

An Australian Disability Enterprise (ADE) is a not-for-profit organisation, with charitable status, which provides meaningful employment for people with significant disability who would otherwise not be able to work. It is a business that makes products, or provides services. The ADE operated by Sunnyfield (Enterprises) incurred nearly \$500m operating loss last year and we expect to break even this year. We do this by finding a range of work that people with disability, primarily intellectual disability, can participate in including TGA Primary and TGA secondary as well as general packaging that is financially viable and sustaining. If we are good at what we do we get more orders and therefore more work means we can make a small margin which we put back into the business.

The claim that we are exploiting people with disability to make profit is utter nonsense and a completely false representation of what we do and who we are as an organisation. If this were the case our Board would have shut this operation down many years ago. We do this because it is core part of Sunnyfield's heritage and person centred philosophy. For Sunnyfield, our ADE is a key part of our service footprint to people with an intellectual disability. We employ approximately 300 people with disability and under the current wage assessment tool our supported employees are paid in line with their capacity to fulfil the requirements of the work. If they are able to produce 100% of what is required then they will be paid the full wage. If they can only produce 50% then they receive 50% of the wage etc. We have some supported employees on nearly full wages but the vast majority of our supported employees are on far less because of their productive capacity. If I could only work 10% of what is required in my role why would I expect my employer to pay me 100% of my salary?

Many of our supported employees and especially those with moderate to severe levels of disability come to work because they enjoy it, it has been a significant part of their routine for many years and not because of the wages they receive. They like the work they do, they like being with their friends (many don't have any friendships outside of work), they know their work is valued and their days are meaningful. They even come to work when they are sick as it is often impossible to convince them to stay away. Our supported staff love their jobs, and those who are familiar with Enterprises will readily understand the passion that goes into running this business.

The very idea that this case could effectively close down most ADE's if not all is sheer stupidity of the highest order. It makes no sense financially as it will cost society nearly a \$700m more per year to support the 20,000 supported employees who will be without a job. It makes no sense from a human rights perspective as 20,000 peoples' lives will be significantly and adversely affected and it makes no sense from a person centred perspective where a person's free choice to work can be overturned and ignored.

Dr. Mark Clayton

A/Chief Operating Officer

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**REQUEST TO JOIN EXEMPTION APPLICATION LODGED BY THE DEPARTMENT OF
SOCIAL SERVICES (DSS) UNDER S55 OF THE DISABILITY DISCRIMINATION ACT
(1992) (CTH)**

I/We seek to join/support the exemption application submitted by DSS as follows:

- I/We seek a conditional one year extension of the exemption for all existing ADEs and the Commonwealth (and officers of the Commonwealth) from sections 15, 24 and 29 of the DDA, for a period of one year from the expiration of the current exemption on 29 April 2015.
- The proposed exemption would apply while alternative wage setting arrangements are implemented by ADEs that have not adopted a wage assessment tool other than the BSWAT.
- The proposed exemption would apply while alternative wage setting arrangements are being devised and/or established and implemented by DSS.

NAME:	C. N. CUDDHY
ORGANISATION:	Sunnyfield
POSITION:	Chief Executive Officer
SIGNATURE: By signing this document I certify that I have authority to sign on behalf of the organisation named above	<i>C. N. Cuddhy</i> 24/4/15.

COMMENTS

To Whom It May Concern

Dear Sir/Madam,

Strategy to Save the Jobs of 20,000 Australians with a Disability

Objective

To save up to 20,000 jobs of Australians with a disability working in 600 Australian Disability Enterprises that are under threat as a consequence of the decision of the BSWAT Federal Court case.

Recommendation

The Government provides additional long-term recurrent funding to allow all ADE's to adopt the open employment Supported Wage System (SWS) tool or an alternative acceptable wage assessment tool.

WE BELIEVE THE NET COST TO GOVERNMENT TO ADOPT THIS SOLUTION COULD BE AS LITTLE AS \$50 TO \$70 MILLION PER ANNUM.

Reasoning for Estimated Cost

Sunnyfield Enterprises engaged 'Maccess, Industrial and Human Resources Consultancy' in May 2014 to undertake a wage assessment evaluation for 10 supported employees if moved from the current approved Sunnyfield Wage Assessment Tool (SWAT) to the SWS productivity based tool. The financial implication for Sunnyfield for 292 supported employees was a \$1.2m p.a. increase in wages i.e. an average of \$4,110 per person per annum.

Sunnyfield Enterprises has a comparatively low average hourly wage rate due to it having no restrictive access criteria for people seeking supported employment and a large number of workers over 50 years of age. EVEN SO if the Sunnyfield example was typical of what would happen across the ADE sector generally, the TOTAL ADDITIONAL COST TO GOVERNMENT for 20,000 employees WOULD BE JUST OVER \$80 million per annum.

