

Affidavit

No. AM2014/305

Fair Work Commission

2014 4 Yearly Review of Modern Awards – Penalty Rates

Re Application by: The Australian Industry Group

Affidavit of: **Marcus Dunn**

Address: **1/481 Scottsdale Drive Varsity Lakes QLD 4227**

Occupation: **Director**

Date: **10/08/2015**

I, Marcus Dunn, of 1/481 Scottsdale Drive Varsity Lakes in the State of Queensland, Director of Jamadu (QLD) Pty Ltd say affirm:

1. I am the sole director of Jamadu (QLD) Pty Ltd (**Jamadu**). I have held this position since 10 November 2005.
2. I make this affidavit based on my own knowledge, information and belief unless otherwise stated. Where I make statements based on information provided to me, I identify the source of that information and otherwise believe it to be true and correct.
3. Jamadu is a franchisee under the McDonald's franchise system operated by McDonald's Australia Limited. As a franchisee, Jamadu operates the following restaurants on the Gold Coast in Queensland:

Restaurant name / location:	Operated by Jamadu since:	Type of restaurant:
McDonald's Burleigh Stockland 1965 Burleigh Heads Shopping Centre, Stockland Burleigh Heads, Lower Gold Coast Hwy Burleigh Waters QLD	01/11/2011	Food Court

Filed on behalf of (name & role of party) The Australian Industry Group

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Restaurant name / location:	Operated by Jamadu since:	Type of restaurant:
McDonald's Palm Beach Cnr 19th Avenue & Gold Coast Highway, Palm Beach QLD 4221	23/10/2013	Totally Integrated Unit
McDonald's Elanora The Pines Shopping Centre, Guineas Creek Rd & K.P. McGrath Drive, Elanora QLD 4221	23/10/2013	Free stander restaurant built in the shopping centre car park
McDonald's Burleigh Waters Treetops Centre, Executive Dr Burleigh Waters QLD	19/11/2004	Free stander restaurant built in the shopping centre car park at Treetops Plaza
McDonald's Reedy Creek Caltex Service Station Northbound, Reedy Creek QLD 4228	18/01/2010	Totally Integrated Unit

4. A free-stander restaurant is one that is standing and operating independently of any other structure. A "Totally Integrated Unit" (TIU) is the term McDonald's uses to describe a restaurant that is in a dual or shared tenancy, such as a shared service station site. In my experience, a free-stander restaurant, a Totally Integrated Unit and a restaurant located in a shopping centre appeal to different clientele. The free-stander restaurants have a drive thru for the customer seeking convenience and a dining room to attract the customer seeking McDonald's as a destination. The TIU is generally located at a "capture" site that captures customers that are on a journey with a different destination in mind. They visit the restaurant because they need to eat on the journey. The restaurant located in a shopping centre food court is built at the customer's destination and customers come if their visit to the shopping centre spans a meal or snack time.
5. As at the date of my statement, I am in the process of preparing the Burleigh Stockland restaurant for closure. It is due to be closed in September 2015.
6. As at 2 June 2015 Jamadu employed 413 employees to operate all five restaurants broken down as follows:

Restaurant name / location:	Number of Employees
Burleigh Waters	102




Restaurant name / location:	Number of Employees
Reedy Creek	113
Elanora	89
Palm Beach	81
Burleigh Stockland	28
Total	413

7. My General Manager is fully accountable for all areas in the five restaurants. My involvement with the restaurants is to oversee operational standards as implemented by my General Manager. I ensure that I am still hands on so that I understand what is happening in the restaurants. I am not rostered in restaurant but when I visit the restaurants, I work side by side with the crew and managers on the various stations. I run orders out to customers. I also sit with senior crew and managers and help them plan their career with McDonald's and beyond.
8. Since 1 January 2010, Jamadu has employed, and still employs, employees who are covered by the Fast Food Industry Award 2010 ("FFI Award").
9. However, the McDonald's Australia Enterprise Agreement 2013 ("2013 EA") applies to the employees of Jamadu and has done so since 31 July 2013.
10. Jamadu utilises a software program known as Metime for the purpose of hiring crew, and recording employee information such as age, length of service, availabilities, employment classification, and the training they have completed. The information in this database is put in first by the crew person applying, then by the hiring manager, and then it is maintained on an ongoing basis by my compliance and training manager. Crew trainers also use a tablet PC to record training modules that are associated with the employees. My staff use the information in the database for the purpose of Jamadu's day-to-day operations, such as booking people on courses, registering various training modules, maintaining contact information and payroll information. For the purposes of the preparation of this affidavit, I asked Scott Patterson from McDonald's Human Resources to provide the raw data (in spreadsheet form) from the Metime platform. Scott provided me this information as at 2 June 2015. I then generated, based on the Metime information provided and the information I have about my employees, a spreadsheet for the purposes of this affidavit. Exhibited and marked "**Confidential Exhibit MD-X1**" is a true copy of an excel spreadsheet setting out this information.
11. Based on the spreadsheet data exhibited as **Confidential Exhibit MD-X1**, as at 2 June 2015, Jamadu employed employees in the following classifications under the 2013 EA (which does not contain a "Level 1" classification):

	Level 2	Level 3	Level 4	Total
Burleigh Stockland	24	2	2	28
Burleigh Waters	92	4	6	102
Reedy Creek	103	5	5	113
Elanora	79	5	5	89
Palm Beach	73	2	6	81
Total	371	18	24	413

12. The spreadsheet data exhibited as **Confidential Exhibit MD-X1** does not include data as to the employment of males and females by Jamadu. I requested this information be obtained from Metime by Scott Patterson at a later date. As at 20 July 2015 Jamadu employed the following numbers of males and females.

