

MAILING LIST

CTE, Duty of Care, and the Obligations of the AFL Commission and Club Boards

#	Recipient	Role	Address
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3	Mr Paul Bassat	Commissioner, AFL	AFL House, 140 Harbour Esplanade, Docklands VIC 3008
4	Ms Robin Bishop	Commissioner, AFL	AFL House, 140 Harbour Esplanade, Docklands VIC 3008
5	Ms Denise Bowden	Commissioner, AFL	AFL House, 140 Harbour Esplanade, Docklands VIC 3008
6	Mr Matt de Boer	Commissioner, AFL	AFL House, 140 Harbour Esplanade, Docklands VIC 3008
7	Mr Andrew Ireland	Commissioner, AFL	AFL House, 140 Harbour Esplanade, Docklands VIC 3008
8	Mr Andrew Newbold	Commissioner, AFL	AFL House, 140 Harbour Esplanade, Docklands VIC 3008
9	Ms Gab Trainor	Commissioner, AFL	AFL House, 140 Harbour Esplanade, Docklands VIC 3008
10	Ms Simone Wilkie	Commissioner, AFL	AFL House, 140 Harbour Esplanade, Docklands VIC 3008
11	Mr James Gallagher	CEO, AFL Players Association	AFL House, 140 Harbour Esplanade, Docklands VIC 3008
12	Ms Elizabeth Gaines	Chair, West Coast Eagles	42 Bishopsgate Street, Lathlain WA 6100
13	Mr Peter Hodyl	President, Swan Districts FC	1 Old Perth Road, Bassendean WA 6054
14	Ms Nicky Waite	President, South Bunbury FC	Hands Oval, Blair Street, South Bunbury WA 6230
15	Ms Sarah Court	Chair, ASIC	100 Market Street, Sydney NSW 2000
16	Ms Joanne Farrell	Chair, Safe Work Australia	2 Phillip Law Street, Canberra ACT 2601
17	Mr Bob Cameron	Chair, WorkSafe Victoria	1 Malop Street, Geelong VIC 3220
18	Ms Sally North	WorkSafe Commissioner, WA	Level 1, Mason Bird Building, 303 Sevenoaks Street, Cannington WA 6107

1 July 2026

To: Mr Craig Drummond, Chair, AFL Commission

Cc: Members of the AFL Commission (Paul Bassat, Robin Bishop, Denise Bowden, Matt de Boer, Andrew Ireland, Andrew Newbold, Gab Trainor, Simone Wilkie); Mr Andrew Dillon, AFL CEO; The CEO, AFL Players Association; Ms Elizabeth Gaines, Chair, West Coast Eagles; Mr Peter Hodyl, President, Swan Districts Football Club; Mr John Castrilli, Chairman, South Bunbury Football Club; Ms Sarah Court, Chair, ASIC; Ms Joanne Farrell, Chair, Safe Work Australia; Mr Bob Cameron, Chair, WorkSafe Victoria; Ms Sally North, WorkSafe Commissioner, WA

Subject: CTE, Duty of Care, and the Obligations of the AFL Commission and Club Boards

Dear Mr Drummond,

I am writing to you following the ABC Four Corners program "Collision" which aired on 29 June 2026. During that program, Laura Kane from AFL Health and Football Operations stated that the AFL's "job is not to communicate every single aspect of risk that exists in our game" and that it is "a shared responsibility." I am writing to respectfully but firmly put to you that this position is untenable under both the Corporations Act 2001 and the Work Health and Safety Act, and that the AFL Commission and the boards of its affiliated clubs have an immediate, non-delegable obligation to act.

I have a personal stake in this matter. Adam Hunter was one of my closest friends. Adam started his football at the South Bunbury Football Club in the South West Football League. He moved to Swan Districts in the WAFL in 1999, and that same year was drafted by the West Coast Eagles with pick 29 in the National Draft. He played 151 games for the Eagles between 2000 and 2009, including the 2006 premiership, and continued to play football after his AFL retirement with Swan Districts, South Bunbury and other clubs. Adam died in February 2025, aged 43. After his death, his parents donated his brain to the Australian Sports Brain Bank. He had CTE. His mother Joanne said on the program what Adam had been saying for years: "I think I've got CTE. Yeah, he knew." Adam knew. His family now knows. The question is what the AFL Commission and the clubs he played for knew, and when, and what they did about it. Adam is now one of thirty-three former Australian Rules players diagnosed with this disease. Until this week, the public knew of five.

I am writing to the AFL Commission because you sit at the top of this game's governance structure and bear the primary obligation to act. I am copying the boards of the West Coast Eagles, Swan Districts, and South Bunbury because Adam gave his body to this game at every level, from community football in Bunbury, through the WAFL, to the highest level of the sport, and each of those organisations fielded him, benefited from his talent and his commitment, and owes its own duty of care that does not end when a player leaves the ground for the last time. I am copying ASIC, Safe Work Australia, WorkSafe Victoria, and WorkSafe WA because the obligations I outline in this letter fall squarely within their regulatory jurisdiction. I am copying the AFL Players Association because the players they represent are the ones most at risk. CTE is not an AFL-only problem. It is a contact sport problem, and each copied party should consider this letter notice.