However many ADE's pay higher hourly rates than Sunnyfield. The new EBA for Greenacres Disability Services in the NSW Illawarra has a starting wage of \$2.66 an hour with a large portion of workers earning \$3.13 an hour. See link <http://www.illawarramercury.com.au/story/2551443/greenacres-workers-settle-on-new-pay-deal/>

Any employee earning even \$2.66 an hour (for 36 hours per week) would already be receiving a REDUCED Disability Support Pension i.e. for every dollar over \$160 a fortnight, the Disability Support Pension DECREASES by \$0.50.

CONSEQUENTLY IT IS HIGHLY LIKELY THAT THERE WILL BE A SIGNIFICANT SAVING of \$10 to \$30 million per annum IN DISABILITY SUPPORT PENSIONS IF WAGES ARE INCREASED BY THE USE OF THE SWS TOOL.

HOWEVER, IF THE 20,000 PEOPLE WITH DISABILITY LOSE THEIR JOBS IT IS ESTIMATED ALTERNATE DAY or COMMUNITY PROGRAM SUPPORT WILL COST GOVERNMENT UP TO \$800 million per annum.

We strongly request that the Government adopt our suggestion. As prudent fiscal managers we understand that you would not proceed on the basis of 10 examples from a workforce of 20,000. We therefore ask that you agree in principle and provide funding to allow for the testing of 10% of employees from all ADE's – this should be sufficient to validate our assertions.

We would be pleased to meet with yourself to discuss this important matter.

Yours sincerely,

**Caroline Cuddihy – CEO
and, Stephen Robb – General Manager Enterprises**

choice | opportunities | skills for life

Strategy to Save 20,000 Jobs for Australians with Disability

BACKGROUND INFORMATION

1. THE ISSUE

The jobs of up to 20,000 Supported Employees working in Australian Disability Enterprises (ADEs) are at risk following the full Federal Court's decision instructing two ADE's to cease the use of the Business Services Wage Assessment Tool (BSWAT). The Government sought leave to appeal the decision to the High Court but this was rejected – there are no avenues left for legal action.

The open employment Supported Wage System tool (SWS) appears to be the only tool currently that meets the non-discriminatory wage assessment criteria; however it has financial consequences by increasing supported employee wages and is by many considered to be ill suited to supported employment. As most ADEs either lose money or break-even, any increase in wages will most likely result in many ADE's closing.

This loss of jobs would be both devastating for people with disability and their families and would create a major social issue leading to demands for significant additional funding for alternative activities.

Implications:- Wages for supported employees working in ADEs will increase; the quantum of such increase is still not clear. ADE's that stay open are likely to impose minimum productivity criteria when recruiting and retaining supported employees to improve viability. Many people with a disability will not get employment. ADEs will re-evaluate their businesses and close those that are non-viable with substantial job losses a best case scenario.

2. CLIENT VIEWS

Despite interest group opinions, the majority of supported employees working in ADEs love their job and the social environment that it creates and their parents/carers are fully supportive of ADE's.

The alternatives to supported employment are:-

- Open Employment: this is not considered a viable alternative for the majority of people with moderate to severe intellectual disability (the majority of supported employees) and the jobs are just not available.
- **Day or Community Programs:** until the NDIS is implemented there is little if any additional State funding for these inclusion programs. When NDIA funding is available, for the support hours involved (average 27.2 hours per week) it would cost government approx. \$55,000 per client p.a. - some \$40,000 per client p.a. greater than the maximum that can be received under current ADE client funding, a potential additional cost to government of up to \$800M p.a. for 20,000 people with disability.
- Stay at Home: many families may not be able to support their child or relative unless they give up their own employment. Many older families would struggle to cope with 24/7 support of their relative with moderate to severe disability. Where the supported employee lives in supported accommodation additional care staff would be required at a minimum cost of \$55,000 per client p.a.

Implications:- Unemployed supported employees would need alternate Day or Community Programs at an additional cost to government of up to \$800m p.a.

3. PARENTS VIEWS

Family members understand that increased wages would be nice, however higher wages would be pointless if they result in ADE closures. **ADEs are not-for-profits with the goal of providing meaningful employment for people with a disability. Many people with a disability never get the chance to work.**

Work is important as it empowers the individual, allows them to develop new skills and provides social opportunities. The friendships and camaraderie that develops within most ADE's are highly valued as evidenced by the long service of employees.