Males	Females
234	203

13. Based on the spreadsheet data exhibited as **Confidential Exhibit MD-X1** as at the 2 June 2015 Jamadu employed 229 employees as casuals, 163 employees as part time employees and 21 full time employees in Jamadu restaurants, broken down as follows:

	Casual	Part-time	Full-time	Total
Burleigh Stockland	19	7	2	28
Burleigh Waters	49	49	4	102
Reedy Creek	68	40	5	113
Elanora	48	36	5	89
Palm Beach	45	31	5	81
Total	229	163	21	413

14. I regard a casual employee as a person who does not work regular shifts, does not accrue sick or annual leave, and has casual loading applied to the base rate. I regard a part-time employee as a person who works a minimum of 10 hours per week and a maximum of 36 hours a week. They do accrue sick pay and annual leave.




15. Based on the spreadsheet data exhibited as **Confidential Exhibit MD-X1** , as at the 2 June, the ages of employees employed by Jamadu were:

Age	Casual	Part-time	Full-time	Total
14 to 17 years	196	58	0	254
18 to 24 years	29	91	11	131
25 years or older	4	14	10	28
Total	229	163	21	413

On my calculation, 254 out of 413 Jamadu employees (or about 61 per cent of all Jamadu employees) were aged 14 to 17 years, 146 out of 413 Jamadu employees (or about 32 per cent of all Jamadu employees) were aged 18 to 24 years, and 28 out of 413 Jamadu employees (or about 7 per cent of all Jamadu employees) were aged 25 years or older.

16. The spreadsheet data exhibited as **Confidential Exhibit MD-X1** does not include data as to which of the employees were students. I examined the list of employees in our payroll system and identified those employees I know to be students. As at 4 of July 2015, the following employees of the Company were students.

Age	Casual	Part-time	Full-time	Total
14 to 17 years	199	54	0	252
18 to 24 years	23	63	0	86
25 years or older	1	1	0	2
Total	223	117	0	340

17. Based on the spreadsheet data exhibited as **Confidential Exhibit MD-X1** , as at the 2 June 2015, the length of service of employees of Jamadu was:

Age	Less than one years' service			More than one year but less than three years' service			More than three years' service			Total
	Casual	Part Time	Full Time	Casual	Part Time	Full Time	Casual	Part Time	Full Time	
14 to 17 years										-




Burleigh Stockland	7	0	0	7	2	0	0	0	0	16
Burleigh Waters	30	6	0	10	12	0	1	1	0	60
Reedy Creek	40	4	0	19	6	0	1	0	0	70
Elanora	13	3	0	26	5	0	2	4	0	53
Palm Beach	27	8	0	12	5	0	1	2	0	55
Total 14 to 17 years	117	30	0	74	31	0	5	7	0	254
18 to 24 years	Cas-ual	Part Time	Full Time	Cas-ual	Part Time	Full Time	Cas-ual	Part Time	Full Time	-
Burleigh Stockland	1	0	0	2	2	0	1	2	0	8
Burleigh Waters	4	6	1	3	6	2	1	13	0	36
Reedy Creek	4	6	0	2	6	0	1	13	2	34
Elanora	2	5	0	3	6	0	2	13	3	34
Palm Beach	3	3	0	0	6	0	0	4	3	19
Total 18 to 24 years	14	20	1	10	26	2	5	45	8	131
25 years or more	Cas-ual	Part Time	Full Time	Cas-ual	Part Time	Full Time	Cas-ual	Part Time	Full Time	-
Burleigh Stockland	0	0	0	0	0	0	1	1	2	4
Burleigh Waters	0	1	0	0	0	0	0	4	1	6
Reedy Creek	0	4	0	0	1	0	1	0	3	9
Elanora	0	1	0	0	0	1	0	1	1	4
Palm Beach	0	0	0	0	0	0	2	1	2	5




Total 25 years or more	0	6	0	0	1	1	4	7	9	28
Total										413

Typical Operations of Jamadu

18. Each day, customers of Jamadu order McDonald's food and beverages at a counter in the restaurant or, in the case of the free-stander and Total Integrated Unit (TIU) restaurants, a drive thru. Workers of Jamadu prepare the food and other workers of Jamadu sell the food to the customers. In restaurants with a drive thru there are also workers who are taking customer drive thru orders, taking money at the drive thru window, and presenting the customer with their food at a drive thru window. (Burleigh Stockland, being part of a food court, is not a convenient take away option for our customers and in my experience almost all customers of Burleigh Stocklands dine in the food court unless they order a snack or coffee that they carry with them to other parts of the centre.)

19. I have conducted an analysis of the sales data for the Jamadu restaurants for the one week period spanning 6 to 12 July 2015 inclusive. From that analysis, the percentage of sales in drive thru was:

- (a) Reedy Creek: 56.15 %
- (b) Palm Beach: 63.44 %
- (c) Elanora: 52.38%
- (d) Burleigh Waters: 60.24%
- (e) Burleigh Stockland: NA

A copy of the document titled "Daily Detail Consultant Report" containing the sales data for each store for 6 to 12 July 2015 is exhibited and marked "**Confidential Exhibit MD-X2**".