During Adam's eulogy, I spoke about how many people questioned whether he was tough enough for AFL. But those who really knew him saw his commitment and determination. He was always there for his teammates, always wanted the ball when the game was on the line. That determination carried him from South Bunbury to Swan Districts to the Eagles and back again. It also meant he never complained about or questioned the toll the game was taking on his brain, because persistence was everything to him. The organisations he played for, and the directors of those organisations, owed him a duty of care that matched his persistence and commitment to them.

I am not a lawyer, but I know enough to tell you that the position Ms Kane articulated on national television is untenable.

The weight of scientific evidence linking repetitive head impacts to CTE is substantial and growing. The vast majority of published CTE cases involve individuals with exposure to repetitive head impacts. The Mez et al. 2017 study found CTE in 99% of deceased NFL players examined 110 out of 111 [1]. The Boston University UNITE Brain Bank now contains over 1,700 brains, with over 800 diagnosed with CTE using the NINDS diagnostic criteria [2]. In Australia, the Sports Brain Bank has found CTE in players in their 20s, 30s, and 40s [3]. Nick Lowden was 23 [4]. Shane Tuck had the most severe case the Brain Bank had ever seen [5]. I acknowledge that research is ongoing and that questions remain about individual susceptibility, dose-response thresholds, and the precise mechanisms of disease progression. But the legal standard does not require absolute scientific certainty. It requires action on foreseeable risk, and the volume of evidence linking repetitive head impacts to progressive

brain disease is more than sufficient to trigger that obligation. **No reasonable director, presented with this body of research, could conclude that the risk is too uncertain to act upon.**

The international precedents demonstrate both the consequences of inaction and the possibility of meaningful harm reduction. The NFL denied and minimised for years. It cost them over \$1 billion in a class action settlement covering 20,000+ retired players on claims of fraudulent concealment, negligent misrepresentation, and civil conspiracy [6]. The NHL settled for \$18.9 million with 318 former players [7]. World Rugby faces 1,100+ claimants alleging negligent failure to protect from foreseeable risks [8]. The AFL now faces its own class action, over 100 former players claiming up to \$1 billion, with a trial date set for May 31, 2027 [9].

I acknowledge the AFL has taken some steps. The 12-day concussion stand-down introduced in 2021. The 21-day minimum for community football in 2024. Independent ARC doctors who can now override club doctors and pull players from the ground. The Play AFL Concussion Hub. Mandatory training contact limits announced for the 2027 pre-season. These are not nothing. The AFL's response has been incremental, largely procedural, and in the case of training contact limits, deferred to a future date. The question for the Commission and for each club board is not whether you have done something. It is whether what you have done is commensurate with what a reasonable person in your position would do, given the scale of the evidence before you.

Are you, as the Commission, as club directors, comfortable you have met your obligations?

Turning to the legal framework. The AFL Commission and its club boards are companies limited by guarantee under the Corporations Act 2001. Commission members and club directors are officers subject to sections 180–184 of the Act. Section 180 requires directors to exercise the care and diligence of a reasonable person in their position regarding foreseeable risks. This obligation applies equally to the AFL Commission, to AFL club boards like the West Coast Eagles, and to the boards of WAFL and community clubs like Swan Districts and South Bunbury. The question is not whether any board subjectively believes it is doing enough. The question is whether a reasonable person, with access to 33 CTE diagnoses, a \$1 billion class action, and the weight of international evidence, would conclude that "shared responsibility," the implemented controls, and delayed training limits constitute adequate action.

The case law reinforces this. *Shafron v ASIC* (2012) confirmed officers breach their duty by failing to ensure boards are properly informed about material risks [10]. In the *Star Entertainment* proceedings, former Chief Casino Officer Gregory Hawkins admitted breach of s180(1) by consent in 2025 [11]. And *ASIC v Bekier* (2026) made clear that directors cannot be passive recipients of information; they must actively interrogate and challenge what is put before them [12]. No board, whether at AFL Commission level, AFL club level, WAFL level, or community level, can wait for definitive proof specific to their competition. Each must proactively assess the available global evidence and act accordingly.

The workplace health and safety obligations are equally clear. The AFL, its clubs, WAFL clubs, and community football clubs are all Persons Conducting a Business or Undertaking (PCBUs) under the WHS Act. There are no special defences enjoyed by professional sport, and there is no exemption for community or semi-professional sport either. Section 18(c) defines "reasonably practicable" by reference to what the person concerned "knows, or ought reasonably to know, about the hazard or risk." This is an objective standard. No football organisation at any level can claim it was not "across every risk" when the scientific literature on CTE is publicly available, extensively reported, and directly relevant to its operations. Section 19(3) requires PCBUs to provide workers and in the case of community sport, volunteers and participants with information necessary to protect them from risks to health and safety. This obligation is not qualified by concepts of "shared responsibility." The duty is on the organisations, not on the players, to inform, protect, and provide safe systems of play.

