

Submission

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Affidavit of: Zac Mina

Address: 33 Caxton Street, Petrie Terrace, Brisbane QLD 4000

Occupation: Chief Operating Officer

Date: 25 May 2021

I, Zac Mina of Gambaro Group affirm:

1. I am the Chief Operating Officer of Gambaro Group.
2. I make this submission based on my 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. The Gambaro Group operates four restaurants, one function centre and a 68 room hotel with the following breakdown:

	Full time	Part time	Casual	Labour hire/Agency
Number of employees	33	7	99	0

Length of service

	0 – 1 years	1-2 years	2 – 5 years	Greater than 5 years
Casual	65	16	16	2
Full time	5	4	13	11
Part time	2	2	1	2

4. We rely on Seek, Barcat, Facebook, Recruitment agencies and referrals for recruiting employees.
5. The typical operating hours of the establishment are lunch times on Tuesday – Friday from 11:30am to 2:30pm for the lunch service and 5:30pm – 9:30pm for Tuesday – Saturday.
6. The main factors towards rostering decisions include forecast covers, trading hours, events and the cyclical seasons within the industry.

7. Our business has been affected by being down at least 30% during the COVID-19 period. Our calculations have demonstrated that it costs us around \$50,000 in sales for each snap lockdown by the state government. We have had our hotel and restaurants closed due to government restrictions in response to COVID-19.
8. I have read the application made by Restaurant and Catering Industrial in this matter.
9. If these changes to the *Restaurant Industry Award* were to come into effect immediately, we would implement the new classifications structure, exemption rates and substitute allowance.
10. The new classification structure would simplify the current 3 streams with 6 different levels, which currently has confusing overlaps and complexity when attempting to classify employees correctly. The updated classification structure with 2 streams provides for a clear category of Cook or non-cooks, which makes the most sense in the industry as most businesses would split staff into two streams of either front of house or back of house roles. The three different grades of an upper, middle and lower tier level are an improvement on the six different levels, which is arbitrary and has many overlaps with each other as it is unclear. These can lead to an accidental misclassification from the confusion.
11. The simplification into three levels will also assist with career progression for those in the industry to understand that these grades correspond with entry level, middle management and senior roles within the industry with clear professional development plans. We have staff who find that the 6 levels shows a protracted career progression.
12. The exemption rates we would consider using for around 10% of our workforce who are in more senior roles such as restaurant managers, head chefs and sous chefs. For these senior roles, we would consider using this and this would save a lot of administration time as we are not requiring our senior staff to check in and out every time they take a meal break or when they are at the premises.
13. The biggest barrier to entry for the industry is that even with an annualised salary where overtime hours are considered, there is no indication or threshold for what may be considered “reasonable” overtime. Even with the 25% buffer from an annualised salary and the reconciliation for overtime hours, there is still uncertainty as to how many hours an employee may work in a given week. The exemption rate provides for a more certain expectation for employees and employers of around 45 or 57 hours. This leads to a more concrete understanding of a threshold of hours when compared to

the annualised salary arrangement which does not provide the same certainty or threshold.

14. This will support the industry and our business as we attempt to recruit and retain staff in response to the COVID-19 crisis. The short supply of labour due to the COVID-19 pandemic has made it difficult to recruit employees. These changes will provide greater assurance to prospective employees about the reasonable hours to be worked with an objective threshold we can reference as a starting point. This will help us to attract more staff.
15. The benefit of the substitute allowance is that it provides a safety mechanism for compliance purposes as a one-stop shop instead of the 6 technical allowances that can be easily miscalculated. Even if there is a premium for the substitute allowance, it mitigates the risk and provides business confidence when simplifying the calculations for paying staff. The six allowances are not easy to understand for employers or employees and require a lot of calculations every pay cycle for each employee, it is very easy to miscalculate one of the six allowances so the substitute allowance will give assurance that the calculations are correct every time.
16. The implementation of the substitute allowance and new classification structure will provide peace of mind about paying staff correctly and compliance can be assured. This will reduce compliance costs and the administrative burden that is currently required for these allowances and classification structure.
17. COVID-19 has resulted in increased complexity for businesses who are now also involved with health regulations, social distancing guidelines and understanding the different restrictions from snap lockdowns. These changes will go a long way towards reducing the complexities of running a business and will increase our business confidence.


Signature

Zac Mina _____
Full name

28/05/2021 _____
Date

Statement

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Affidavit of: Lee Green

Address: Corner Kent Street and Queens Park Road, Wilson, Western Australia

Occupation: General Manager

Date: 27 May 2021

I, Lee Green of Canning River Cafe affirm that:

1. I am the General Manager of Canning River Café and Fresh Convenience Catering.
2. I make this statement based on my 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. Our café venue is an alfresco site that is situated in a riverside park that is 25 minutes from the Perth CBD.
4. Our staff breakdown for the café is as follows:

EMPLOYMENT	AWARD GRADE
Casual 16YO	Level 1 Junior
Casual	Grade 2 Level 2F&B Attendant
Casual	Grade 1 Level 2Kitchen Attendant
Casual 17YO	Level 2 Junior
Part Time	Level 6 Operations Manager
Casual 15YO	Level 1 Junior
Casual	Grade 2 Level 2F&B Attendant
Casual	Grade 2 Level 2F&B Attendant
Casual	Grade 2 Level 2F&B Attendant
Casual 19YO	Level 3 Junior

Full Time	Level 5 Chef
Full Time	Level 4 Cafe Manager
Casual	Introductory Level
Casual	Grade 2 Level 2F&B Attendant
Casual	Grade 2 Level 2F&B Attendant

5. Our length of service is as follows:

	Less than 1 year	Between 1 and 2 years	Between 2 and 5 years	Between 5 and 10 years	More than 10 years
Number of employees	15	2	1	2	-

6. We recruit staff with social media channels and Gumtrees. We also rely on word of mouth through our team members. Usually, we have a 40% turnover rate over a 12 month period but in 2020, it was essentially the entire team that was replaced. When COVID-19 first hit, we resorted to takeaway and most of our casual staff were let go as they are usually students and from regional Western Australia so travelled back to be with family. Our Fresh Convenience Catering branch of the business which also employs 6 chefs and 3 casual drivers was fortunate during COVID-19 to have one large ongoing contract throughout 2020 which in addition to JobKeeper, allowed us to keep our permanent staff.

7. In our café we operate from 7am – 4pm, 7 days per week and are now back to normal opening hours.

	Composition of staff	Hours
Monday	3 FOH 1 K	34 hours
Tuesday	3 FOH 1 K	34 hours
Wednesday	3 FOH 1 K	34 hours
Thursday	3 FOH 1 K	34 hours

Friday	4 FOH 2 K	45 hours
Saturday	6 FOH 2 K	54 hours
Sunday	7 FOH 2 K	58 hours

8. The rostering structure is driven by customer activity, weather and practical needs to open the doors. Weekends are always busier than weekdays and our structure adjusts to accommodate this. There is also the change when school holidays hit, or summer is on – the traffic to the park naturally increases and we need to adapt to these changes.

9. The supply of staff has been significantly impacted by government payments made to keep the economy afloat. We often hear that there is a trend away from the hospitality industry with a different lifestyle and towards employment in industries that are not affected by sudden lockdowns. I have recognised that keeping borders closed has severely impacted the number of job seekers that would be a large component of a transient workforce. We are finding that we are needing to train in house from day 1 which is costly and expensive whereelse, prior to COVID-19, many applicants would at least have some previous experience. However, we have no choice now because the skill shortage and the move away from the hospitality industry has resulted in applicants with very little or no experience applying for the roles.