20. I consider the week of 6 to 12 July 2015 to have been a fairly typical sales week. I monitor sales closely every day and week. I would consider something unusual to have occurred when sales differ from projections by over 10%. An event such as really good or really bad weather is what would generally create an unusual sales pattern. The difference between projections and actual sales this week was between 3% and 7% which I consider normal. I recall the weather at that time was cloudy and in my experience the percentage of drive thru sales increases when weather is bad and therefore it is possible that the percentage of drive thru sales that week may have been slightly higher than typical due to the weather. The remainder of customers choose to come into the restaurant and in my observation most of those customers eat their food in the restaurant. It is possible, and I expect that these percentages may change due to the recent introduction of the "Create Your Taste" menu which is not available in drive thru at this time.




Hours of Operation

21. As at the date of making this affidavit, the operating hours of Jamadu’s restaurants are:

Restaurant	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Burleigh Stockland	8:00am to 6:00pm	8:00am to 6:00pm	8:00am to 6:00pm	8:00am to 9:00pm	8:00am to 6:00pm	8:00am to 6:00pm	8:00am to 5:00pm
Burleigh Waters	24 hours						
Reedy Creek	24 hours						
Elanora	24 hours						
Palm Beach	24 hours						

Saturday Operations

22. For the purpose of obtaining data on Saturday operations, I reviewed the weekly clocking report used by Jamadu in all five restaurants for a 4 week period from 29 Dec 2014 - 25 Jan 2015 (the **Sample Roster Period**). I consider the Sample Roster Period to have included typical weekend operating periods for Jamadu. This is a holiday period so Monday to Thursdays are quite different to normal but the weekends are quite similar. I chose it as there were no new products being introduced at that time. In the time proceeding and following this holiday period there were launches of new products and preparations for new products.

23. Based on the Sample Roster period, I calculated an average of the number of employees in each classification under the 2013 EA engaged in each restaurant on a Saturday. I did this by:

- (a) For each restaurant, reviewing the weekly clocking reports for the Sample Roster Period:
 - (i) manually adding together the number of employees in Level 2 who clocked on to work in the restaurant on the 3rd, 10th, 17th and 24th January 2015; and
 - (ii) dividing that number by four.
- (b) Repeating the step at (a) for Level 3 employees and Level 4 employees, for each restaurant.

24. The results of the calculations set out at paragraph 23 were as follows:

Restaurant	Level 2	Level 3	Level 4	Total




Burleigh Stockland	8	0 or 1*	0 or 1*	9
Burleigh Waters	30	2	3	35
Reedy Creek	39	2	3	44
Elanora	30	1	3	34
Palm Beach	23	2	2	27
Total	130	7 or 8	11 or 12	149

* At the Burleigh Stockland restaurant, on average I use either one Level 3 employee or one Level 4 employee on a Saturday, but not one of both.

25. Based on the Sample Roster period, I also calculated an average of the number of Level 2 casual, part time and full time employees engaged in each restaurant on a Saturday.

I did this by:

- (i) manually adding together the number of employees in Level 2 who clocked on to work in the restaurant on the relevant days; and
- (ii) dividing that number by four.

26. The results of the calculations set out at paragraph 25 show that the number of the Level 2 employees engaged by Jamadu to work at its restaurants on a Saturday in the Sample Roster Period who were casual, part time or full time was:

Restaurant	Casual	Part-time	Full-time	Total
Burleigh Stockland	6	2	0	8
Burleigh Waters	15	15	0	30
Reedy Creek	25	14	0	39
Elanora	15	15	0	30
Palm Beach	14	9	0	23
Total	75	55	0	130

27. I then repeated the calculations described at paragraph 25 above, for Level 3 employees. The results of those calculations show that the number of the Level 3 employees engaged by Jamadu to work at its restaurants on Saturday in the Sample Roster Period who were casual, part time or full time was:




Restaurant	Casual	Part-time	Full-time	Total
Burleigh Stockland	0	1	0	1
Burleigh Waters	0	2	0	2
Reedy Creek	0	2	0	2
Elanora	0	1	0	1
Palm Beach	0	2	0	2
Total	0	8	0	8

28. During the Sample Roster Period, Level 2 employees employed by Jamadu worked the following shifts and shift durations on Saturday. I worked this out by adding up all the shifts from the Sample Roster Period for Level 2 employees and averaging it over the 4 weeks.

29.

Restaurant	Less than 5 hours	More than 5 hours but less than 7 hours	More than 7 hours
Burleigh Stockland	5	2	2
Burleigh Waters	16	8	6
Reedy Creek	15	15	9
Elanora	18	7	5
Palm Beach	14	5	3

30. For each of my restaurants the optimal shift lengths for Level 2 employees on a Saturday is 4.5 hours. Labour laws require crew working more than 5 hours to be given a 30 minute unpaid break. If I need 9 hours covered from 8am to 5pm, for example, I could cover this with one person but I am short during the paid break and I also run the risk that this crew person could call in sick and leave me 9 hours short. If I use two crew people for 4.5 hours each I have the whole shift covered and also should one of them call in sick I have the possibility of asking one person if they want to stay late or the other if they would like to come in early. When I have many crew on at a time with many different start and finish times it is quite easy to arrange four or five people to cover an hour or so each and cover a whole shift without the manager having to spend time cold calling crew to work.