Ms Kane's statement on Four Corners is directly inconsistent with this obligation at every level of the game.

The parallel to James Hardie is unavoidable. Directors and officers who were aware of health-related liabilities from asbestos exposure breached their duty of care by failing to properly disclose and address those risks. The AFL Commission and its affiliated club boards are in an analogous position aware of a progressive, fatal neurodegenerative disease linked to the core activity of their sport, affecting dozens of former participants across all levels of the game, and choosing a posture of minimisation rather than proactive disclosure and protection.

I am asking the AFL Commission and each club board to stop treating duty of care as a discretionary matter to be shared or deferred. It is a non-delegable obligation. Adam cannot be brought back. But the players on your

lists right now from the AFL, the WAFL, and the kids running out for South Bunbury on a Saturday morning the ones training today, the ones being drafted next year, the ones playing community football under your governance, deserve boards at every level that treat their brain health as what it is: a foreseeable risk that the law requires you to address with urgency, transparency, and comprehensive action.

I urge you to act. Not for me, not for Adam or his family and friends, it is too late for him and us, but for every young athlete that aspires to pull on their club's jumper, whether that jumper is black and white, blue and gold, or red and white. Because they should know their safety matters more than four points or the revenue created through participation and viewership of that activity.

During Adam's eulogy I also shared a quote from one of his favourite movies "The Replacements" about quicksand, how Adam described the feeling of things falling apart after football. One thing goes wrong, then another, and another. You try to fight back, but the harder you fight, the deeper you sink. Until you can't move, you can't breathe, because you're in over your head. That was CTE taking hold. Adam didn't have the language for it then, but we know now what was happening to his brain. The organisations that put him on the field had a duty to understand that risk before he did.

They failed him. You have failed him.

Lastly, I want to thank Amy and Jessica from the ABC for their courage to run this program and speak on a topic other commercial media agencies have chosen not to talk about. Shame on them. But as officers and directors, you have a different obligation, the evidence demands it. The precedents from every other major contact sport confirm it. The only question is whether the AFL Commission and the boards of its clubs will act now, or wait until the courts and regulators force you to.

Yours sincerely,

Dave Andrews - A grieving best mate
In Adam's memory, love and miss you mate



References

- [1] Mez J, Daneshvar DH, Kiernan PT, et al. "Clinicopathological Evaluation of Chronic Traumatic Encephalopathy in Players of American Football." JAMA. 2017;318(4):360-370.
- [2] Boston University UNITE Brain Bank. "Brain Donation Registry." bu.edu/cte/brain-donation-registry (current as of 2026).
- [3] ABC News. "Dozens of Australian Rules players diagnosed with CTE expose scale of AFL's brain injury crisis." 29 June 2026.
- [4] ABC News. "A brain disease is striking down Aussie Rules players. At 23, Nick is the youngest." 28 June 2026.
- [5] Nine Wide World of Sports. "Shane Tuck had most severe case of CTE Australian Sports Brain Bank has seen." 23 January 2021.
- [6] ESPN/Reuters. "Appeals court upholds \$1 billion NFL concussion settlement." 18 April 2016. Settlement covers 20,000+ retirees over 65 years.
- [7] Sportsnet/Bloomberg Law. "NHL reaches non-class settlement in concussion lawsuit." 12 November 2018. \$18.9 million settlement with 318 retired players.
- [8] BBC Sport. "Rugby concussion lawsuit has more than 1,100 former players involved." 2 June 2025.
- [9] ABC News. "AFL concussion class action expands to more than 100 former players and 11 clubs." 26 March 2026. Victorian Supreme Court Justice Andrew Keogh suggested May 31, 2027 as trial date.
- [10] *Shafron v Australian Securities and Investments Commission* [2012] HCA 18. Part of the James Hardie asbestos litigation; High Court confirmed general counsel was an "officer" under the Corporations Act and breached s180(1) by failing to ensure the board was properly informed about material liabilities.
- [11] In the Star Entertainment proceedings, former Chief Casino Officer Gregory Hawkins admitted breach of s180(1) by consent in 2025. This was not a standalone case but a consent penalty within the broader ASIC v Bekier proceedings. See also: Clayton Utz, "Fallen Stars: How far do directors' and officers' duties go." 3 July 2025.
- [12] *ASIC v Bekier & Ors* [2026] FCA 196. Federal Court found former CEO and Chief Legal and Risk Officer of Star Entertainment breached s180(1). Justice Lee held that directors and officers "cannot be passive recipients of information" and must "actively engage with, interrogate, and where necessary challenge the materials put before them."