10. The supply of staff is so limited that our recruitment needs to be prioritised as soon as a resume is submitted, we cannot wait and must immediately be in contact with the applicant. We would usually have trial periods for our staff but the applicants currently all need training as they do not have enough experience, but we have no choice because of the staff shortage.

11. Although our opening hours have normalised, the demand still fluctuates. The requirement to wear facemasks is not conducive to a hospitality customer experience and takeaway only is not the same dine-in experience for our consumers. This has impacted demand of our services in the industry.

12. I have read the application by Restaurant and Catering Industrial in this matter.

13. If this proposal were to come into effect, I would immediately use the exemption rate proposal for our commercial kitchen staff with the catering business. In order to ensure we are compliant, our chefs are required to track their meal breaks, allowances and there is an administrative burden of a quarterly reconciliation. The generous buffer within the exemption rates provides greater clarity and simplicity for the employer and employee, reducing the requirement to fulfil administrative tasks when chefs are clearly paid well above their entitlements. This will also lead to a clearer expectation of hours for our chefs compared to the current annualized salary arrangement where there is ambiguity as their overtime rates are reconciled in arrears. The hours proposed in the exemption rates make this very clear.
14. The classification structure would be perfect for the café. I have been doing this for 30 years and the reality of the industry is that none of the 6 levels across the kitchen stream or food and beverage attendant streams fit nor does it make sense. This streamline is more appropriate and suitable for the industry where waitstaff, tablerunners, dishwashers and kitchenhands are in a non-cook stream as they often have overlapping duties.
15. The simplicity would also allow me to move a bit quicker on the recruitment process, as it will greatly reduce the paralysis by analysis because of the abundance of overlapping choices with the 6 different levels across 3 streams. At the moment, I am unable to delegate the recruitment process because of the gravity of misclassification and consequences of mistakes so it is always escalated to me. This increases the compliance costs and the recruitments time and costs when I am trying to run other numerous functions of the business.
16. The new classification would allow me to delegate this to staff because it is simpler and easier to understand without the ambiguity and overlaps. This would reduce the turnaround time for our recruitment process and hire more people quickly as I am able to delegate these functions with assurance that we are compliant.



Signature

Lee Green

Full name

28 May 2021

Date

Statement

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Affidavit of: Mark Holmes

Address: Building 20 Chowder Bay Road, Chowder Bay, NSW

Occupation: General Manager

Date: 28 May 2021

I, Mark Holmes of Grand Pacific Group affirm that:

1. I am the General Manager of Grand Pacific Group.
2. I make this statement based on my 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. Grand Pacific Group is a hospitality group that specialises in venues and functions such as The Tea Room Queen Victoria Building, Gunners Barracks, Dunbar House, Sergeants Mess, Yes Chef! and The Blue Room.
4. Across our business, the staff breakdown is as follows:

	Full time	Part time	Casual	Labour hire/Agency
Level 1				3
Level 2		6	100	
Level 3		4	20	
Level 4	30	1		
Level 5	19	1		
Level 6	12			

5. Our length of service is as follows:

	Less than 1 year	Between 1 and 2 years	Between 2 and 5 years	Between 5 and 10 years	More than 10 years
Number of employees	71	67	29	15	10

6. We recruit staff through a mixture of in house, Job active, Seek and recruitment agencies. We have a typical labour turnover over 12 months of around 30%.

7. For our kitchen and front of house operations, their hours are usually 6:30am – 11pm at their respective venues. For our office-based team in sales, accounts and reservations, their hours are from 8am to 6pm.

8. A case study for one of our venues with 2 events on a standard Friday and Saturday evening has the following roster structure.

	Composition of staff	Hours	Composition of staff	Hours
Monday	2x sales FT 4 x kitchen- 2 x FT cooks, 1 x casual cook, 1 x Kitchen attendant	8,8 8,8 8 8	FOH x 4 1x FT 3x casual	8 8,5,3
Tuesday	4x sales FT 4 x kitchen- 2 x FT cooks, 1 x casual cook, 1 x Kitchen attendant	8,8,8,8 8,8 6 6	FOH x 4 1x FT 3x casual	8 8,5,3
Wednesday	4x sales FT 4 x kitchen- 3 x FT cooks, 1 x casual cook, 1 x Kitchen attendant	8,8,8,8 8,8,8 8 6	FOH x 4 2x FT 2x casual	8,8 5,3
Thursday	4x sales FT 5 x kitchen- 3x FT cooks, 1 x casual cook, 1 x Kitchen attendant	8,8,8,8 8,8,8 8 6	FOH x 5 2x FT 3x casual	8,8 6,5,3
Friday	4x sales FT 7 x kitchen- 3 x FT cooks, 2x PT 1 x casual cook, 1 x Kitchen attendant	8,8,8,8 8,8,12 8,8 12 12	FOH x 4 3x FT 12x casual	8,8,12 8,8,8,8,8,8,6,6,6,5,5,4
Saturday	2x sales FT 7 x kitchen- 3 x FT cooks, 2x PT 1 x casual cook, 1 x Kitchen attendant	8,8 8,8,12 8,8 12 12	FOH x 4 3x FT 12x casual	8,8,12 8,8,8,8,8,8,6,6,6,5,5,4
Sunday	7 x kitchen- 4 x FT cooks,	8,8,8,8	FOH x 4 3x FT	8

	2 x casual cook, 1 x Kitchen attendant	8,6 7	9x casual	8,8,8,6,6,6,5,5,4
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9. The rostering structure is guided by historical data and the number of events booked.

10. The COVID-19 pandemic has had a profound impact on our business operations. There is a shortage of labour to fill required roles, particularly in the non-skilled and apprentice range. The shortfall of international students has seen contractual cleaning and kitchenhand markets directly affecting our ability to adequately cover these duties. There are caps placed on booking even though consumer demand is increase as staffing levels are not at required levels. There has also been a negative view of hospitality in the community which has contributed to this.

11. I have read the application by Restaurant and Catering Industrial in this matter.

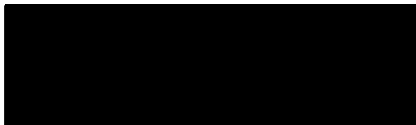
12. I would implement all three proposals if the Determination were to come into effect. The simplification of the classification structure and the broader band would allow for multi-skilling resulting in education and growth opportunity for our employees. We would immediately begin training up our staff to equip them with a diverse skill set.

13. This provides clarity for these roles resulting in a pathway of learning, a higher rate of retention and retaining our intellectual property for the business. Our employees would appreciate being able to experience a diverse range of duties and to be trained in other responsibilities. The current classification structure restricts it to the narrow bands due to concerns about misclassification, but the new classification structure would facilitate further training and productivity increases.

14. The exemption rate would provide a guaranteed rate of pay and hours for full-time employees which is an opportunity to manage growth to meeting consumer demand, and to alleviate the confusion and uncertainty of the current reconciliation process. This would also reduce our compliance costs and provide certainty for employment decisions of full-time staff.

15. The substitute allowance would also provide a higher guaranteed rate of pay instead of calculating every single allowance every week to see if an employee qualifies or does

not qualify for each allowance in a given shift. This provides assurance for both the employer and employee about the rate of pay that is required leading to clarity and certainty. This will help us to not only attract staff with a higher headline rate, but to also retain our existing staff with this greater certainty of this rate of pay.