31. I also make the following observations regarding the shifts worked by Level 2 crew. These observations are not limited to the Sample Roster Period and are based on my observation of Jamadu's employees more generally. The basis for me being able to make these observations




is due to my heavy involvement in my restaurants. I also personally know many of my crew and managers.

- (a) Level 2 employees working as Day Crew (by which I mean crew that work during normal school hours), have normally left school and work Monday to Friday, and on average are rostered for 6 to 8 hours per shift (the Day Crew sometimes take holidays during school holidays but otherwise maintain the same availability during holidays).
- (b) Level 2 employees who work nights (by this I mean between 3:30pm and 10pm) and weekends (generally anytime) are comprised mostly of students from school age to university age, and on average are rostered to work for 4 to 6 hours per shift. During holidays these same crew normally make themselves available Monday to Friday and are rostered to accommodate the extra sales at that time and to cover holidays taken by Day Crew.
- (c) The Overnight Crew (by which I mean crew that work between 10pm and 6am) are mostly university students or international students, and on average are rostered to work for 8 hour shifts.

32. During the Sample Roster Period, Level 3 employees employed by Jamadu worked the following shifts and shift durations on Saturday. I worked this out by adding up all the shifts from the Sample Roster Period for Level 3 employees and averaging it over the 4 weeks.

Restaurant	Less than 5 hours	More than 5 hours but less than 7 hours	More than 7 hours but less than 11 hours	11 hours or more	Total
Burleigh Stockland	0	0	0	1	1
Burleigh Waters	0	0	2	0	2
Reedy Creek	0	0	2	0	2
Elanora	0	0	1	0	1
Palm Beach	0	0	2	0	2
Total	0	0	7	1	8

33. In my view, for each of my restaurants the optimal shift lengths for Level 3 employees on a Saturday is eight hours. It is my opinion based on experience and observation, that eight hours is the right amount of time for a Level 3 shift. It takes considerable time for the Level 3 employee to set up their shift and position crew for a successful shift. It then takes considerable time to prepare the shift for handover. I believe shifts of less than 8 hours may result in less productivity. I also want to keep these highly trained staff for as long as possible (there is considerably more investment in the training of employees to level 3 level than




training employees to a Level 2). Based on experience and observation, staff who get enough hours have adequate pay to keep them from looking for alternative employment.

34. For the purpose of making this affidavit, I prepared calculations of the average sales of Jamadu's restaurants on a Saturday using the following methodology:
- (i) I obtained sales data for the period 1 January 2015 to 30 April 2015 (the **Averaging Period**) for each of the five restaurants;
 - (ii) For each restaurant, I added the total net sales (and in this affidavit, all sales I refer to unless otherwise specified will be referred to as net sales) on each Saturday in the Averaging Period; and
 - (iii) For each restaurant, I then divided that number by the number of Saturdays in the Averaging Period.
35. The calculations I completed for the Averaging Period show that the average net sales on Saturday during that period for each restaurant were the amounts set out in the table appearing as "**Confidential Exhibit MD-X3**" to this affidavit.
36. As at 2 June, Jamadu had more employees indicating they are available to work on a Saturday and Sunday than what I was able to roster on a Saturday and Sunday. In order to allow for holidays, sickness and turnover I require considerably more people to be available than I actually roster on. That is the same for all five restaurants. On Fridays, Saturdays and Sundays more people call in sick or have other commitments that affect their temporary availability, so Jamadu maintains many extra crew who are available on Saturday but are not actually rostered.
37. I have calculated the percentage of employees available to work Saturdays as at 2 June to employees rostered on Saturday that weekend.

For the percentage of employees available to work Saturday, I used the spreadsheet data provided by Scott Patterson of McDonalds, and that I believe to be accurate. Scott Patterson was unable to complete a report for the point in time of the Sample Roster Period as this time was in the past when I requested the data. The report was based on employees available to work Saturdays as at 2 June 2015. As the report Scott provided only records level 2 employees, I added level 3 and 4 employees available Saturday to the figures. . I divided the number of employees available to work Saturday as at 2 June 2015, by the total number of employees for each restaurant as at 2 June 2015.

For the percentage of employees actually rostered on the Saturday of that week (being Saturday 6 June 2015), I reviewed each restaurant's roster line bar report for the week which captures the data of each employee that clocks on to work each day of the week. I included level 2, 3 and 4 employees in my calculation. I then divided the number rostered on for the restaurant on Saturday, by the number of employees available to work Saturdays at that restaurant.

A copy of the calculations I prepared are annexed and marked "MD-X4". The result (rounded to the nearest whole number) is set out in the following table:

Restaurant	Percentage of employees available to work on Saturday	Percentage of employees actually rostered to work on Saturday
Burleigh Stockland	82%	43%
Burleigh Waters	78%	46%
Reedy Creek	77%	45%
Elanora	76%	53%
Palm Beach	85%	49%

