

SUBMISSION TO THE SENATE STANDING COMMITTEE ON COMMUNITY AFFAIRS

THE FUTURE OF RUGBY UNION IN AUSTRALIA

TERMS OF REFERENCE

1. It is the title of this enquiry namely the “**The Future of Rugby Union in Australia**” that I wish to address, rather than the individual terms of reference, but in doing so I will no doubt traverse various elements of the latter.
2. While I cannot offer any evidence of an empirical nature, I do refer to two significant and considered independent reports concerning aspects of rugby union in Australia (the ‘ARBIB REPORT’ of 2012 and the “SMITH REPORT” of 2014) and to the detailed statement issued by the ARU on 5 September 2017 (the “ARU Statement”).

INTRODUCTION

3. I am not part of the rugby union establishment of Western Australia *per se* but I played as a youngster and for 40 years or so since then, I have identified closely with the game and enjoyed the camaraderie and kinship that exists between past players of all levels and the interaction between professional players and their fans in the modern era.
4. My wife and I are (were) Diamond Members of the Western Force and our lives have been seriously impacted by the decision to cull “our” team, the members of which epitomise all that is good about the game of rugby union and who serve as amazing role models in our society.

SUMMARY OF MY CONCLUSIONS

5. It is my considered opinion that rugby union at the national level in Australia and particularly in its professional guise, will have no future of any consequence unless and until there are meaningful changes at the most senior level of the administration of this sport.

6. This, in my respectful opinion, must involve the immediate replacement of the Chair and the MD/CEO and be coupled with a close review of the remaining directors to determine whether they are suited to carry Australian rugby union into the future.

My reasons for these conclusions follow.

CURRENT ARU BOARD

7. The ARU Board as currently constituted is comprised of a team of professional directors who are highly competent and successful in their chosen fields. However, this does not mean that all of them are suited to the roles they have undertaken to play for rugby union in Australia and collectively they have failed, profoundly, to live up to expectations.
8. The current ARU Board was appointed with the intent to ensure that the stewardship of rugby union in Australia is conducted with:
 - INTEGRITY;
 - INDEPENDENCE; and
 - TRANSPARENCY.
9. I will leave it to others to explain and evaluate the performance of the ARU Board in relation to these criteria and/or the extent to which the each of the directors has met or failed in their fiduciary duties.
10. What is obvious to all concerned is that rugby union in Australia is a sport in crisis. I make, in this context, reference to the statement by Marcellus, a guard in Shakespeare's Hamlet, who brought us those oft quoted words

“Something is rotten in the State of Denmark”,

when alluding to what may be loosely described as a diabolical situation within a body, which appears to stem from the very top.

I pose that this is the situation that currently faces rugby union in Australia.

11. I struggle to understand, given the quality of the Board members, the rationale of various of its collective decisions.

12. It seems to me that the only logical conclusions to be drawn are that the general members of the ARU Board in relation to these decisions:

- may not have all the relevant information, material and alternatives put before them; or
- were briefed in such a way as to give them only one apparently logical solution to commit to; or
- failed to recognize the limitations of their briefing; or
- simply misunderstand the enterprise that they are engaged in.

13. What is abundantly clear by any measure is that over the past 5 years the ARU Board has made several patently wrong calls that have detrimentally impacted rugby union not only in Western Australia but across the country as a whole.

14. Given that we are dealing with professional directors there can be little tolerance allowed when it comes to failure, especially repeated failure.

15. It seems to me, however, that there are some directors of the current ARU Board for whom a case of retention can be pleaded based on the status they enjoy in the rugby and/or business worlds, the way they conduct themselves within the rugby community and arising from their inherent connections to the sport of rugby union.

16. The principal of these are, in my opinion, Dr Brett Robinson, Ms Phillipa Marlow and Mr John Eales.

I say this because:

- Dr Robinson is held in high esteem within rugby union circles and is Australia's connection with the IRB and therefore the world of rugby at large. I understand that he is working proactively with Mr Forrest's proposed IPRC and if that scenario is correct, it would be a pity to lose any momentum that is being achieved in that regard.

- Mr Eales, in addition to his almost unequalled status as a colossus of the game in Australia, is the only current director I know of who took the time and demonstrated the compassion, empathy and courage to face the blighted Western Australian fans of the game. He did this by fronting, in Perth, a public meeting and attending a grassroots function at the peak of the rage of the Western Force fans. I know as a fact that he also personally engaged at length and in a meaningful way with fans who made contact with him by email while the culling process unfolded.
- Ms Marlow, besides being a highly regarded business person, apparently enjoyed a community connected rugby upbringing and I hope therefore that she has some degree of the elements of *“the game that is played in heaven”* instilled in her.

To my way of thinking, even professional directors must have a clear connection to the sport and an understanding of what makes it tick in order to be effective managers of it at board level.

