

Committee Secretary
Senate Standing Committees on Community Affairs
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Canberra ACT 2600

Thank you for the opportunity to make this submission to the Inquiry on the Future of Rugby Union in Australia.

Summary

Due to the length of my submission, I am providing a summary of the key points.

I write this submission to elaborate my understandings as a well-informed member of the Western Australian Rugby community.

Terms of Reference

(a) the Australian Rugby Union Board deliberations leading to the decision to reduce Australian teams from five to four in the national competition;

- As a member of the Western Australian Rugby community, I have found the process by which the representation of Australian teams in Super Rugby to be obfuscated, biased, unclear and possibly criminal
- I have several questions about the process
 - Was the decision made to eliminate the Western Force made or proposed prior to signing the Alliance Agreement between RugbyWA and the ARU?
 - Was the process conducted based upon consideration of comparative factors as implied or was it simply based upon legal advice that the Force was the easiest to remove?
 - Was the suggested conflict of interest within the board legally correct?
 - Was the allowance of similar conflicts fair/correct?
 - Was the document justifying the decision written from an independent viewpoint?
 - What role did Tim North play in the process?
 - Was Rob Clarke instrumental in decision making with this process? Why was his conflict of interest not taken into account?
 - Why was the offer to guarantor the Force and the subsequent offer of \$50 Million dollars support to the ARU rejected?

(b) whether there continues to be a truly national rugby union footprint in Australia;

- As a member of the Western Australian Rugby community I feel the following about the suggestion that a national rugby union footprint exists
 - There is significant feeling that any national rugby union footprint has never existed
 - Funding and operational disparities seem to support this view
 - A professional sporting team provides an aspirational pathway for junior participants
 - To remove this aspirational pathway is a clear affront to the concept of a national sporting footprint.

(d) the corporate governance arrangements and composition of national and state-based rugby union bodies, including community representation on those bodies;

- As a member of the Western Australian Rugby Community I feel the following about the corporate governance of rugby in Australia
 - Although a review of corporate governance was recently conducted and a restructuring of the board was implemented, traditional state-based loyalties still appear to dominate the board
 - Significant imbalances in resourcing and selection in national teams indicates that a state based parochialism is paramount in the governance of Australian Rugby
 - Actions taken by ARU management have been discriminatory and unfair

(e) the impact of the decision to reduce the number of Australian teams on national participation in rugby union; and

- As a member of the Western Australian Rugby Community I feel the following about the impact of the removal of a professional sporting team on Junior participation rates.
 - The Western Force have been an aspirational pathway for WA juniors for 12 years.
 - In that time the WA Junior Rugby Union has experienced unprecedented growth
 - The same is true for the Victorian Rugby Union
 - Western Australian participation rates are reportedly the third highest in the nation.
 - History has shown, through the disbanding of the Western Reds, that participation rates will fall drastically as the result of removing this pathway
 - 20 years after the removal of the Reds, WA Rugby League continues to struggle to regain growth and participation

(f) any other related matters.

- As a member of the Western Australian Rugby Community I feel I must highlight the following additional concerns.
 - The ARU's financial status, in light of a 148% increase in funding from broadcast agreements only two years ago is disastrous
 - How can a public entity justify the wastage of \$30 Million per year when they indicate that the organisation will be bankrupt by Q3 2019?
 - If this information is accurate, why are the custodians of this organisation not being dismissed by the board and the shareholders?

Recommendations.

- As a member of the Western Australian Rugby Community I feel it reasonable for the inquiry to work towards the following recommendations.
 - Criminal activities brought to light during the course of this inquiry must be referred to the relevant authorities and prosecuted expediently.
 - An authority be convened to ensure the discriminatory practices of the ARU do not continue.
 - Federal funding be refused to the ARU until such time as they fulfil their mandate to grow the game on a national level.
 - The support of the inquiry should be given to the proposed Indo-Pacific Rugby Competition and support given to any practices which redress the endemic, long term imbalance towards Western Australian Rugby players.