If supported employment is no longer available, people with a disability will be unemployed. Few will be able to get a job in open employment due to their level of disability and social participation skills. Many will not get any other form of government community support. Many parents no longer will be able to work as they will revert to full-time carers. The cost to society will be significant.

Implications:- The majority of Supported Employees (and their families) LOVE THEIR ADE JOB.

Strategy to Save 20,000 Jobs for Australians with Disability

4. IMPLICATIONS FOR OTHER SUPPORTED WAGE ASSESSMENT TOOLS

Following the Federal Court decision, disability advocacy groups and the Unions have been challenging the validity of other wage assessment tools listed in the Supported Employment Services Modern Award 2010. Unions and human rights groups have advocated to government and FWA to have all ADE wage assessment tools (other than the Supported Wage System [SWS]) determined invalid.

The SWS has been robustly criticised for use by ADEs, as it is not designed to assess people with moderate to severe intellectual disability, due to it being designed to be used to assess higher functioning people with a disability seeking open employment.

The Greenacre Wage Assessment Tool (GEWAT) (at 22% of Award Grade 2 wage rates) has been previously ratified by the NSW United Voice Union and again in Nov.'14 after modifications were approved by FWA. However, due the high profile of the GEWAT and Greenacres CEO on this matter the federal Unions have made it clear that they plan to take legal action (in 2015) against the use of this 'discriminatory' tool.

Implications:- A new Wage Assessment Tool is needed for Supported Employment.

5. SUPPORTED EMPLOYMENT SERVICES MODERN AWARD (2010) (AS UPDATED 12 NOVEMBER 2014) 2015 REVIEW

FWA Deputy Commissioner Justice Booth has been appointed to conciliate a way forward with public hearings on 16 February and 27 April with a decision by June 2015. The Fair Work Commission (FWC) has been convening regular hearings to seek a resolution to the longstanding BSWAT matter. The AHRC is watching for evidence of progress before deciding whether to extend the DDA BSWAT exemption, due to expire at the end of April 2015. Unless the exemption date is extended by subsequent decisions in the FWC, ADEs currently using the tool must transition to an alternate wage assessment tool by this date. In addition the FWC is reviewing the Supported Employment Services Modern Award 2010 (as part of a 4 yearly scheduled review of all Modern Awards) in 2015 before Justice Ross.

Implications:-Rationalisation of the 27 Award Approved Wage Assessment Tools to 5 or less has been flagged.

6. ADE VIABILITY

In 2014 National Disability Services (NDS) undertook a benchmarking review of ADEs (based on a survey with only 38% of ADEs responding). Respondents employed 55% of all Supported Employees with 65% using the BSWAT. The survey findings indicated that 49% of ADEs made a loss (FY14 - average \$133,000 per ADE or \$869 per supported employee) and 51% broke-even or made a surplus. It is important to note that not all ADEs apply the same accounting standards, particularly as regards the full allocation of overhead costs (including owned property rental). In addition, NDS commented it was likely that the poorer performing ADEs were among the 62% of ADEs who did not respond to the survey. Government funding in FY14 averaged 34.5% of total revenue for those ADEs that responded. Government funding indexation has remained at 2% p.a. for many years, well below that of CPI and Award wage increases. Sunnyfield's ADEs on a full accounting basis make a loss, despite a concerted effort to the contrary.

Implications:- Many ADEs struggle to remain financially viable.

AUSTRALIAN DISABILITY ENTERPRISES EXIST FOR THEIR MISSION OF CREATING MEANINGFUL WORK FOR 20,000 PEOPLE WITH DISABILITY, NOT FOR MAKING MONEY.



Christian working at Sunnyfield Enterprises Western Sydney

Christian Toro choose to work with Sunnyfield Enterprises in Western Sydney starting in 2011. Christian joined the team, learning new skills and quickly made friends with his co-workers. Christian's great sense of humour and easy going nature is coupled with an enthusiasm to always learn and gain new work skills.

During the course of Christian's employment with Sunnyfield he has worked towards developing a range of skills, including competently operating a shrink wrapping machine, a labelling machine and complete ink jet printing directly onto the product. Chris is also skilled in using a pallet jack and a pallet wrapper and to safely assist in the warehouse.

Christian's ability to provide peer support to his co-workers definitely makes him a valued employee. He is hard working, always striving to learn new job skills and is well respected by his supervisory staff and co-workers. Christian is a wonderful example of a young man with disability making the most of his abilities and the opportunities presented to him by working with team at Sunnyfield Enterprises.

Chris loves his job and work friends. He recently joined a Sunnyfield (sponsored by Woolworths) trip away with colleagues and volunteers for an overnight stay and a Sports day with the Mariners football club on the Central Coast.