CONTROL AT BOARD LEVEL

17. In my experience the most important officers of any corporation are the chair of its board, its managing director and its chief executive officer.
18. These officers are, usually, the principal drivers of policy and direction of any board. They have the power to mould and modify the ethos, decisions and direction of their board and the ability to channel and/or apply bias to the material that is presented to that board.
19. To an extent the chair must also be a check on the MD and CEO and, importantly they must ensure that the management team carries out the board's policy as opposed to dictating it by being the tail that wags the dog.
20. As such the chair, the MD and CEO get to either wallow in the glory of success or wear the consequences of failure, of the enterprise that they lead.
21. It is trite to say that there has been a significant if not catastrophic decline in rugby union in Australia in recent times.

22. The ARU Statement opens with reference to the ARU facing insolvency by late 2019 and a financial black hole of between \$13m and \$26m in that time frame if it continues to be foisted with 5 super rugby teams. But it is significant to note that those figures correlate in the main with the funds it poured into the Victorian team that were not matched elsewhere and which are irrecoverable.
23. The ARU Board also contends in the ARU Statement that the Wallabies success has been impacted by the decline in the super rugby teams performance since the expansion to 18 teams and that this is commensurate with “the financial problems” faced by the ARU Board.
24. These are “key reasons” provided by the ARU Board to justify moving to 4 super rugby teams. However, the statistics it provides to back up that position overlook the fact that in the past 6 years, Australia’s 5 Super Rugby teams won 2 super rugby titles and the Wallabies were runners up at the World Cup in 2015.
25. In my opinion, the decline in performance and finance is likely to be attributable to the way in which the ARU Board has managed both the super rugby game and its finances, particularly over the last 2 to 3 years. It seems to me that the decline since 2015 stems from running our super rugby teams ragged by extensive travel over multiple time zones, depriving the fans of being able to follow their teams on TV at reasonable hours and presenting to many an incomprehensible conference system that has reduced the competition to a farce.

The decline therefore is simply not, in my considered opinion, the consequence of there being 5 Australian Super Rugby teams.

26. While the culling of the Western Force may in theory bring temporary financial relief to the ARU and its member unions, and even immediate on-field success for the likes of the team based in Victoria, that culling is unlikely to resolve the financial conditions facing the ARU in the medium term, improve the on field skills of Australian players, aid the development of new players or ensure the retention of player stocks in the future.

In essence, culling the Western Force is not the panacea to the problems faced: it simply amounts to temporary relief of the symptoms of a self-inflicted wound and is not a cure in itself.

THE ARBIB REPORT

27. The Hon Mark Arbib, a former senator, was commissioned in 2012 by the ARU to provide a detailed report as to the “best practice” of corporate governance for the ARU.

28. The ARU adopted 12 of the 15 recommendations made in that report and its MD/CEO signified his unequivocal acceptance of that report when presenting his evidence to this Inquiry.

29. An element of the ARBIB REPORT that must be highly significant to this Inquiry is that it describes the state of rugby union and particularly super rugby, in Australia circa 2012. It is therefore an irrefutable source of information in that regard.

30. Mr Arbib made many glowing comments about rugby union and the following are but some that encapsulate the status of the sport as he saw it at that time:

- ***“Indeed, Australian Rugby’s international competitiveness would rival or exceed that of almost any other Australian sport. In addition to these recent successes, Australian Rugby has enjoyed increased player participation, Super Rugby success through the Queensland Reds, increased attendances and ratings, and extended its influence at the IRB. Considered together, the achievements of Australian Rugby are many.”***
- ***“At the community level, grassroots support for Rugby is greater than ever. Since 1997 (Super rugby started in 1996) the number of people playing Rugby around Australia each year has increased from 98,000 to 260,000.”***
- ***“The Super Rugby teams play a crucial role in growing participation levels, developing future players and promoting the Game.”***
(Emphasis provided)
- ***“What is clear is that there is certainly no shortage of potential.”***

31. The ARBIB REPORT therefore portrays the state of rugby union as inherited by the current ARU Board, which of course includes its Chair and its MD/CEO.

32.Mr Arbib also stated:

“It is worth noting that in response to this claim of the importance of good governance, the point was made during some of the consultations that a structure is only as sound as the people working within it.” (Emphasis provided)

33.It is my contention that the ARU Board has failed in a material manner to meet the expectations set by Mr Arbib and it is now time for it to held accountable for that failure.

34.Despite being composed of some extremely gifted business persons, the current ARU Board has made fundamental errors in its decision making and it clearly lacks the collective ability to learn from or correct its mistakes. As the result the Western Force became the second scapegoat of the ARU Board’s errors of judgment. I believe the first was the previous national coach. The question now to be asked is who or what will be its next?

