise Bargaining Agreements or informal workplace arrangements which are superior to the Award conditions. Nothing in this process will prevent Clubs from engaging in such arrangements in the future. What is important is that our Award does not act in a way which hinders flexibility or creates inconsistent outcomes for Clubs compared with the rest of the Hospitality Industry.

We have conducted an analysis comparing the provisions of the Hospitality Award to the Clubs Award. The analysis shows that there is little material difference between the two Awards. We are also of the view that issues like flexible part-time conditions could be catered for in a schedule specific to Clubs in a consolidated Award.

The option of transferring to the Hospitality Award ensures there is consistency in the terms and conditions of employment between Clubs and the rest of the Hospitality Industry. Particularly, it will ensure that employees performing the same work will be entitled to the same rates of pay regardless of the venue in which they perform the work. It also ensures that there is no future disadvantage to Clubs in the likely event that the Modern Award Review process is repealed by the Federal Government.

CAI would seek to preserve our identity via the creation of a Clubs specific schedule that would contain the unique classification structure for Clubs and importantly, the flexible part-time provisions.

This matter is again before the FWC on 9 May 2017 for directions. At that hearing CAI will inform the FWC of its position and will again inform the FWC and United Voice that it is willing to participate in a conference with a senior member of the Commission (which has been a suggestion previously made and rejected by United Voice) or participate in further negotiations with United Voice should it wish to take this opportunity.

We will keep you informed as to the outcome of this directions hearing.

Should clubs require further information on this circular, please contact the Member Enquiries Centre by calling 1300 730 001 or email enquiries@clubsnsw.com.au.

Anthony Ball
Chief Executive Officer

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Annexure CM-2

CIRCULAR

ClubsNSW

Subject **AWARD REVIEW UPDATE**

Circular No **17-066**

Date **12 May 2017**

Appropriate for Directors CEO Gaming Mgr Entertainment Mgr
 HR Mgr Marketing Mgr Food and Beverage Mgr

As advised in circular 17-055, Clubs Australia Industrial (CAI) has now indicated to the Fair Work Commission (FWC) that, in the absence of an agreed negotiated outcome with United Voice, it has an interest in merging the Clubs Industry with the Hospitality Award.

We have submitted that in doing so, we would require the special award conditions that apply to Clubs (inc. industry classifications and conditions relating to club managers) to be carried over into a separate chapter of the Hospitality Award.

As previously advised, Clubs Australia Industrial is on the public record stating its preference to negotiate suitable changes to the Club Award with the union, United Voice (UV). I can advise that UV has now expressed a willingness to meet with CAI to discuss all issues surrounding the Award and to see if an agreement can be reached under the existing Club Award. We will advise of the outcome of those discussions in due course.

On a related matter, recently there has been industrial action undertaken by United Voice (Queensland Branch), including the holding of pickets or protests at the premises of Clubs in Queensland, which have caused a great deal of disruption to those targeted.

Clubs are advised that we will take whatever action is necessary to ensure that Clubs are protected from such behaviour and to ensure that Clubs, their staff and members are protected from harassment and intimidation.

If any Club feels like that it has been subject to any inappropriate conduct then I encourage you make to contact with us as soon as possible.

Should clubs require further information on this circular, please contact the Member Enquiries Centre by calling 1300 730 001 or email enquiries@clubsnsw.com.au.

Anthony Ball
Chief Executive Officer

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Annexure CM-3

CIRCULAR



Clubs Australia
INDUSTRIAL

Subject	AWARD CONSOLIDATION			
Circular No	17-116			
Date	28 July 2017			
Appropriate for	<input checked="" type="checkbox"/> Directors <input checked="" type="checkbox"/> HR Mgr	<input checked="" type="checkbox"/> CEO <input type="checkbox"/> Marketing Mgr	<input type="checkbox"/> Gaming Mgr <input type="checkbox"/> Food and Beverage Mgr	<input type="checkbox"/> Entertainment Mgr

Further to circulars 17-055 and 17-032, Member Clubs are advised that this afternoon Clubs Australia Industrial (CAI) has made application to the Fair Work Commission (FWC) to consolidate the Clubs Award with the Hospitality Award.

The Award sets the minimum terms and conditions of employment. It is important to recognise that individual clubs are generally entitled to agree to conditions or pay any amount over and above the award as many clubs already do, either informally or through Enterprise Bargaining Agreements (EBAs).

A copy of the application and the first draft of what that award will look like are available on Fair Work Commission's website www.fwc.gov.au.

Some things to note about the application:

1. It is a condition of our application, that a separate club specific schedule be established within the Hospitality Award to cover club employees. This will include recent, favourable changes to the Clubs Award that preserve flexible part-time conditions and minimum engagement periods for casuals.
2. Club Managers will not be adversely affected by the Award consolidation as our application to the FWC is conditional upon the existing managerial entitlements remaining in the consolidated Award.
3. Clubs will have the flexibility to pay weekend penalty rates in line with other comparable hospitality industries such as pubs and cafés. Again, it is important to remember the Award only sets out the minimum rates of pay and conditions and it is up to individual clubs to decide at what rate they pay their employees. Many clubs already pay above Award rates on weekends, either informally or through Enterprise Bargaining Agreements (EBAs) and they can continue to do that. While for some clubs public holiday penalty rates might not be a significant concern, they are for the roughly 50 per cent of our industry under financial stress and it is helpful for them to be able to pay the same rates as other hospitality businesses.