Signature

Mark Holmes

Full name

30/05/2021

Date

Affidavit

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Affidavit of: Sarah Hooper

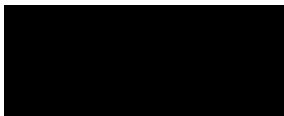
Address: 11 Hastings St, Noosa Heads QLD 4567

Occupation: Owner

Date: 25 May 2021

I, Sarah Hooper of La Vida Restaurant affirm that:

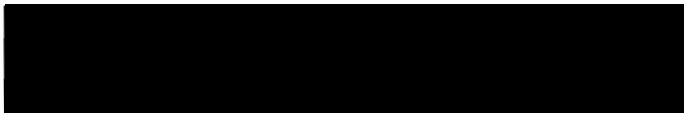
1. I am the co-owner of La Vida Restaurant and La Vida Privato with my husband Nick Hooper.
2. I make this affidavit based on my knowledge, information and belief unless otherwise stated. Where I make statements based on information provided to me, I identify the source of that information and otherwise believe it to be true and correct.
3. La Vida Restaurant is a 70-seat fine dining restaurant in Hastings Street, Noosa Heads. We bring a little of the cooler climate tastes to Noosa, concentrating on fresh Tasmanian seafood, local produce and friendly, efficient service.
4. During COVID-19, we extended the restaurant to add La Vida Privato which is an exclusive dining room that seats 12 adults. We saw this as an opportunity during the COVID-19 period as there was a demand for exclusive dining rooms that were segmented from other patrons.
5. We are a small business, and our workforce is composed of 8 full time employees and 3 casual employees. This includes Nick and I as owner-operators. Our 8 full-time employees consist of a front of house manager, 2 waitstaff, a barman and 4 chefs. Our 3 casual employees consist of 2 kitchenhands/dishwashers and a food runner. Regardless of their classification, all our staff are paid well above the Level 6 award rates.
6. Prior to COVID-19, we had only just bought the restaurant in September 2019 after moving from Tasmania. Previously, we owned and operated a 32-seat restaurant in Launceston for 18 years which we sold to take on this opportunity in Noosa Heads.
7. Due to the COVID-19 shutdowns, we had to terminate all our staff at the time, which consisted of 2 wait staff, 4 chefs, an apprentice and restaurant manager. The shutdown of the industry with takeaway-only meant it was unviable to have staff and until



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restrictions were relaxed, Nick and I covered all the required duties as owner-operators. At our previous restaurant in Tasmania, we had employees who stayed with us between 6 and 10 years.

8. We now have the same amount of staff at La Vida as when we inherited prior to COVID-19 when we purchased the restaurant in September 2019. As restrictions slowly relaxed over 2020 and into 2021, one by one, we slowly rehired all our staff to match the gradual increase in demand.
9. We count ourselves in the staff composition as we work in the restaurant as owner-operators so we have three staff who have been with us more than one year, all other employees have been employed less than 12 months after the situation with COVID-19 stabilised.
10. We open on Wednesday to Monday from 5pm to about 9:30pm for dinner only. We have to close on Tuesday night as we do not have enough staff to open every night. However, we need to open every night to be viable. There are some weeks we do not operate at a profit.
11. The reason why we only operate for dinner only is predominantly a lifestyle decision as we would like the restaurant to be self-sustaining even when Nick and I are not in the restaurant. To open for lunch times with the current restrictions and staff shortages would not be possible to achieve this.
12. Our rostering does not change from week to week, and it is the same on most days as we are turning over a consistent number of customers on a given night.
13. We have 3 waitstaff, a barman, 3 chefs and a kitchenhand on shift for all 6 nights that we open. The start time for front of house staff is from 2:30pm and 1:30pm for kitchen employees.
14. We have had to work with the challenge of demand being hit by COVID-19 and the supply of labour being indirectly impacted by COVID-19 stopping people come into Australia which is especially relevant in Noosa.
15. We advertise on the board in front of the restaurant, on Indeed, Seek, Jora, government websites, Facebook and Instagram.
16. The lack of staff is hindering our growth and we have an empty shop next to La Vida in which we would like to expand, but there are no staff to employ to open another area. All our staff are paid in excess of the level six entitlements and we advertise for our positions in excess of the level 6 entitlements in the award.



17. Even with higher advertised pay, we are unable to find staff. There are no spare staff in Noosa. Every restaurant is searching for staff at the moment.
18. Due to COVID-19, there has been a lack of staff as we no longer have backpackers who would support us in seasonal vacancies. The main applicants for any job vacancies are mainly overseas and they are unable to travel to Australia to fill these positions and roles.
19. I have read the application made by the Restaurant and Catering Industrial.
20. I believe the simplification of the *Restaurant Industry Award* is easier to navigate than the current structure. I would use the new classification approach immediately. All three chefs will be on the highest Grade 3 of the Cooks stream. I can group them all together and not have to think about so many layers. They are already all paid higher than this current rate so pay is not an issue.
21. I am always concerned to get payments correct so I tend to overpay anyway against the minimum.
22. These changes will make it neat and tidy providing peace of mind by removing the potential for mistakes in classifying employees. My main concern is simplicity and peace of mind which drives increased business confidence for me.
23. The biggest benefit is that it is easier to deal with and the simplicity it brings. I deal with the administration of the business and for me, simplifying the administrative component of the business will give me the certainty to hire more staff.
24. As a small business owner, I am involved with all administration including bookings, websites, correspondence with our bookkeeper, human resources and staff management. The award changes can be helpful in reducing the administrative burden for me as a small business owner.
25. The substitute allowance will remove all the complexity from the different allowances that I have to turn my mind to. I would propose this for all my full-time staff who currently receive some of the allowances such as meal allowance. This reduces the admin workload required for me to work out each individual allowance on a given day for each employee and I think the employees will prefer a better headline rate.
26. The substitute allowance would also result in a higher headline rate for job vacancies and advertisements which I think will assist in attracting candidates for these roles.
27. I have no hesitation to pay my staff the substitute allowances even if they do not receive the other allowances as I already pay my staff above their minimum entitlements.

Affirmed by the deponent

[Redacted signature]

Signature of deponent

at NEOSAVILLE

Location

on 27-05-2021

Date

Before me:

N. Schwabe
Signature of witness

Nicholas Thomas Schwabe J.P. (Qual)

Full name of witness



Witness Statement

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Statement of: Jeremy Courmadias

Address: Level 4, 17-19 Brisbane Street, Surry Hills, NSW 2010

Occupation: Group General Manager

Date: 26 May 2021

I, Jeremy Courmadias of Fink affirm:

1. I am the Group General Manager of Fink.
2. I make this statement based on my 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. The Fink portfolio of restaurants include Otto Brisbane & Sydney, Bennelong, Firedoor, Quay & Beach Byron Bay.
Across this portfolio, we have a total of 330 staff, with 169 full-time staff, 10 part-time staff and 150 casual employees.
The length of service for our staff includes 158 employees who have been here for less than 1 year, 45 employees between 1 and 2 years, 99 employees between 2 and 5 years, 20 employees between 5 and 10 years and 7 employees over 10 years.
4. The various classifications of our employees are listed below:

	Full time	Part time	Casual
Level 1	1	1	43
Level 2	0	3	69
Level 3	8	2	19
Level 4	43	2	15
Level 5	78	2	4
Level 6	6	0	0
Above Award	27	0	0

5. We rely on an in-house Recruiter to fill vacancies within our business.
6. The typical operating hours of each establishment, with head count, is below. There are no typical rosters for staff as they vary significantly by venue with seasonal changes and where venues are affected by demand changes because of covid, school holidays and other seasonal variables. A significant increase in short lead time bookings has left it more difficult to staff venues to adequately meet rapidly changing demand.