38. As at the date of this statement, Jamadu also had employees requesting to work more hours on a Saturday than what they were currently being rostered on. I know this because there is an availability sheet that is posted every week next to the time clock in each restaurant and there are people who write their names down as wanting shifts. We also have private Facebook groups with all the crew and managers on it. On this forum many crew ask other crew if they wish to get rid of a shift or swap a shift or add a shift. Shifts are generally quick to be replaced and there are regularly many people requesting them.
39. Jamadu has no problem at all staffing its restaurants on a Saturday and Sunday – they are the easiest times to staff. I know this because I consider people to be the most important part of my business and I hire to a plan and we ensure we can be adequately staffed. The same is true of overnight shifts as well. The times that are most difficult to staff in the restaurants are through the day on Monday to Friday. Jamadu’s restaurants attract a lot of employees who are school students and typically they are not available during the day on week days as they attend school. Some school students work in the evening Monday to Friday but the majority work on the weekends. Many of our crew are under 16 or not yet completed year 10. These younger crew work primarily on weekends to meet the requirements of the child labour laws which in Queensland limit them to a total of 4 hours on a Monday to Friday (inclusive). It is more difficult to staff restaurants during the day, Monday to Friday because typically the employees who are available through the day on week days prefer to work five days per week, and at least 30 hours. However, this means that if I lose a staff member who works through the day on week days (for example, if they resign), it is very difficult to cover the shifts for that person. The restaurant feels a lot more pain for a greater number of weeks when an employee leaves who was available to (and did) work through the day on week days.
40. I do also have employees in my restaurants who do not make themselves available to work on weekends. Managers need to be available to be rostered 24/7. If other employees such as




crew indicate they are not available to work on weekends, then they will not be rostered to work on weekends.

41. Some crew take shifts at my other restaurants as they need more hours. Many of the staff at all restaurants want to work Saturdays and Sundays (I know this because they take extra shifts eagerly and they post requests on the availability sheets in the restaurants and on Facebook). The school students employed at the Burleigh Stocklands restaurant can only do long shifts on those days because we close the restaurant not long after they finish school.

Sunday Operations

42. For the purpose of this statement, I reviewed the rosters used by Jamadu in all five restaurants for the Sample Roster Period. I consider the Sample Roster Period to have been a typical operating period for Jamadu for Sunday trade for the same reasons as set out in paragraph 22 above.
43. For the Sample Roster Period, I calculated an average of the number of employees in each classification under the 2013 EA engaged in each restaurant on a Sunday using the same methodology set out at paragraph 23 above that I used for Saturday.
44. Based on the calculation set out at paragraph 43, the average number of employees Jamadu employed in its restaurants on a Sunday during the Sample Roster Period was:

Restaurant	Level 2	Level 3	Level 4	Total
Burleigh Stockland	7	0 or 1*	0 or 1*	8
Burleigh Waters	27	2	3	32
Reedy Creek	37	2	3	42
Elanora	27	1	3	31
Palm Beach	24	2	2	28
Total	122	7 or 8	11 or 12	141

* At the Burleigh Stockland restaurant, on average I use either one Level 3 employee or one Level 4 employee on a Saturday, but not both.

45. Based on the Sample Roster period, I also calculated an average of the number of Level 2 casual, part time and full time employees engaged in each restaurant on a Sunday. I did this by using the same methodology set out at paragraph 25 above in relation to Saturdays.
46. The results of the calculations set out at paragraph 45 show that the number of the Level 2 employees engaged by Jamadu to work at its restaurants on a Sunday in the Sample Roster Period who were casual, part time or full time was:

Restaurant	Casual	Part-time	Full-time	Total
Burleigh Stockland	5	2	0	7
Burleigh Waters	13	14	0	27
Reedy Creek	26	11	0	37
Elanora	17	10	0	27
Palm Beach	16	8	0	24
Total	77	45	0	122

47. I then repeated the calculations described at paragraph 45 above, for Level 3 employees. The results of those calculations show that the number of the Level 3 employees engaged by Jamadu to work at its restaurants on Sunday in the Sample Roster Period who were casual, part time or full time was:

Restaurant	Casual	Part-time	Full-time	Total
Burleigh Stockland	0	1	0	1
Burleigh Waters	0	2	0	2
Reedy Creek	0	2	0	2
Elanora	0	1	0	1
Palm Beach	0	2	0	2
Total	0	8	0	8

48. During the Sample Roster Period Level 2 employees employed by Jamadu worked the following shifts and shift durations on Sunday. I worked this out by adding up all the Sunday shifts from the Sample Roster Period for Level 2 employees and averaging it over the 4 weeks:

Restaurant	Less the 5 hours	More than 5 hours but less than 7 hours	More than 7 hours
Burleigh Stockland	3	2	2
Burleigh Waters	16	8	3




Reedy Creek	16	12	9
Elanora	18	6	3
Palm Beach	15	5	4
Total	68	33	21

49. In my view, for all five restaurants the optimal shift lengths for Level 2 employees on a Sunday is 4.5 hours. I say this for the same reasons as I stated for a Saturday in paragraph 30 above.
50. During the Sample Roster Period Level 3 employees employed by Jamadu worked the following shifts and shift durations on Sunday. I worked this out by adding up all the Sunday shifts from the Sample Roster Period for Level 3 employees and averaging it over the 4 weeks:

Restaurant	Less the 5 hours	More than 5 hours but less than 7 hours	More than 7 but less than 11	11 hours or more
Burleigh Stockland	0	0	0	1
Burleigh Waters	0	0	2	0
Reedy Creek	0	0	2	0
Elanora	0	0	1	0
Palm Beach	0	0	2	0
Total	0	0	7	1

51. In my view, for all restaurants the optimal shift lengths for Level 3 employees on a Sunday is eight hours. I like eight hour shifts for Level 3's on every shift as the shift setup takes time and the handover takes time and productivity is lost when we reduce the shift time.
52. For the purpose of these proceedings, I prepared calculations of the average sales achieved by Jamadu's restaurants on a Sunday for the Averaging Period (using the same methodology as I used for the Saturday calculations set out at paragraph 34 above).
53. The calculations I prepared for the Averaging Period show that the average net sales on Sunday during that period for each restaurant were the amounts set out in the table appearing as "**Confidential Exhibit MD-X5**" to this affidavit.
54. I refer to paragraph 36 above regarding having more people available to work on a Saturday than what I am able to roster on. The same is true on Sundays.