Distinguished committee members,

I am delighted to be able to prepare a submission to this committee, expressing my feelings as a supporter of Rugby in Western Australia. To provide some background. I have lived in Western Australia since 1986 and have been an intermittent supporter of the sport of Rugby since the early nineties. Although I was never directly involved in the movement that instigated the birth of the Western Force, I was an eager foundation member.

At that time I had a passing interest in the sport of rugby, but throughout the life of this franchise my involvement has become deeper, more direct and more passionate. I sit, writing this submission as a deeply passionate and heartbroken member of the West Australian rugby community.

I am not able to comment directly upon the overarching legal or political ramifications of the Australian Rugby Union's decision to reduce the number of Australian teams in Super Rugby, however I am certainly able to recount my personal, and by extension, the WA Rugby community's perception of this act.

The terms of reference of this inquiry are specifically directed at answering some of my personal concerns and I am delighted to provide the inquiry with insight into my perceptions.

(a) the Australian Rugby Union Board deliberations leading to the decision to reduce Australian teams from five to four in the national competition;

The Board of the Australian Rugby Union have made a decision to reduce Australian teams, that much is apparent, however members of the community such as myself have been cruelly misinformed at every stage of this process. When the ARU announced their decision to reduce teams from 5 to 4, they announced that a process of deliberation would determine the candidate. The ARU recently released a discussion paper that appeared to document that process. The document is readily available at <http://www.aru.com.au/portals/1/SUPPORTING-DOCUMENTATION-THE-FUTURE-OF-SUPER-RUGBY.pdf> and even to my untrained eye it contains glaring inconsistencies. Funding expectations allowed to the Rebels have not been allowed for the Western Force, such as the proposed funding from the Victorian Government conditional to the continuation of the Rebels. The West Australian government matched the Victorian offer publicly, there is no contract in place binding the Victorian government to the deal and therefore the West Australian commitment is equally binding. Why would the document include funding for the Rebels and ignore funding for the Force if the result was not predetermined upon factors, which are not explained? The following article discusses this impasse <https://thewest.com.au/sport/rugby-union/state-government-offers-rugby-union-funds-to-keep-western-force-in-competition-ng-b88460341z>.

There recently surfaced a document, made public by Mr Andrew Forrest, containing apparent legal advice received in February that the ARU was exposed to "Low risk" of legal challenge should they choose to cancel the license of the Force, but "High risk" should they cancel the licenses of the Rebels or the Brumbies. I find this timing suspicious, especially since it occurs approximately nine months after the ARU entered an agreement with the management of the Western Force to ensure their continuation. It appears duplicitous that they should be seeking a literal interpretation of the terms of that agreement without at least informing their partner in the agreement of this. There is widespread speculation that Mr Tim North was involved in the preparation of this legal advice and that Mr Rob Clarke, former CEO of the Rebels and, at the time, COO of the ARU requested the advice. Although no documentation can be found to support those claims, neither can any

documentation be found to dispute them. As a victim of the biased, unfair and corrupt practice of the Australian Rugby Union, I would seek answers to these questions.

(b) whether there continues to be a truly national rugby union footprint in Australia;

My impressions with regard to Term of Reference (a) are directly relevant to Term of Reference (b). In the eyes of the Western Australian Rugby community there has never been a truly national focus for rugby where the current governance of the ARU is concerned. Whilst this is purely opinion, it is a strongly held opinion amongst rugby loving stalwarts in this state that the presence of a Western Australian team was considered to be an issue for ARU management.

As evidence to support this opinion, I would like to refer to Alison Foskett's excellent analysis of the ARU annual reports, which are in public record. General discussion about this report may be found at the following Internet address. <http://twf.com.au/showthread.php?t=38871> The first entry of this discussion, which has been ongoing within a community based discussion forum frequented by many West Australian rugby fans. Contains the text of this analysis. In the analysis, Ms Foskett identifies significant funding anomalies amongst the various states. New South Wales and Queensland receive significantly higher funding than other states, which might be explained by their significantly higher participation statistics. Western Australia, by comparison, receives the lowest funding of all states, despite having the third highest player participation.