Venue	Crew Headcount	Trading Hours
Otto Sydney	63	Wednesday, Thursday & Friday All day dining Saturday 12pm - 9.00pm Sunday 12pm to 3.30pm
Otto Brisbane	53	OTTO Ristorante Lunch Friday to Sunday 12pm to 3pm Dinner Wednesday to Sunday 5.30pm to 10pm OTTO Osteria Wednesday to Sunday 12pm to late
Quay	61	Lunch Saturday & Sunday 12pm to 1.30pm Dinner Thursday to Sunday 6pm to 8.45pm
Firedoor	26	Dinner Wednesday to Saturday 5.30pm to 9pm
Beach Byron Bay	47	OPEN EVERY DAY Beach Kiosk - From 7am Lunch - From 12 noon Dinner - From 5:30pm
Bennelong	54	Dinner & Lunch Wednesday to Saturday 12:00pm -4:00pm & 5:30pm to 8:30pm

7. The predominant driver of rostering decisions in each week is customer demand from bookings, cost control and staff availability.
8. The COVID-19 pandemic has had a profound impact on our business.
9. With most of our restaurants operating as world class fine dining establishments, there was little opportunity to re-deploy our staff at the beginning of the pandemic. As the businesses recovers from the pandemic, we find that customer demand is very high, but lack of available staff has meant we have had to reduce our opening hours significantly.
1. The supply of labour for we require (skilled and well trained) is very shallow. There is a severe lack of higher skilled workers in the market currently. Fink has always relied on 50-60% of our staff coming from overseas.
2. Some CBD venues continue to struggle as CBD economic activity is still not where it was prior to the pandemic. A combination of CBD office vacancies, lack of domestic and international tourism to cities and a rise in work from home culture has affected turnover.
3. While confidence is high among diners, for our businesses it is undermined by an inability to deliver to expected standard and quality for a fine dining business with international acclaim. However, spend per head is up across all venues.
4. This has led to poaching becoming a problem for many of our businesses, where senior staff have been poached who then take more junior staff with them to new businesses. Recruiting is largely futile for some specialised positions like Sommeliers.
5. In our Byron Bay venue, we had to buy a large property for staff to live in to be able to keep the business viable from a staffing perspective.
6. I have read the application made by Restaurant and Catering Industrial in this matter.
7. If these changes to the *Restaurant Industry Award* were to come into effect, we would immediately implement the exemption rate arrangements and the substitute allowance.
8. We would not implement the classification proposal as the clearly defined roles we utilize in our business suit the current classifications and streams contained within the current award.
9. We employ a range of senior staff, both in back and front of house positions whose salary puts them well above than current award rates. We would immediately seek to introduce exemption rates into our businesses for roughly 30 employees.

10. The Exemption Rate proposal, if approved, would introduce a more suitable employment arrangement for staff already paid well in excess of the award by introducing greater levels of flexibility. It would also introduce a system that would be easier to manage from compliance perspective as our reconciliations are often extremely complex due to volume of hours and work performed by some senior staff.
11. Exemption rate gives capacity to continue to professionalize for senior staff through certainty of pay and expectations. Recently, a Senior Sous Chef requested a salary increase so he could speak with his bank about buying a house. Under his current salary conditions, he was paid an annualized base salary plus overtime for any hours worked over 44hrs a week. To allow for both a higher salary and greater consistency in his weekly wage, we increased his base salary to include the average overtime worked over a 3-month period instead of paying the additional overtime each week. Often hospitality staff struggle to be treated as professionals by financial institutions when the reality is senior staff are highly specialized, skilled, and dedicated to the industry.
12. We understand that the implementation of the exemption rate will represent a pay increase of some or many of these staff, the certainty and rate of pay would assist us in retaining highly skilled staff in a competitive environment.
13. The consultation requirement is consistent with how we work with employees on a 1 on 1 basis.
14. We would also seek to introduce the allowance proposal immediately across all employees within Fink. I am confident our employees would also embrace the simplified substitute allowance proposal.
15. The allowance proposal, while meaning the business will have to pay a higher headline rate, will assist us in attracting labor while also reducing compliance costs and managerial workload.
16. There is also a significant attraction to being able to better estimate and predict the cost of wages, especially when considering whether to open new venues.
17. Finally, the substitute allowance would allow us greater flexibility in our rostering decisions to better meet spikes in consumer demand across various venues.
18. We would commence staff engagement and training on these new measures to explain the substitute allowance to our employees, along with implementing the necessary IT and payroll changes required to support the amendments.

19. This will greatly assist with our compliance costs and further ensure that we are paying our staff correctly while also allowing us to better forecast wage costs.
20. At the moment, we attempt to individually apply the allowances to each of our staff across the different businesses. With over 330 employees, this is an immense challenge, and the substitute allowance will greatly reduce our administrative costs and provide us even greater certainty regarding award compliance and future wage costs in existing and new venues.
21. Fink is a unique business, with the majority of our business operating as world-leading fine dining venues. These changes proposed by RCI to the award present a unique and innovative way that the Restaurant Award can assist in solving problems we are facing in our business on a daily basis.



Signature

Jeromy Courmadiat

Full name

Date

27/5/2021

Statement

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Affidavit of: Craig Squire

Address: 6/1 Marlin Parade, Cairns, Queensland

Occupation: Director

Date: 26 May 2021

I, Craig Squire of Ochre Restaurant and Catering affirm that:

1. I am the Director of Ochre Restaurant and Catering.
2. I make this statement based on my 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. Ochre Restaurant and Catering is a restaurant and catering company in Cairns, servicing the North Queensland community.
4. Our staff breakdown is as follows:

	Full time	Part time	Casual
Introductory	3 apprentices		
Level 1		2	
Level 2			
Level 3	2		
Level 4	5		
Level 5	6		
Level 6	2		

5. Our length of service is as follows:

	Less than 1 year	Between 1 and 2 years	Between 2 and 5 years	Between 5 and 10 years	More than 10 years
Number of employees	6	1	8	3	2

6. For recruitment of staff we advertise on Facebook, Seek, Jora and Gumtree. Our turnover would normally be quite high because we would normally have backpackers,

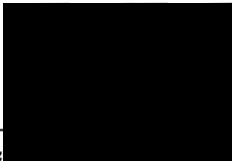
however, because of COVID-19, we do not have the backpackers that we would usually have. As a result, we have only had 2 permanent staff leave in the past 15 months as they reskilled to go into a different industry. We lost 4 backpackers who were part time due to COVID-19 as they were not eligible for JobKeeper and we were unable to retain them with the shutdowns.

7. The operating hours are Monday – Saturday from 11:30am until around late 1030pm to midnight. We currently do not have enough staff to open 7 days.

	Lunch	Dinner
Monday - Saturday	1 chef, 1 apprentice 1 waiter and 2 managers (owners)	3 chefs, 2 apprentices, 1 dishwasher, 1 bar, 4 to 6 waiters, 1 manager (owner)

8. I aim to have equitable rostering that provide a balanced skill set and enough staff to maintain standards. I rely on forecasting based on bookings and predicted sales.
9. COVID-19 has affected the hours of the business and consumer demand, and this is slowly coming back. We were closed for 8 weeks initially during the shutdown, then we were open for 10 people in 2 designated areas. Over time, as restrictions relaxed, we slowly increased capacity to 20 people per designated area but there was no demand, and we were unable to fill these bookings. It was devastating up until Easter this year and demand has now slowly picked up again.
10. As a tourist destination in Cairns, we have no international visitors, but this reduced demand has been temporarily alleviated as Australians visit from interstate as they do not have the option to travel overseas. I am concerned that Australians may be able to travel offshore but our borders will not open to international tourists and this will be a one sided arrangement. This will reduce demand again which is currently being propped up by domestic tourists who are unable to go overseas but will not visit Cairns when they have the opportunity to travel overseas.
11. We have no international staff so there is a reduced supply of staff. We have constantly been advertising since July 2020. We have found that there is a skill shortage in our industry for our business.
12. I have read the Application by Restaurant and Catering Industrial.
13. I would implement the simplification of classifications and the substitute allowance provision.