For the percentage of employees available to work Sunday, I used the used the same data as described in paragraph 37 but for Sunday that week (being 7 June 2015), and added on level 3 and 4 employees (as the report Scott Patterson provides only records level 2 employees). I divided the number of employees available to work Sunday as at 2 June 2015, by the total number of employees for each restaurant as at 2 June 2015.

For the percentage actually rostered on the Sunday of the week the report was generated, that date being Sunday 7 June 2015, I reviewed each restaurants roster line bar report for the week which captures the data of each employee that clocks on to work each day of that week. I included level 2, 3 and 4 employees in my calculation. I then divided the number rostered on for the restaurant on Sunday, by the number of employees available to work Sundays at that restaurant.

A copy of the calculations I prepared are annexed and marked "MD-X6". The result (rounded to the nearest whole number) is set out in the following table:

Restaurant	Percentage of employees available to work on Sunday	Percentage of employees actually rostered to work on Sunday
Burleigh Stockland	82%	39%
Burleigh Waters	81%	46%
Reedy Creek	72%	59%
Elanora	72%	55%
Palm Beach	90%	42%

55. As at the date of making this affidavit, Jamadu also has employees requesting to work more hours on a Sunday than what they were currently being rostered on. I know this because the availability sheets posted near the time clock have names on Sunday, and crew also tell us and they post on our internal Facebook pages. Employees who are school students below the age of 16 and/ or not completed year 10 are rostered to work Saturdays and Sundays as the child labour laws in Queensland limit them to a total of 4 hours on a Monday to Friday (inclusive). Jamadu attempts to roster these students only on weekends where possible to avoid breaching labour laws. It is our experience (many parents and the crew themselves tell the rostering manager, the shift manager or the restaurant manager) that many of these crew are time poor during the week and that they would prefer to be rostered on the weekend. These employees make up the majority of their hours on the weekend.




Evening Work

56. As at the date of this statement, Jamadu closes its Burleigh Stockland restaurant at 6pm on a Monday to Friday with the exception of Thursday which closes at 9pm. Elanora, Burleigh Waters, Reedy Creek and Palm Beach don't have a closing time as they are open 24/7.
57. During the Sample Roster Period, Jamadu employed on average three employees between 9pm and 10pm on Thursday at Burleigh Stockland. Burleigh Waters employed on average five employees between 9pm and 10pm on a Monday to Friday. Reedy Creek employed on average six employees between 9pm and 10pm on a Monday to Friday. Elanora employed on average four employees between 9pm and 10pm on a Monday to Friday. Palm Beach employed on average five employees between 9pm and 10pm on a Monday to Friday.
58. Many staff want to work the night shifts (I base this on comments my Rostering manager makes, the standby sheet having names written on it that night and comments written on the internal Facebook site). Jamadu has no issues getting the right number of staff that want to work at the other restaurants in the evening between 9 and 10 pm. The biggest complaint my management hear from parents is that child labour laws prevent their child from getting enough work. If we need a shift from 6pm-10pm covered we have many 15 year olds that want to complete this shift but we do not roster them because the consequence for having these crew clock off even one minute late could result in severe penalties.
59. I am aware that employees of Jamadu want more hours in the evenings by posts made by employees on Facebook and the individual Rostering Managers employed by Jamadu who have informed me that they have had requests for more hours.
60. The three hour minimum shift length requirement in the 2013 EA (which is also in the FFI Award) means that school aged employees cannot work in the Burleigh Stockland restaurant on weekdays, with the exception of Thursdays. By the time the employees are able to attend for work after school, the restaurant does not remain open long enough for a three hour shift. This means that in effect, the only day other than Thursday when school aged employees can work in the Burleigh Stockland restaurant is on weekends.

Systems for Employees to Express Preferred Working hours

61. Employees of Jamadu enter their permanent availabilities into a system called "metime". Staff enter their availabilities and my restaurants roster around those availabilities. Staff only work the shifts that they make themselves available for. If employees are unavailable on a day or time they would usually be available, they can write it in to a book and the Roster Manager enters that in to the My Restaurant system. That is a variation to their permanent availabilities entered into McDonald's "metime" platform. This system is extremely effective and is the reason that many busy students are able to continue working through their school and university years. I am in a position to say this as I have many discussions with my staff who attend university or higher education about how they manage their time and how they overcome the barriers of work, education and social commitments.



Personal Hours Worked

62. I estimate that typically I spend about 25 to 30 hours per week at the restaurants, 10 hours per week in meetings and 15 hours at the office or home on emails or similar activities. When I am at the restaurants, I check cleanliness, I serve customers, cook food, I have conversations with employees, and I check the various notices in the restaurant including the sheets next to the clocking station. I attend crew meetings and some manager meetings and I catch up with managers one on one. I frequently have crew tell me their concerns and I spend the time to understand whether it is a one off problem or if it warrants further investigation.