This view is also supported by the requirement for the Western Force to sell their operating license to the ARU to secure additional funding in 2016. Former ARU Board Member, Geoffrey Stooke, in his released statement relating to his resignation from the board stated "When the Rebels were experiencing significant financial issues prior to private ownership, the need for a national footprint for our game & the avoidance of reputational damage were high priorities. Significant financial assistance was provided. This has certainly changed now, with the loss of our national footprint & the players, fans & supporters in Western Australia being denied the opportunity to watch live or play elite rugby in Perth." (<https://www.rugbywa.asn.au/news/geoffrey-stooke-aruboard-resignation-statement/>)

Whilst this doesn't seem like a discriminatory business practice, it appears to be so when contrasted with the circumstances under which each other Super Rugby franchise has secured additional funding. This has typically been completed as a low interest loan, which, is typically forgiven after a short time.

One would ask why the Force were required to sell their license, only to discover shortly thereafter? It is certainly difficult for the average rugby fan in Western Australia to consider that there wasn't an ulterior motive in play during the negotiations for this support.

In short, if the presence of Super Rugby franchises is considered the key indicator of a national footprint, then the dismissal of the Force signifies the end of the National footprint. If one is required to identify other metrics, the significant disparity in funding, the variation in standard business practices, the actions undertaken by so-called independent directors of the board would support the view that a national footprint is the furthest thing from this current administration's mind.

(d) the corporate governance arrangements and composition of national and state-based rugby

union bodies, including community representation on those bodies;

I have made repeated references to the Corporate Governance of the ARU and its impact on rugby in Western Australia. It is clear to me, that the delegates to the ARU board who have loyalty to New South Wales and Queensland have formed a powerful voting bloc for at least 10 years. These delegates appear to have used this voting bloc not to pursue a nationally robust and competitive code, but to fortify their political advantage over the remainder of the board.

Mr Geoffrey Stooke, a long-term player and administrator of rugby in Australia recently resigned his role as an ARU director in the wake of the board's decision to dissolve the Force. In his resignation statement, which may be found at <https://www.rugbywa.asn.au/news/geoffrey-stooke-ar-ur-board-resignation-statement/>, Mr Stooke indicates that he was forcibly recused from board meetings and implies that this action was lead, or at least sanctioned by the chair, Mr Clyne. It is significant that the only Board Member forcibly recused from the deliberations leading up to this decision is Mr Stooke who was accused of a conflict of interest. I cannot fathom how this conflict of interest, whilst notable and technically correct, is any different from the conflict of interest of Mr Cameron Clyne who was reported as having represented Victoria in the sport when the Australian Newspaper announced his appointment. (<http://www.theaustralian.com.au/sport/rugby-union/exnab-boss-cameron-clyne-succeeds-michael-hawker-at-ar-ur/news-story/d695920a0482a6aaefe1d0c8085179d2>), There also stands the matter of the apparent conflict of interest with Mr Rob Clarke, who served as CEO of both the Rebels and the Brumbies. Mr Stooke's voting position is yet to be filled and I have heard no announcements of a search for a replacement.

I feel that the forced recusal of a member due to a conflict of interest is only worthwhile when such rule is applied across the entire board and the management. To have Mr Stooke recused at the behest of a chairman who holds a similar, but opposing conflict of interest is, to say the least, unusual. I would like to hear the inquiry's reasoning as to why charges of gross misconduct do not apply in instances such as these.

The governance of the ARU are widely seen as partisan, incompetent, untrustworthy and lacking in transparency. The voting structure appears to be designed to solidify the voting bloc that exists.