14. The simplification of classifications would make it simpler to understand as the 6 levels is too much and does not make sense. A simplified version of 3 levels for an upper, middle and lower tier would make it easier for employers and employees to understand.
15. The consolidations of the streams also make sense as we also occasionally do catering gigs for weddings, and we have our food and beverage attendants helping out in the kitchen as well. We need all hands on deck and the arbitrary distinction previously would lead to confusion about the classifications merely because someone was helping out with a task in another stream. These changes give me greater assurance and will assist in future hiring decision as well.
16. The substitute allowance would also make it easier to manage breaks and the various allowances that I would have to otherwise consider. This would save me administrative costs and reduce the cost of compliance, providing me assurance that all I need is to pay the one-stop substitute allowance to fulfil these obligations.
17. These challenges would provide me the business confidence that the complex compliance tasks are correctly addressed and provides simplicity so that I can continue focusing on the other important functions of running my business such as employing more staff.



Signature

 CARLA SOUZE

Full name

 26/05/2021

Date

Affidavit

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Affidavit of: Andrew Zaniewski

Address: [REDACTED], Queensland

Occupation: Managing Director

Date: 25 May 2021

I, Andrew Zaniewski of Ramen Danbo Australia Pty Ltd affirm that:

1. I am the Managing Director of Ramen Danbo Australia Pty Ltd.
2. I make this affidavit based on my 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. Ramen Danbo is a Japanese restaurant specialising in ramen noodles and side dishes with five retail locations and one production kitchen in Queensland.
4. We have 8 full time staff including myself, 22 part time and 36 casual employees. The full-time staff consists of our chefs, restaurant managers and office manager. Our part time and casual staff are our kitchenhand and waitstaff. Their classifications and length of service are as follows:

	Full time	Part time	Casual
Introductory		5	2
Level 1		5	7
Level 2		5	12
Level 3		7	15
Level 4			
Level 5	2 (Office manager + chef)		
Level 6	6 (2 owners-operators, 4 chefs/restaurant managers)		

	Less than 1 year	Between 1 and 2 years	More than 2 years
Number of employees	26	26	14

5. For recruitment of staff we advertise in store, online job boards and word of mouth from our current staff. Our current turnover is around 30-35%. The reason for the turnover is a mixture of terminations, working holiday or student visas finishing up or staff returning to Japan.
6. The operating hours for all five stores are similar from 11am-10pm, 7 days per week. On Monday to Fridays, we would have 5-6 staff at each store with more staff during busy dinner periods. On weekends, we would have 6-7 staff at each store, with more staff during busy dinner periods.
7. Our sales are fairly consistent throughout the year, and generally only spike up on public holidays, school holidays, and general holiday seasons. Depending on the location, there may be special events at nearby facilities which have to be taken into account, so it would be safe to say that it is a demand-driven process.
8. COVID-19 has had a mixed impact on our business. Only the Surfers Paradise store was closed for April & May 2020. In the past 18 months, we have added two store locations as well as a central production kitchen for all the stores. We are fortunate that we have responded to the challenges of COVID-19 well by seeking efficiencies such as a central production kitchen and the return of consumer demand has led to business growth.
9. Although the impact of demand has returned to pre-COVID levels, we are still heavily impacted by COVID-19 on the supply of labour. Especially since working holiday makers and international students made up a large proportion of our workforce and they are no longer in Australia such as the Surfers Paradise location. There is a short supply of labour and skill shortage. We have resorted to possibly hiring from New Zealand, should the opportunity present itself with travel bubbles.
10. I have read the Application by Restaurant and Catering Industrial.
11. If the Determination were to come into effect tomorrow, I would immediately begin consultation with my staff to explore the usage of the exemption rate proposal. I would sit down with each employee that has expressed an interest in this arrangement

as we have staff who are willing and capable of working more than the standard 37.5 hours per week, but I have previously turned these down and hired more staff instead.

12. This arrangement would mean we could have staff who work more hours and are therefore more experienced with less knowledge transfer between different staff members. The reduced knowledge transfer from having too many different staff members will lead to productivity improvements.
13. We have staff who previously wanted to work more hours, but the current overtime arrangement was not possible. As a result, it was more convenient to provide these extra shifts to casual or new employees. The exemption rates are a solution to this as it provides for a guarantee of hours and minimum pay which is more suitable for cashflow purposes than ad hoc overtime entitlements.
14. This would give me more confidence to put on more staff at full-time contracts and focus on upskilling staff to be eligible for these full-time permanent roles. This would reduce reliance on casual employees who are currently working those extra hours and I would focus on training and identifying casual staff who could be promoted within the company to these full-time permanent contracts.
15. This would allow me to look internally for providing additional hours to staff with a guaranteed minimum rate of pay and hours, which would help solve the current skill shortage that I am facing in my business as a result of COVID-19.
16. This would make opening new locations in regional areas far less difficult, as it would mean that rather than hiring and training the usual 12-15 staff members required for a new open, I can work with just 6-7 strong, full time staff members working on exemption rates.
17. As a Japanese restaurant, the skill shortage is felt more acutely due to the specialised cultural skills that I require, so this will allow me to retain more staff and have more flexible arrangements. This gives me the business confidence to take on more full-time employees and to consider other expansion opportunities for our stores.

[Redacted]

at Surfers Paradise

on 27/05/2021

Location

Date

Before me:

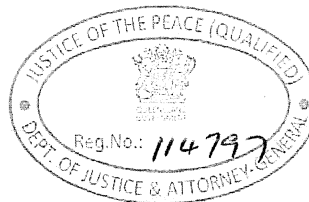
[Redacted]

Signature of witness

LEONORA TOMICEK

Full name of witness

JP/OVA



Witness Statement

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Affidavit of: Vince Salvatore

Address: 96 Flinders Street, Melbourne, VIC 3000

Occupation: Chief Financial Officer

Date: 27 May 2021

I, Vincenzo Salvatore of Lucas Group Services Pty Ltd affirm:

1. I am the Chief Financial Officer of Lucas Group Services Pty Ltd.
2. I make this statement based on my 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. The Lucas Group portfolio of restaurants include Chin Chin Melbourne, Kisume, Hawker Hall, Chin Chin Sydney, Baby, Gogo Bar, Society and Yakimono. Across this portfolio, we have 261 full-time staff, 9 part-time staff and 365 casual employees.
4. The length of service includes 329 employees who have been here for less than 1 year, 105 employees between 1 and 2 years, 164 employees between 2 and 5 years, 35 employees between 5 and 10 years and 2 employees over 10 years. There are currently 635 employees in total.

	Less than 1 year	Between 1 and 2 years	Between 2 and 5 years	Between 5 and 10 years	More than 10 years
Number of employees	329	105	164	35	2

5. We rely on word of mouth, external recruitment, and social media for recruiting labour with a typical labour turnover of 50% over 12 months for all employees.
6. The typical operating hours of each establishment, with head count, is below. There are no typical rosters for staff as they vary significantly by venue with seasonal changes.