Health Impact of Weekend Work

63. I work in all my restaurants during weekdays. I also work in the restaurants on Saturdays and Sundays. I have not observed any greater rate of injuries in any restaurants on Saturdays or Sundays in comparison to weekdays, as a proportion of the number of people who would be rostered.
64. I have reviewed the injuries register of the all five restaurants for the period from 1 May 2014 to 31 May 2015. The injuries register recorded nine injuries over weekdays. The injuries register recorded five injuries over a Saturday or Sunday. An extract from the injuries register for this period is attached and marked "MD-X7". There are significantly more people rostered on a Friday, Saturday and Sunday than on other days of the week.

Career vs Non-career workers

65. I consider there are three different categories of workers at Jamadu with respect to how they see working at the restaurant as part of their career.
66. In my observation, most staff (approximately 70 per cent or more) are non-career employees. By a "non-career employee" I mean this may or may not be their first job, they are a school or tertiary student or are doing something to better themselves to prepare for another opportunity. These non-career employees tend to work weeknights and weekends around their studies - they might start work with Jamadu at age 14 and leave to go to university in another city or remain until they get a career job at about age 22.
67. In my observation, approximately a further 20 per cent move from non-career employee status to a "middle ground" between non-career and career status, where they are rostered according to their availability, but they mostly work Monday to Friday. I estimate that about 60 per cent of these crew are tertiary students, 20 per cent are looking for apprenticeships and the remaining 20 per cent are completing certificate programs with Jamadu and transition to career staff and management. Most of this "middle ground" group have a 24/7 availability or attend university and are rostered around that.
68. In my observation, around 10 per cent of Jamadu's employees are career employees. By "career employee" I mean they intend to progress through the management levels beyond

the junior shift runner level (this type of employee often stays in our employment for five or more years).

Complaints about weekend work

- 69. Jamadu maintains a system for receiving complaints from employees and/or for employees to raise concerns with their supervisor.

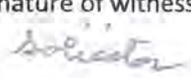
- 70. There are letters in the crew room that can be sent to McDonald's anonymously but I am not aware of them ever needing to be used. We have received no complaints from McDonald's. I observe Jamadu's workforce to have an excellent culture. There is an enjoyment index questionnaire that crew can answer to give feedback about the restaurant in a number of areas. McDonald's would address any complaints with me. Jamadu maintains many levels of management and fosters an "open door" policy. In my observation, if a crew person or a manager has a problem they tell somebody they trust and that person brings the concern to me or my General Manager. As to complaints specifically concerning weekend work, full time managers are required to work weekends in my business. This doesn't suit everybody and we do have managers who leave to work in another industry that offers 9-5 Monday to Friday. Most managers love that shift work provides them with flexibility. If a manager wants specific days off they are almost always honoured. Part time and casual crew simply work the hours that they choose to be available for.

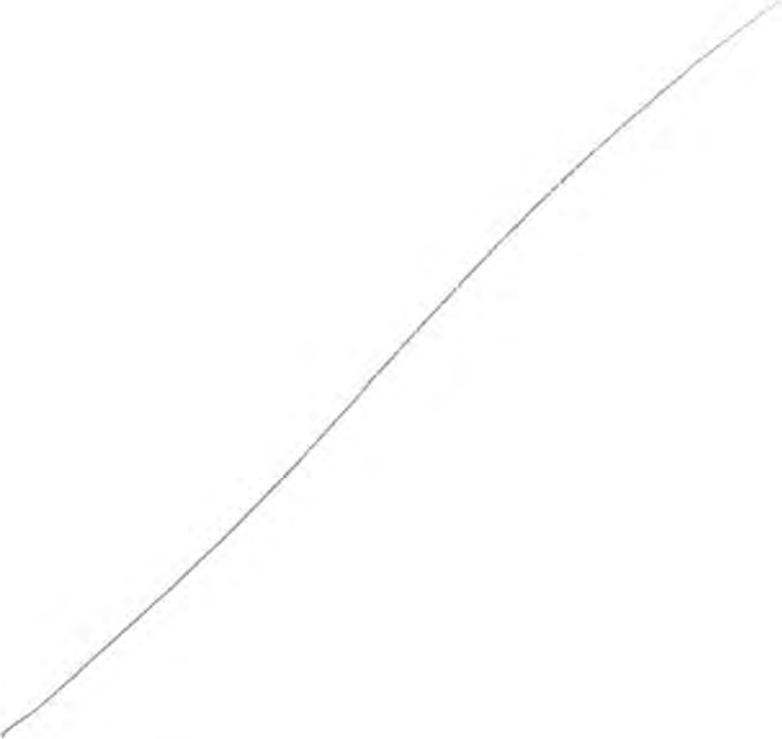
- 71. Many staff (particularly the non-career employees I described at paragraph 66 want to work weekends. Many of our day crew never work weekends as they don't make themselves available and I have many staff that want to work weekends. I can say this because these are the availabilities that are passed onto us. The full time managers are required to work weekends and they rotate the roster. Occasionally managers choose that they don't want to work weekends anymore and they go back to part time or casual. This rarely causes a problem as Jamadu has lots of staff that want the hours.