THE SMITH REPORT INTO SUPER RUGBY’S PROPOSED EXPANSION

35.In 2014 RUPA commissioned what became a 100 page independent professional assessment of the merits of expanding the Super Rugby game to 18 teams by Colin Smith of ‘Global Media & Sports’, a professional consultant. “Global Media & Sports” describes itself as a “leading professional sports advisory firm, specialising in sponsorship and media rights” who according to the Sydney Morning Herald “has advised the ARU, RUPA and the NZRU for over a decade”. I am informed by Mr Smith that his firm also undertook the feasibility study into, inter alia, the redevelopment of the NIB Stadium for the WA Government.

36.In a recent article in the Sydney Morning Herald Tom Decent wrote, in reference to Colin Smith, as follows:

“A veteran sports consultant who twice warned the Australian Rugby Union that under no circumstances should it agree to an expanded 18-team Super Rugby competition says the governing body has only itself to blame for “signing their death knell” despite talking up next year’s new structure.

The comments come as former NSW Waratahs and Rugby Union Players' Association chief executive Greg Harris slammed the ARU for failing to take accountability for plunging rugby into a mess it could have avoided." (Emphasis provided)

37. The points of the SMITH REPORT, that are relevant to this submission, are:

"The inescapable strategic issue is the absence, under the current and proposed Super Rugby structure, of sufficient locally attractive matches to generate the revenue needed to pay for Australian Super Rugby teams."

"Either the management of Australian rugby has the courage to face up to that reality and force change with its SANZAR partners, or it will continue over the precipice it has now reached."

"It is likely that by the time of the subsequent broadcast agreement renewal (meaning that due in 2020) that Australia's second tier of professional competition [Super Rugby] will have been destroyed. Once that occurs, Australia will be reduced to the situation of Argentina, i.e. having its best players spending most of their year playing in northern hemisphere club competitions."

38. The ARU Board did not heed this prognosis and instead elected to put the interests of Australia second and opted for the expanded 18-team format for Super Rugby. That decision became the death knell of the Western Force.

Australian rugby union is now living the Smith nightmare.

TRACK RECORD OF THE CURRENT ARU BOARD

39. In my opinion, the primary and far reaching failures of the ARU Board to date are:

- the 2014 debacle in its dealings with the then incumbent national coach and which resulted in his resignation after only 2 years in the post;

- the entry into the 18 team format of Super Rugby;
- the repeated cosseting in financial terms of the Victorian team, which has lead directly to the attrition of the ARU's working capital and driven it towards bankruptcy;
- the apparent failure to provide adequate support to those players, their families and coaching staff directly and indirectly affected by the process of the 2017 cull and not, inter alia, having a Plan "B" (similar to that of South Africa) for the team that it then culled and the marginal players of all the other super rugby teams who now stand to be displaced by the resettlement of the Western Force's quality players.

40. The ARU Board's actions appear to me to be an endorsement of a crisis management style and in what appears to be *ad hoc* financial decisions and major changes in direction. Ultimately it was the Western Force that became the collateral damage of this management style.

FAILURE TO USE SANZAR/SANZAAR VETO IN INTERESTS OF AUSTRALIA

41. The ARU Board, by its power of veto, clearly had the option to avoid going into an 18 teams super rugby format and later it had the option, again by its power of veto, to force SANZAAR to look elsewhere to cull teams. Instead in early 2017 it elected to cut an Australian team, which effectively put the interests of other nations ahead of Australia.

42. The ARU Statement seeks to imply that it was faced with an *au fait accompli* in this regard, and this is patently wrong by any measure.

43. The ARU Board has failed to protect the Australian teams and must be held accountable for this failure.

THE FORREST ENIGMA

44. The failure of the ARU Board to engage in a meaningful and timely manner with Mr Andrew Forrest is, to my mind, the enigma of this entire matter. On the one hand we have the ARU that is concerned with what *may* have been a financial issue of between \$13m and \$26m in the future, according to the ARU Statement. On the other we have a proven and generous philanthropist, who is a passionate supporter of

the game of rugby union, who commands vast financial resources and who is prepared to commit a sizable part of those resources to the sport of rugby union. Mr Forrest must represent the ultimate pipe dream to the administrators of any sport and one that only surfaces once in a millennium.

45. Against that backdrop it seems that the Chair of the ARU was too busy for a lengthy period to meet with Mr Forrest and when he did he could only get as far as Adelaide for such a meeting. I can offer no more than to say that in contemplating this lost opportunity to the ARU and rugby union in Australia, the mind boggles.

A FURTHER IMPORTANT CONSIDERATION

46. It is my hypothesis that collectively the ARU Board simply does not understand the enterprise of rugby in the competitive Australian sporting landscape and unless you know your “product” you cannot succeed in business.

