



Ai GROUP WORKPLACE LAWYERS

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5 October 2016

Associate to President Iain Ross
Fair Work Commission
Level 4, 1 Exhibition Street
Melbourne VIC 3000

By email: chambers.ross.j@fwc.gov.au

Dear Associate

**FWC Matter No. AM2014/305
Four Yearly Review of Modern Awards – Penalty Rates (Proceedings)**

We refer to the above matter, and the Affidavit of Dr Andrew Pratley affirmed 3 November 2015 (**Pratley Affidavit**) (Exhibit Ai Group 17).

Ai Group has received a request from a Senior Research Analyst in the Workplace and Economic Research Section of the Fair Work Commission (**Commission**) to tender a document titled “*Food Industry Foresight – Fast Food in Australia 2013*” (**Food Industry Foresight Document**), which was referenced in Annexure AP-5 of the Pratley Affidavit.

Access to the Food Industry Foresight Document was purchased by Dr Pratley for the purpose of the Proceedings.

The Food Industry Foresight Document was supplied to Dr Pratley on the following Conditions of Use: “*The information you are accessing is the property of Food Industry Foresight Pty Ltd and is confidential. This information may only be shared with other individuals within your organisation for internal use only. Staff must be aware that they MUST NOT forward the files or information (in whole or in part) to any external parties, or include it in any promotional material.*”

We are informed that Food Industry Foresight Pty Ltd retains ownership of the information supplied to Dr Pratley, and understand that it has a proprietary interest in the information contained in the Food Industry Foresight Document remaining confidential and out of the public domain.

Dr Pratley has previously sought, and been granted, permission from Food Industry Foresight Pty Ltd for an extract of the Food Industry Foresight Document to appear in Annexure AP-5 of the Pratley Affidavit, on the basis of the table being treated as confidential evidence. During the hearing of Dr Pratley’s evidence, he informed the Commission that the extracted information had been provided to him on a commercially confidential basis and was not for public disclosure (Transcript, 5 November 2015, PN21492). Ai Group provided a redacted



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version of the Pratley Affidavit for publication on the Commission's website.

Dr Pratley has now sought permission from Food Industry Foresight Pty Ltd to tender the Food Industry Foresight Document, in light of the request from the Commission's Workplace and Economic Research Section (set out above).

We are informed that Food Industry Foresight Pty Ltd agrees to the Food Industry Foresight Document being provided to the Full Bench (together with other relevant personnel from the Commission), and the **legal representatives only** of the other parties to the Proceedings (should they wish to inspect the document). Food Industry Foresight Pty Ltd has not provided permission for the Food Industry Foresight Document to be shared or published, in any form, to a wider audience (including by way of example unions, any other broader groups or the public). We are informed that those parties are able to separately purchase the Food Industry Foresight Document from it, should they wish to access the information contained therein.

Accordingly, Ai Group now tenders with this correspondence a copy of the Food Industry Foresight Document on a **confidential basis**, and requests that it **not be published on the Commission's website**. Please inform us should the Commission require a formal Order to be sought in respect of the confidentiality arrangements requested.

If required, we are able to provide copies of the Food Industry Foresight Document to the legal representative(s) of a party to the Proceedings upon execution and return to us of a suitable Confidentiality Undertaking.

Yours Sincerely

A handwritten signature in black ink that reads 'L Cruden'.

Leanne Cruden
Senior Lawyer
Ai Group Workplace Lawyers

Encl.