Affirmed by the deponent)
at Gold Coast)
in Queensland)
on ^{11th} ~~10~~ August 2015)
Before me:)

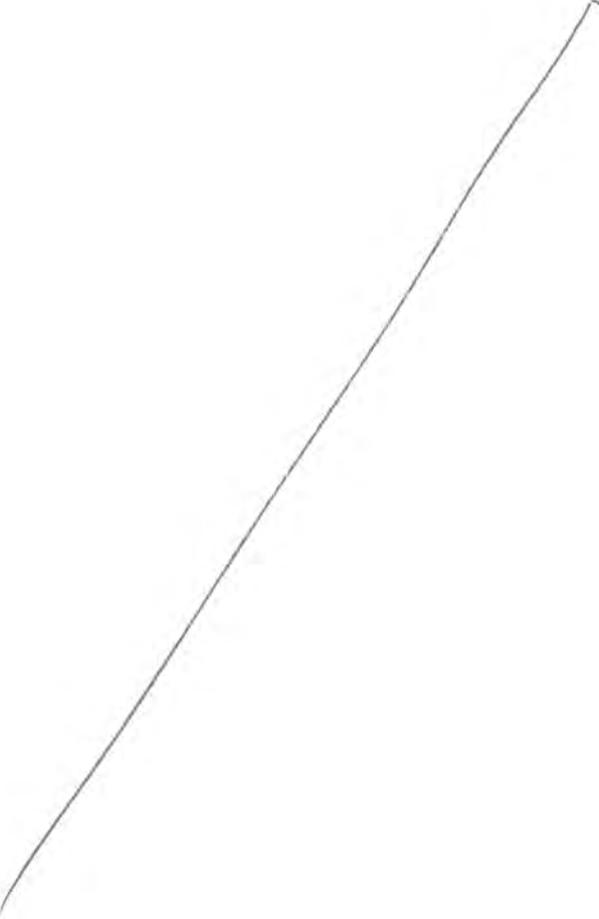


Signature of deponent


Signature of witness




I intentionally left blank



21



21



IN THE FAIR WORK COMMISSION

Matter No.: AM2014/305

Re Application by: The Australian Industry Group

This is the annexure marked **MD-X4** produced and shown to **Marcus Dunn** at the time of affirming his affidavit on 10 August 2015.

Before me:

A handwritten signature in black ink, appearing to be 'M. Dunn', written over a horizontal line.

Signature of Marcus Dunn

A handwritten signature in black ink, appearing to be 'M. Dunn', written over a horizontal line.

Signature of Witness

Saturday

	Rostered	Available	Rostered	Total Employees	% Available
Burleigh Stockland	10				
		23	43%	28	82%
Burleigh Waters	37				
		80	46%	102	78%
Reedy Creek	39				
		87	45%	113	77%
Elanora	36				
		68	53%	89	76%
Palm Beach	34				
		69	49%	81	85%
Total	130				

IN THE FAIR WORK COMMISSION

Matter No.: AM2014/305

Re Application by: The Australian Industry Group

This is the annexure marked **MD-X6** produced and shown to **Marcus Dunn** at the time of affirming his affidavit on 10 August 2015.

Before me:

A handwritten signature in blue ink, appearing to be 'M. Dunn', written over a horizontal line.

Signature of Marcus Dunn

A handwritten signature in blue ink, appearing to be 'M. [unclear]', written over a horizontal line.

Signature of Witness

Exhibit MD-X6

Sunday

	Rostered	Available	Rostered	Total Empl	% Available
Burleigh Stockland	9	23	39%	28	82%
Burleigh Waters	38	83	46%	102	81%
Reedy Creek	48	81	59%	113	72%
Elanora	35	64	55%	89	72%
Palm Beach	31	73	42%	81	90%
Total	130				

IN THE FAIR WORK COMMISSION

Matter No.: AM2014/305

Re Application by: The Australian Industry Group

This is the annexure marked **MD-X7** produced and shown to **Marcus Dunn** at the time of affirming his affidavit on 10 August 2015.

Before me:

A handwritten signature in black ink, appearing to be 'M. Dunn', written over a horizontal line.

Signature of Marcus Dunn

A handwritten signature in black ink, written over a horizontal line.

Signature of Witness

MARCUS DUNN 1ST MAY 2014 - 31ST MAY 2015

For Incidents, Date Entered From: Thursday, 01 May 2014 To: Sunday, 31 May 2015

<u>Event Date</u>	<u>Incidents</u>		<u>Incidents</u>	<u>%</u>	
12/05/2015	Tuesday	1	Monday	0	0%
4/04/2015	Saturday	1	Tuesday	3	21%
15/01/2015	Thursday	1	Wednesday	2	14%
10/12/2014	Wednesday	1	Thursday	3	21%
9/11/2014	Sunday	1	Friday	1	7%
25/09/2014	thursday	1	Saturday	2	14%
21/09/2014	sunday	1	Sunday	3	21%
30/07/2014	wednesday	1	Total	14	
19/06/2014	Thursday	1			
15/06/2014	Sunday	1			
3/06/2014	Tuesday	1			
17/05/2014	Saturday	1			
29/04/2014	Tuesday	1			
25/04/2014	Friday	1			

14

Criteria for this Report:

Return: All

Main Selectors:

>Data Entered: 1/05/2014 to 31/05/2015

Extra Dates:

>No Criteria Selected

Extra Fields:

>No Criteria Selected

Multi Level Keywords:

>Type Keyword: INCIDENT.L2

>Department Keyword: AU-CSD.L1, AU-WPS.L1

>Mgr/Licensee Keyword: DUNMAR.L2

Single Level Keywords:

>No Criteria Selected

Options:

>Include All Type: Yes

>Include No, Involved: No

>Include Split Incidents: No