In 2012, the ARU undertook a review of its own corporate governance (the Arbib review). Key recommendations were

- Establish an Independent Board of Directors,
- Promote greater accountability and transparency,
- Reform the Membership of ARU to better reflect the contribution of the Super Rugby teams and RUPA and rebalance the voting entitlements of Members,
- Promote greater understanding and coordination of the roles and responsibilities of organisations throughout the Rugby community; and
- Protecting and enhancing the game's future.

I believe that the Board of the ARU was reformed to meet each recommendation; however, it is clear that traditional state-based rivalries still infect this system. Certainly, when reading the recently published discussion paper detailing the reasons behind the decision to reduce to 4 teams it is very difficult to perceive that any attempt has been made to provide transparency with this specific decision. Rather the document appears to be propaganda, selectively identifying facts in order to legitimise a predetermined decision.

(e) the impact of the decision to reduce the number of Australian teams on national participation in rugby union; and

It is clear that the presence of a professional team in any sport is critical to encouraging juniors to take up and to remain competing in a sport. If the junior participation in sport is compared between locations that have a team in the major professional competition and locations that don't, this link will become obvious.

From a Western Australian perspective, the best example is the formation and subsequent demise of the Western Reds Rugby League team. In the years that the Reds competed in professional Rugby League, Rugby League in Western Australia was blessed with a healthy junior competition and, as a result juniors focusing on building a career in Rugby League. Today, 20 years since the Reds were discontinued, Rugby League in Western Australia is yet to recover fully.

It is not alarmist to suggest that the same will occur with Rugby Union, in fact there is the potential for the malaise to be far worse. The National Rugby League has committed significant resources to promoting Rugby League in WA, Hosting league games and test matches in Perth with increasing frequency, arranging a team into the national Under 20s competition. With current funding, decision making and media practices It is not unreasonable to expect that Rugby WA will be left to pick up the pieces of this disastrous decision without support.

(f) any other related matters.

The key related matter in my mind is the parlous state of the Australian Rugby Union's finances.

As recently as December 2015, the Australian Rugby Union was effusive in announcing a significant boost to its finances in the form of a new broadcast agreement.

Fox Sports News said of this agreement, "The ARU will receive a total of \$285m in media rights revenue — a 148 per cent increase on revenue achieved from the previous media rights arrangements (2011-15)." (<https://www.foxsports.com.au/rugby/australian-rugby-union-announce-new-broadcast-deal-with-sanzar/news-story/7c1bab4a5a018772fc40950232d7e709>)

My key question is, how on earth does the ARU come to the conclusion in Late 2016, 12 months after a 148% increase in one of their primary revenue streams that their finances are in such a poor state that they must dismiss 20% of their workforce to avoid insolvency before the end of that agreement? Such a disastrous financial performance is surely an indicator that the decision to remove an Australian rugby team is a desperate attempt to avoid the obvious disastrous wastage with which the current management structure has burdened the code.

To suggest that the ARU will have burnt through \$285 Million dollars between 2016 and 2019, whilst simultaneously pointing towards \$28 Million unbudgeted expenditure as the catalyst, then proceeding to remove the team that has required the least portion of that \$28 Million as a remedy to the problem is suspicious at best. To then indicate that the \$18 Million that would be recouped through dismissing a team will be sufficient to balance the budget is lunacy. Particularly when a generous calculation would suggest that \$75 Million per year would be required for the final year of that contract, or, as a worst case scenario \$95 Million per annum would be required for the final two years.

This argument becomes more convoluted when we consider that the ARU was confident to turn down a \$50 Million offer by Andrew Forrest which was conditional upon retaining the Force.

If my unprofessional and uninformed analysis can identify holes in the financial argument so easily, one would have to assume one of the following three options apply:

- The financial advisors for the Australian Rugby Union are completely (perhaps negligently) inept.
- The inconsistent state of the ARUs finances are deliberately confused and confusing to cover up practices that are less than honourable
- We aren't being told the full story about the ARU finances.

In two of those options, the ARU is guilty of breaching its own commitment to transparency. Throughout the list, there is a concern that the ARU has demonstrated no capacity to strategically handle the finances of the game.