Venue	Crew Headcount	Trading Hours
Chin Chin Melbourne	153	Mon-Sun 11:00am - 12:00am
Chin Chin Sydney	147	Mon-Fri 12:00pm - 11:30pm Sat 11:00am - 11:30pm Sun 11:00am - 10:00pm
Chin Chin Takeaway	13	Mon- Sun 4:00pm - 9:00pm
Hawker Hall	82	Mon- Sun 12:00pm - 11:00pm
Kisume	95	Mon - Thur 12:00pm - 10:00pm Fri - Sat 12:00pm - 11:00pm Sun 12:00pm - 10:00pm
Baby	60	Mon - Sun 12:00pm - 10:30pm
Society	11	Venue not yet opened
Head Office	69	Mon -Fri 9:00am - 6:00pm

7. The predominant driver of rostering decisions in a given week is revenue forecast and the team is structured based on their availability based on these projections.
8. The COVID-19 pandemic has had a significant impact on our business.
9. With most of our restaurants based in Victoria, the extended lockdown had a profound impact as table service was closed and when restrictions were relaxed, there were still restrictions on numbers.
10. Since the reopening, the continued uncertainty of snap lockdowns, border closures and ongoing staff shortages all impact the businesses. Customers remaining uncertain regarding forward bookings and the ongoing issues of staffing and skills shortages. In our business, people have left the industry due to its uncertain nature and inability to provide a stable ongoing salary or wage, meaning ongoing business viability is a problem. At our new venue at 80 Collins St, we have had to postpone its opening and we have been unable to find the staff needed to open the venue.
11. Other key impacts of COVID-19 on our labour are that most overseas workers have returned home and many domestic staff have told us that they have left the industry permanently due to lack of hours due to lockdown, restrictions, and the impact on job security.
12. The psyche of the labour force has permanently changed where employees and the labour are now pivoting towards industries that they perceive as “pandemic proof” such as relying on the taxpayer-funded public sector, health care or professional services where you can still work from home. Our business has experienced staff leaving the country as a response to pandemic as they could not be guaranteed consistent hours and pay due to the need to exercise stand down provisions during the pandemic.
13. There is a severe lack of higher skilled workers in the market as a result.
14. In this sense our business has been strangely squeezed between demand and labour supply which means the recovery from COVID is still challenging us and this will

continue until we are safe enough to open the international borders which I feel is the best way to describe getting back to normal.

15. I have read the application made by Restaurant and Catering Industrial in this matter.
16. If these changes to the *Restaurant Industry Award* were to come into effect, we would immediately implement the classification simplification and substitute allowance proposals.
17. We would not implement the Exemption rate arrangement as the current loading is too high for us, as is the corresponding maximum hours. As a staff management rule, we try to limit the hours of staff to a maximum of 38-40 hours on average, and where more hours are required, we pay overtime. For our most senior staff, we utilise common law contracts. The exemption rate arrangement, if approved, would represent a clear competitor to our use of common law contracts.
18. We have 223 Level 2 casual employees and 49 Level 1 casual employees, along with 58 Level 4 casual employees and 25 Level 3 casual employees. By utilising the simplified structure, these employees would benefit from this structure introduction. Put simply, the usage of this new classification scheme would bring three main benefits – ease of compliance with what is otherwise a very restrictive classification system that can often lead to unintentional underpayment of level 1 staff, greater skills development as staff can now be trained to perform tasks, they cannot currently do without triggering a higher rate of pay, and greater service standards through creating more flexible roles for individual staff members. For example, a level 1 food runner can now be expected to interact with customers without triggering a higher rate of pay, meaning we can train these staff members to perform level 2 duties without triggering a higher level of pay. We are not concerned that certain classification levels receive a pay rise under this new structure.
19. The consultation requirement is consistent with how we work with our employees and will drive engagement in the new classification structure.
20. I am confident our employees would also embrace the simplified substitute allowance proposal.
21. Having a higher headline rate will assist us attract higher skilled labour in the current market.
22. We would commence staff engagement and training on these new measures to explain the simplified classification and allowance to our employees, along with the required IT and payroll configurations to implement immediately.

23. This will greatly assist with our compliance costs and further ensure that we are paying our staff correctly.
24. At the moment, we attempt to individually apply the allowances to each of our staff across the different businesses. With over 650 employees, this is a complex challenge, and the substitute allowance will reduce our administrative costs and provide us even greater certainty with compliance.
25. Our business has experienced a once in a generation shock through COVID and while measured the introduction of changes in the award that make administration simpler or rostering the way people work more aligned to the reality of our businesses all goes to lifting my sense of confidence in operating the business which will make us more inclined to employ and provide hours to our staff.



Signature

VINCENTO SPINARE
Full name

28/05/2021
Date

Witness Statement

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Statement of: Tom Green

Address: [REDACTED] Greenwich NSW 2065

Occupation: Head of Policy, Government & Public Affairs – Restaurant & Catering Australia

Date: 31 May 2021

I, Tom Green of Restaurant & Catering Australia (R&CA) I affirm:

1. I am the Head of Policy, Government & Public Affairs at the Restaurant & Catering Australia.
2. I make this statement based on my 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. I have been working for Restaurant & Catering Australia since August 2019, employed to manage their policy, government relations and public affairs work.
4. In January 2020, I took over the management of Restaurant & Catering Industrial (RCI) on behalf of R&CA.
5. I have been the principal representative from RCI working on our proposal since the Minister for Industrial Relations communicated with the Fair Work Commission (FWC) on 9 December 2020 asking them to explore how specific industries that were materially challenged by the Pandemic could be further assisted in the recovery from the Pandemic and the FWC convened proceedings to consider the communication from the Minister for Industrial Relations.
6. This statement is to outline the calculation methods used to arrive at the specific thresholds involved in the exemption rate and substitute allowance proposals.
Exemption Rate
7. The exemption rate arrangement is designed to operate within two existing thresholds already defined within the Restaurant Industry Award (the award), being the existing minimum rates of pay and the 125% loading in place for the annualised salary arrangements.
8. The introduction of exemptions rates is aimed at achieving three key workforce objectives to assist businesses through the COVID-19 Pandemic recovery:

- Simplifying award compliance when dealing with senior staff;
 - Increasing an employer's ability to attract skilled labour in an economic landscape where skilled staff are limited; and
 - Guaranteeing higher levels of pay.
9. The eligibility for exemption rates is aimed at the specific circumstances for staff with higher requisite skills and qualifications such as sommelier, restaurant manager, café manager and chef de partie etc.
 10. The exemption rates are purposefully crafted to be generous to cater for these specific circumstances within the industry.
 11. These specialised roles were identified as employees within a workforce that would be appropriate for an exemption rate based on their seniority.
 12. The exemption rate calculation involves understanding what the minimum weekly payment would be for a certain pay grade (essentially the minimum pay rate multiplied by 1.25) to understand what the minimum annualised salary rate of pay is per week. This can be then expanded to understand the minimum yearly remuneration expectations for an employee on an annualised salary. Conversely, the annualised salary can then be specified as an hourly rate.
 13. The exemption rate proposal was then reached by then defining the maximum hourly limit. This hourly limit was reached by examining average rostered hours for these positions as they currently exist within the industry.
 14. Both award rate employees and employees receiving an annualised salary were relied upon in reaching the weekly overtime trigger. For the purposes of employees on level 5 & 6, a distinct weekly roster was identified within the industry, with two distinct features being a greater number of hours than 38 and a much higher hourly rate commensurate with the most senior positions within a business (Front of House Senior Management, Head Chef & Sous Chef).
 15. However, based on my knowledge of the industry and my research in determining how to set the exemption rate threshold over the last 9 months or so I can say that it is exceedingly rare for employees in the industry to work 57 hours over a weekly period. Overwhelmingly the standard hours for anyone who may contemplate the use of an exemption rate would be far lower than the outer limit of 57 hours, barring exception circumstances. The overwhelming majority of employees who operate on the

exemption rate will work less than 57 thus providing them with a remuneration benefit regarding how the 170% is calculated.

16. The exemption rate percentages were then reached by examining the hours worked within these rosters and how, on average, the hours worked triggered the payment of penalties and allowance under the award. Also, a key feature was accounting for rostered hours that included in excess of 38 hours per week. The final rate was then set to ensure that these employees would not be worse off under an exemption rate compared to a calculation done under the award or via an annualised salary.
17. After examining the base thresholds for pay & the hourly limit arrangements, it was then a process of extrapolating the annualised salary levels out to assume a 57 hour week, rather than the current annualised salary level (125%) that assumes 38 hours per week.