Given the union's (United Voice) recent social media and radio campaign on penalty rates, it is important to provide the context of CAI's decision.

As previously advised, as part of the Modern Award Review, CAI applied for a modest reduction in penalty rates. The FWC denied this application in February, but at the same time, suggested there would be merit in an application to roll the club award into the hospitality one and in the process allow clubs to obtain the penalty rate reduction granted to hotels and others. At that point CAI sought to negotiate outcomes with the union including penalty rates under the club award. The union rejected this request to negotiate.

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At the same time the union was conducting what CAI considered to be illegal industrial action in QLD clubs, in which they trespassed on clubs premises, blocking access to entry ways, causing disruptions to club operations, ignoring directions to leave club premises, and coerced Clubs to sign a pledge not to cut weekend penalty rates.

Due to the union's refusal to negotiate, CAI indicated to the FWC it would apply to roll into the Hospitality Award on the condition all existing unique club conditions, including manager's classifications and conditions were maintained. It should be noted that the content of the two Awards is very similar.

From the start CAI's preference has been to negotiate outcomes under the club award and it still is, however the union is yet to show it is willing to bargain in good faith. If and when it does, CAI will consider withdrawing its application. The Fair Work Commission will take time to consider the application before making a decision, but it has previously expressed support for Award consolidation, given that club employees and hotel employees perform very similar duties.

For more information contact CAI's Executive Director, Chris Mossman on (02) 9268-3000 or cmossman@clubsnsw.com.au.

Chris Mossman
Executive Director - Clubs Australia Industrial

Annexure CM-4

AM2017/39 - Merging of the Registered Licensed Clubs Award 2010 and the Hospitality Industry (General) Award 2010

CLUBS AUSTRALIA - (Industrial)

Regional decks

Central West
North West Metro AGM – final
Far North Coast – south
Northern metro
Northern Metro – AGM
Southern Metro – AGM
North West Metro
Southern Metro
Central West AGM (no maps)
Far North Coast – North AGM (no maps)
Newcastle and Hunter Valley AGM (no maps)
Riverina & South West (AGM)
Central Coast AGM
New England Tablelands & North West
Eastern Metro AGM
Western Metro
Far North Coast – North
Eastern Metro – new photo insert from A Fitz
Eastern Metro
Newcastle Hunter Valley
Eastern Metropolitan
Western Metropolitan
Far North Coast (North)
Illawarra Shoalhaven
Riverina South West
New England Tablelands North West
Northern METRO
North West Metro
Southern Metro
Southern Tablelands Far South Coast
Newcastle Hunter
Central Coast
Southern Metro
Eastern Metro
Far North Coast (South)
Illawarra Shoalhaven final
Western Metro
Central West
New England Tablelands & North West
Eastern Metro
Northern Tablelands
Southern Tablelands
Illawarra and Shoalhaven AGM
Western Metro AMG
Southern Tablelands and Far South Coast AGM
Western Metro AGM

IN THE FAIR WORK COMMISSION

FWC Matter No: AM2017/39

Applicant: CLUBS AUSTRALIA-INDUSTRIAL

SUPPLEMENTARY STATEMENT OF GEORGE ADDISON DATED 8 JUNE 2018

1. I, George Addison was the Government Relations Manager (Queensland) for Clubs Australia from August 2012 till March 2018.
2. I provided a statement to the Fair Work Commission dated 23 October 2017 in these proceedings. In my view, my statement remains accurate.

Employment in the Clubs Sector in Queensland

3. Given my role, I become familiar with clubs and the communities that they service throughout Australia.
4. I am aware that in many communities, particularly regional communities having a job in a community club is seen as highly desirable as a job and is generally seen as a stable job to have and clubs are seen as good friendly environments to work in.
5. Based on conversations that I have had with club managers, I understand that many clubs are able to recruit through their community connections (for example through the sporting activities of the club) where members of the club that become aware of positions, sometimes apply for those positions within the clubs.

Competition between clubs and other hospitality providers

6. Clubs compete for the hospitality dollar in a highly competitive environment against other hospitality providers. As I allude to below, some of these hospitality providers against which clubs compete are in fact owned by large and profitable corporate entities.
7. For example, the Greenbank RSL competes with the following venues:
 - (a) The Pub Lane Tavern at Greenbank, approximately 10.4km away (which is part of the ALH Group, owned by Woolworths Ltd);
 - (b) Kensington Tavern at Crestmead, approximately 9 km away (which is part of the ALH Group, owned by Woolworths Ltd);
 - (c) The Forest Lake Tavern, Forest Lake, approximately 11.8km away (which is part of the ALH Group, owned by Woolworths Lrd);

- (d) The Brown Plains Hotel at Brown Plains, approximately 1.9km away (which is owned by the Coles Group);
 - (e) Fitzzy's Hotel, Waterford, approximately 18km away (which is owned by the Coles Group; and
 - (f) Club Hotel, Waterford, approximately 16.5km away (which is owned by the Coles Group).
8. Considering that these are all for profit venues and considering their ownership, it would appear to me to be unjust that they are given a cost advantage as opposed to not for profit clubs, against which they directly compete for patrons.

RSL and Services Clubs

9. Members of the RSL & Services Clubs Queensland are not generally Members of Club Queensland.


George Addison

Date: 8/6/2018