Christian and his family say he LOVES his job!



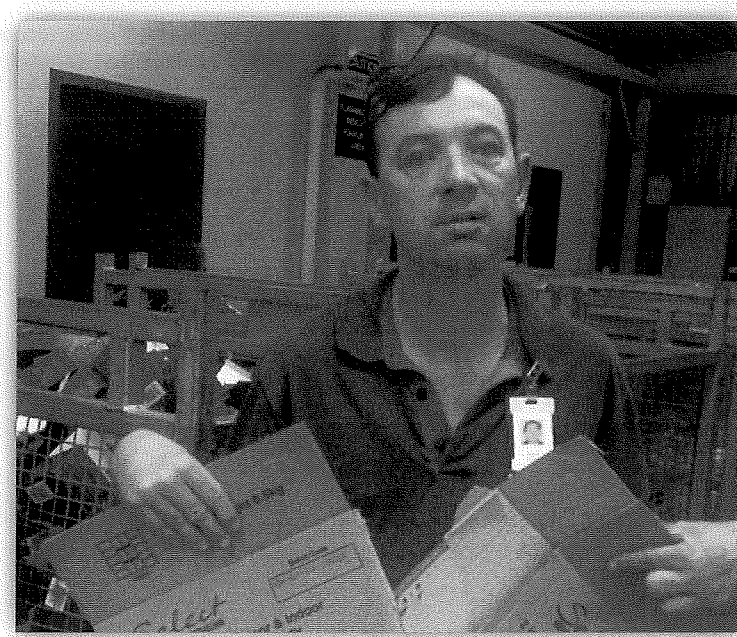
Robbie and colleagues at Morning Tea break

Robbie Fraser is an independent young man with disability, who has recently been building his life skills to learn how to live and attend work independently. Over the last 18 months Robbie has transitioned into living in shared accommodation with housemates and travelling to and from work independently.

Through support programs at Sunnyfield Enterprises, Robbie has developed into a productive and diligent employee. He competently completes a variety of work tasks and particularly enjoys working as part of a team. Positive coaching and practice with new skill development has assisted in increasing Robbie's self-confidence and enthusiasm towards doing a good job.

For Robbie, work is a vital component in his life. It enables him to participate in the community and be feel valued for his contribution as an employee in our society.

Robbie and his family are proud of the work he undertakes!



Shane at Work

Shane Smithers commenced his employment with Sunnyfield Enterprises over 24 years ago in 1991. For Shane, coming to work opens a world of inclusion. He has purpose in his day, he has the enjoyment of social interaction with his co-workers and he has an environment where he feels safe, happy and supported.

Shane has an intellectual disability and is non-verbal and has difficulty with eye/hand coordination, which is a significant contributing factor to mastering new job tasks. Shane has a number of job tasks that he can productively complete. Mostly he likes recycling the empty product boxes; he collects the empty boxes from the work stations and then tears them up for the recycle bin. Shane (and his family) take great pride in his work and the contribution he makes to the work team. He knows that it is his responsibility at all times to keep the production floor safe and clear of empty boxes.

Work has a great deal of meaning and satisfaction for Shane, contributing to his identity and social inclusion with all his work friends.

Shane and his family are proud of his Enterprises work contribution!

About Sunnyfield

Sunnyfield enriches the lives of people with an intellectual disability by creating choice, opportunities and skills for life. We are a leading disability service provider that has assisted people with a disability and their carers for 63 years. We actively support and skill people with disability for their daily lives including providing employment in our Australian Disability Enterprises for over 300 people with disability across three Sydney production facilities.

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Jenny Returns to Work

Jenny Ling started her supported employment in 2004 with Sunnyfield Enterprises working in Allambie Packaging and assisting with facility tours as a guide. Jenny enjoyed working at Sunnyfield with her many friends. After 8 years of service Jenny decided that she would like to try something new by working in the hospitality industry (open employment).

Jenny successfully gained employment at a local McDonalds store and although sad to leave all her friends at Sunnyfield, this new opportunity was very exciting for her. Jenny loved her job at McDonalds although at times it could be difficult working in such a high paced fast food restaurant. The constant staff changes and mix of young casual staff made it a little difficult for Jenny to truly settle into this work environment. After 18 months of employment at McDonalds Jenny decided she would like to return to her previous job at Sunnyfield. She missed her friends and the staff and she liked working regular hours again.

Sunnyfield was very pleased to welcome Jenny back in 2014. Jenny is a capable and productive employee, who is well liked and respected by her peers. Sunnyfield was able to provide Jenny with the employment support, friendships and work environment that best suits her personal choice and support needs.

Jenny loves her Enterprises work friends!