Substitute Allowance

18. The purpose of this rate is to provide a new mechanism by which employees paid under the award can be remunerated when they interact with various work and expense based allowances that currently exist.
19. The substitute allowance will assist employers in the industry during the recovery from the Pandemic because:
 - It encourages employment with a higher headline rate of pay to attract labour during the recruitment process.
 - It reduces the compliance costs and administrative burden borne by employers from calculating each allowance separately for each employee.
 - It allows for a more consistent and better estimate about the cost of wages for cashflow purposes rather than adhoc allowances that may or may not apply in a given week.
 - It expedites the compliance process by allowing for a single reference point as a substitute allowance, thereby reducing the costs of compliance employers who already face increasing compliance measures from Pandemic related government directives and restrictions.
20. For the substitute allowance proposal, we sought information from a range of businesses and business types across the industry currently paying on (not using common law set off arrangements) the award (both restaurants, cafes and fine dining establishments) and asked them to provide, by pay level the quantum of hours worked

by all employees at each relevant level as well as the quantum of relevant allowances paid to all staff.

21. These requests for hours worked across various pay grades and allowances paid were provided on an average basis over a monthly roster in February 2021.
22. Relevant data was then separated into casual and full-time/part-time employees to better understand the quantum paid to employees across both employment categories.
23. We also ensured that the number of hours that were used to calculate the relevant rates were also proportionate to the numbers of staff used at each pay grade.
24. This was to ensure we did not rely on high numbers of hours from too few staff or vice versa.
25. A total of 408,873 hours were used to calculate the allowance rate, with a simple calculation dividing the number of hours work with the number of allowances paid.
26. These rates where then further increased to provide a clear buffer and to give greater comfort regarding accuracy as well as limiting the risk of employees being worse off under this arrangement.



Signature

Thomas Green.

Full name

31/5/21.

Date

Witness Statement

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Statement of: Ben Cummings, General Manager Sydney Restaurant Group

Address: [REDACTED], Middle Cove 2081

Occupation: Group General Manager

Date: 27 May 2021

I, Ben Cummings of Sydney Restaurant Group affirm:

1. I am the Group General Manager of Sydney Restaurant Group.
2. I make this statement based on my 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. The Sydney Restaurant Group of restaurants & cafes mentioned in this statement include Ripples Chowder Bay, Aqua Dining, The Fenwick, Ripples Maritime, Jardin St James, Café Bondi, The Nielsen & Caffeine Cartel.

Across this portfolio, we have a total of 93 staff, with 48 full-time staff, 4 part-time staff and 43 casual employees.

The length of service for our staff includes 27 employees who have been here for less than 1 year, 31 employees between 1 and 2 years, 22 employees between 2 and 5 years, 10 employees between 5 and 10 years and 3 employees over 10 years.

4. The various classifications of our employees are listed below:

	Full time	Part time	Casual
Level 1			12
Level 2		4	31
Level 3	10		
Level 4	12		
Level 5	17		
Level 6	7		

5. We rely on public job advertisements and word of mouth (often through friends of current staff). We also implement a process where we interview.
6. The typical operating hours of each establishment, with head count, is below, staff often rotate across various venues so headcount can fluctuate venue to venue.

Ripples Chowder Bay

Monday to Thursday lunch only

Friday to Sunday 12pm to 10pm

Ripples Maritime

9am-4pm 7 days

The Fenwick

8am to 11pm 7 days

Caffeine cartel

6:30am – 2pm Mon-Fri

Jardin St James

7:00am – 2pm Mon-Fri

Café Bondi

7am-3pm Mon-Thurs

7am-9pm Fri-Sun

The Nieslen

Kiosk - 7am-4pm 7 days

Restaurant closed during winter

7. Minimum staffing requirements across each venue (1 FT manager in kitchen and 1 FT manager on the floor, with casual and part time staff Monday to Thursday – All staff rostered from Friday to Sunday.) Forward customer bookings and expected demand

for the week drives our rostering decisions for our restaurants. For our cafes, meeting a minimum staffing requirement is vital.

8. The COVID-19 pandemic has fundamentally changed the way we roster and staff our venues. Staffing shortages are now the single largest ongoing problem for our business arising from the pandemic.
 1. Sydney Restaurant Group operates a range of different venues, ranging from large restaurants to cafes in the Sydney CBD, we continue to be impacted by the slowdown that has occurred in the CBD – especially relation to office vacancies and the ongoing working from home culture. There is often little mid-week demand in venues and extremely strong demand at weekends and on Friday nights.
 2. For our restaurants, we have found considerable issues finding new staff to keep up with customer demand for dining. The pandemic caused a significant 'brain drain' from our business, where international students, working holiday makers and visa staff all leaving. The ensuing shortage of staff has caused us to reduce the hours our businesses are open.
 3. The poaching of senior, skilled staff has been a significant issue in our business, making talent retention important.
 4. For our function spaces, we have had many cancellations of events such as weddings and business events. We have had to refuse some function requests due to being unable to adequately staff the event.
 5. We have seen a significant drop in confidence within the business as we seem to be constantly recruiting for vacant positions whilst being unable to fill those vacancies. This sits against a backdrop of growing consumer demand for services in some venues, and continued lack of demand in our CBD cafés.
 6. I have read the application made by Restaurant and Catering Industrial in this matter.
 7. If these changes to the *Restaurant Industry Award* were to come into effect, we would immediately implement all three proposals.
 8. We employ a range of skilled front and back of house staff, many who have been with us throughout the pandemic. We would immediately seek to introduce exemption rates into all of our full-time staff on level 3 or above, which is approximately 51 employees.
 9. The Exemption Rate proposal, if approved, would provide a better way for us to roster skilled staff across our different venues while ensuring we are able to better ensure

award compliance rather than relying on complex and time-consuming reconciliations.

10. We understand that the implementation of the exemption rate will represent a pay increase of some or many of these staff, we view this as a positive measure to assist us in providing more certainty (both in pay and hours) to our skilled staff.
11. The consultation requirement is consistent with how we work with employees on a 1 on 1 basis for our more senior staff employed at level 3 and above.
12. We would also seek to introduce the allowance and classification immediately across all employees within the group. I am confident our employees would also embrace the simplified substitute allowance proposal as a raise in their upfront pay without amending their penalty rates or overtime, while certain staff would be unaffected or have their pay increased by the classification proposal.
13. The substitute allowance proposal provides a sensible and simple way for us to ensure we are remunerating our employees for the types of work they will perform in our business without having to contend with difficult to interpret award clauses.
14. Award compliance is very important to us and this model provides a clear and easy to understand way for us to ensure we are remaining compliant with the allowance system already outlined within the award.
15. This proposal also allows us more flexibility in rostering and on managers who are often needing to manage competing demands during a busy service.
16. We are also very supportive of the classification proposal. Whilst we understand that some employees would receive a pay increase because of this proposal, we are supportive of this new system as it allows a clearer model of classifying employees that more closely matches the myriad of expected jobs that could be performed within a restaurant or café. This is most apparent in our café businesses, where employees could reasonably, in the course of a single shift, be required to perform duties that stretch across three different streams of the current award (Food & Beverage, Kitchen & Cooks Streams). This model provides more creative rostering options for businesses owners in an environment where staff shortages are a significant problem.
17. We would immediately commence consultations with our staff as a single body to seek adoption of the allowance and classification proposals.
18. As venues that make up our business is a combination of both café and restaurant businesses, all three of these proposals, for different reasons, are attractive to both our business as a whole as well as our staff.