47. One only has to look at Woolworths spectacular failure with “*Masters Home Improvement*” to see a recent example of a costly Australian corporate failure due to the misunderstanding by what must otherwise have been a very competent board of its “product” and its “market”. Irrespective of how good the “product” was, it simply failed to capture the hearts of its “market”, the Australian consumers.

48. Modern rugby looks like a big commercial enterprise but at the end of the day it is somewhat different to the mainstream as it is a sporting enterprise. To my way of thinking the biggest single difference is the money aspect.

49. In a mainstream commercial enterprise the role of the board is to generate as much money as possible to enable it to provide a strong financial return to its shareholders. The business history of many of the ARU directors shows that they have this quality in spades.

50. However, in a sporting enterprise such as rugby union, the money aspect is somewhat incidental as the true “dividends” are far more ethereal in nature and come in the form of outcomes that accrue to its fans who generally have no actual legal connection to the rugby corporation and to its vast number of volunteer workers and amateur

players that comprise its “grassroots” who have no legal entitlement to the financial spoils *per se*. Without the fan base there is no audience to generate broadcasting revenues and without the grassroots there is no sport to present to the fans.

51. Money, therefore, is the lubricant that allows the wheels of the rugby machine to turn. However the current ARU Board has made money the central issue and by the MD/CEO’s own admission, it has neglected various other major aspects of the modern game.

It is that misdirection that is a core issue to be resolved.

RETURNING TO THE ARBIB REPORT

52. While Mr Arbib’s proposals are ideal in principle, the outcome of their implementation has been not been a success.

53. Australian Rugby circa 2017 bears absolutely no similarity to Rugby Australia circa 2012. 5 years under the current regime has seen it’s position plummet almost to the point of oblivion.

54. The current ARU Board has demonstrated repeatedly that it does not have the nous or foresight to evolve and it must therefore come under close scrutiny and undergo material change and reshaping in order to rebuild the trust of all stakeholders and to save the brand of rugby union in Australia.

55. The Arbib nominations committee criteria should be revisited and supplemented. Future candidates for the ARU Board must demonstrate that they understand the nature of the rugby enterprise as well as be persons with successful track records in business.

CLOSING

56. The ARU Board as it is currently constituted has failed and in my opinion Australian rugby union’s only hope of recovery in the future will flow from a new management style that is delivered by a restructured board.

57. The recent decline of rugby union in Australia has happened on the current ARU Board's watch and it must be held accountable for it. The reality is that if we were dealing with this situation within any other commercial entity, such as a top 4 bank, the head of its board would have been rolled long before now.

58. The MD/CEO has agreed to fall on his sword and while I believe that it is appropriate for him to do so, it is grossly inequitable that he be the token scapegoat. In my earnest opinion the Chair should also follow and if he declines to go, he should be removed by the members of the ARU in direct response to the mess that Australian rugby union now finds itself to be in.

59. On 7 September 2017 The Courier Mail reported:

“RUGBY boss Cameron Clyne holds no fears over what a Senate inquiry into the future of Australian rugby may uncover despite admitting his surprise that the axing of the Western Force has triggered such a step.”

60. Why does this Inquiry come as a surprise to the Chair? If the ARU is the **“keeper of the code”** of rugby union in Australia, then the Chair is the commander in chief of the guards of that code. Rather than question the need for this Inquiry, the Chair should have negated the need for the rugby community across our nation and the Senate from asking the question:

QUIS CUSTODIET IPSOS CUSTODES
- but WHO will guard the guards themselves?

YOURS IN UNION

ANGUS TIBBITS
WESTERN AUSTRALIA
10 OCTOBER 2017

EPILOGUE

Past statements of the ARU MD/CEO as reported by the West Australian:

FEBRUARY 2013, ON HIS FIRST VISIT TO PERTH AFTER HIS APPOINTMENT.

“No chance in the world that there will not be a Western Force.

“We are 150 per cent committed to the franchises that we have. The future development of rugby, unquestionably in my mind, will involve the Perth team.

“The five franchises are non-negotiable. I don’t think I can make that any clearer. It is crystal clear in my mind there will always be five franchises.”

MARCH 2016, AFTER TALKS WITH RUGBYWA AND THE STATE GOVERNMENT.

“I would be very confident in telling you that the Western Force are going to be a successful part of the Perth sporting scene for a long, long time.

“I still am very much a supporter of a national footprint for Super Rugby and you do not want to do anything that’s going to have any negative on the local community engagement.”

NOVEMBER 2016, ON THE OWN THE FORCE SCHEME TO BUY BACK THEIR LICENSE FROM THE ARU AND BECOME FINANCIALLY INDEPENDENT.

“If our Super Rugby clubs were put in a fundamentally stronger position financially, that would influence the decision. The dialogue that’s going on out west is incredibly relevant.”

Q.E.D.