[Redacted signature]

Signature of witness

Ben Cummings

Full name of witness

27.5.21

Date

Affidavit

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Affidavit of: Sunshine Dyer

Address: Ground Floor, 14 Carol Avenue, Springwood QLD 4127

Occupation: Chief Financial Officer

Date: 25 May 2021

I, Sunshine Dyer of American Bourbon Bar and Grill affirm

1. I am an Owner Operator of American Bourbon Bar and Grill with my husband, Steve Holbert.
2. I make this affidavit based on my 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. The American Bourbon Bar and Grill is an American restaurant with extensive bourbon collection. We are primarily a dine in with events such as tasting nights on offer. We also offer takeaway and utilise delivery platform such as Uber and Doordash for takeaway meals. We have a main dining area connected to the bar and another room that we normally use for functions. We have had to close a secondary dining and function area therefore we can only serve 30 people at a time (previously 72) and we have reduced our operational times. This decommissioned function room was due to COVID-19 restrictions and we now use that space for storage at the moment.
4. As owner-operators, my husband and I are the primary workers of the business. We also have assistance from 2 apprentice chefs, 3 front of house trainees, 1 casual all-rounder and 1 casual kitchenhand. Four of our staff have been with us for less than 1 year and the other three have been with us for more than 2 years. We have lost 2 staff members over the past 12 months. Our previous staff and other potential staff we have tried to recruit have mentioned that they are now working in different industries where there is more stability.
5. For recruitment, we advertise on Facebook and for our trainees, we post advertisements with local schools.

6. The typical operating hours of the establishment are dinner service on Tuesday – Saturday from 5:30pm to 9pm for and lunch service on Friday and Saturday only between 12-2pm. We are closed on Sunday and Monday.

	Composition of staff (Steve and Sunny supervising on all shifts)	Hours
Monday	Closed	
Tuesday	2 - FOH Trainees 1 - Apprentice Chef	5.5 7.5
Wednesday	1 - Work Experience- Chef 1 - Apprentice chef 2 - Trainee FOH	3.5 4 4
Thursday	1 - Casual Chef 1 - Trainee 1 - apprentice	3 3.5 7.5
Friday	2 - trainees 1 - Work experience chef 1 - apprentice chef 1 - bartender 1 casual dishhand	7.5 3.5 4 3 3.5
Saturday	2 - trainees 1 - Work experience chef 1 - apprentice chef 1 - bartender 1 casual dishhand	7.5 3.5 4 3 3.5
Sunday	Closed	

7. Our rostering arrangement is dependent on trade requirements or if we are hosting large tables and events. When we reopened from COVID-19 last year there was a staff shortage. We had previous staff which left years ago return to help us operate. We recently had one of our old chefs return who is also a waitress and therefore holds a dual role.
8. The staff shortage is so high, we have relied on local schools for replacements or have been relying on ex-employees who previously worked for us. I would have some more staff returning however due to instability of the industry they moved to another sector. They have said to me that they are working in another industry that will not be affected by snap lockdowns. Also, some potential staff members have primary jobs

that they rely on for job security, therefore the tax rates for having a second job are too high for them to consider returning.

9. I completed a recruitment drive with some of the local schools to acquire replacements from 2 staff which left me this year. It has been quite successful as they have a willingness to learn the industry and eager to work any day of operation.
10. We only open 5 days a week now as Monday and Sunday trade was poor. This can be attributed to COVID-19 and its impact on our industry and demand. The cost of wages also makes it unviable to operate on these days. Steven and I work more on site now because of these costs.
11. On Saturdays, we have two seating times which affects the customer experience however we need weekends to be viable.
12. Many people are using takeaway services on Tuesday- Wednesday, therefore dine-in trade is poor. However, the cost of commissions on UberEats affect our bottom line so it is difficult.
13. I have read the application by Restaurant and Catering Industrial.
14. I would consider using the substitute allowance for my business. Currently, our interaction with the allowances for our employees is self-sufficient as we provide all tools and equipment for our staff, none of our staff are on split shift, we organise our laundry for all the uniforms of our staff and we supply meals to our employees.
15. I do this because if we were not self-sufficient, I would have to calculate all these individual allowances and the risk is too high that I will get one of them wrong. It is relatively easier to buy all the equipment for our staff, to organise our laundry for the staff and to supply meals for our employees than to attempt to calculate each individual allowance.
16. However, the substitute allowance would consolidate these separate allowances into 1 substitute allowance, and I would strongly consider using this for all my staff. Even if I have to pay the premium of the substitute allowance, it would now be administratively easier for me to pay a single substitute allowance than to spend my time administering the laundry for the work uniforms, providing equipment to my staff and organising meals for employees. It is more beneficial to ensure compliance in the restaurant sector. It will streamline and provide me the business confidence that I am paying the correct entitlements. Our industry is already in a vulnerable state, and I am working an additional 20 hours a week to prevent business losses.

17. By implementing this, this will reduce my administration workload and I will be able to allocate more time to concentrate on working on the business and expansion plans I have goals to expand the pastry side of the business as a pastry chef which I am interested in expanding and would look into employing a few apprentices who are interested in pastry. We could make use of the function room that was decommissioned because of COVID-19. At the moment, I receive a lot of requests to order my pastries that I have been turning down because of my own personal workload on administration and the short supply of staff. These changes would solve that problem for me.
18. The impact of COVID-19 has not only been on the supply of skilled employees but also the increased administrative burden of understanding new restrictions every time there is a new case of COVID-19 and the everchanging health regulations in the industry about facemasks, social distancing and capacity quotients. All of this adds up to an already complex administrative burden that I have in trying to understand the *Restaurant Industry Award* so I am paying my staff correctly.
19. These changes will go a long way towards reducing my compliances costs and the administrative burden, increase my business confidence that I am compliant, allowing me to focus on expanding my pastry business, hire more apprentice and re-use the decommissioned room to take on more pastry orders.
20. As the COVID-19 situation continues to improve and business confidence improves, when we are able to recruit staff I would also consider increasing opening hours to include more lunch services and increase shifts available for these times. We would return to conference lunches for businesses which we used to do before COVID-19 and would consider starting this again when we have the staff to service the lunchtime hours. These changes will provide me the business confidence and reduce the administrative workload to allow me to focus on expanding the business and to increase employment opportunities and available hours for our staff.

Affirmed by the deponent

[Redacted Signature]

Signature of deponent

at Springwood

Location

on 27/05/2021

Date

Before me:

[Redacted Signature]

Signature of witness



Awadhesh Sharma
JP (Qual)

Full name of witness

Statement

No. AM 2021/58

In the Fair Work Commission

Re Application by: Restaurant & Catering Industrial

Affidavit of: Tim Johnson

Address: 283 Elizabeth Street, Brisbane City, Queensland

Occupation: Director

Date: 28 May 2021

I, Tim Johnson of Corbett & Claude Pty Ltd affirm that:

1. I am the Director of Corbett & Claude Pty Ltd.
2. I make this statement based on my 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. Corbett & Claude Pty Ltd has a portfolio of 3 restaurants in Queensland that embodies a rustic, home-style influence dine-in experience complemented by open kitchen and bars. We primary serve our customers are mixture of share plates, pizzas, pastas with an eclectic selection of craft beers, wines and signature cocktails.
4. Our staff breakdown is as follows:

	Full time	Part time	Casual
Introductory		10	
Level 1		40	
Level 2		54	
Level 3		19	
Level 4		10	
Level 5		6	
Level 6			
Higher Salary	21		

5. Our length of service is as follows:

	Less than 1 year	Between 1 and 2 years	Between 2 and 5 years	Between 5 and 10 years	More than 10 years
Number of employees	102	43	14	1	-

6. We recruit staff through a variety of channels such as Expr3ss Hiring Tool, Barcat, social media, Seek and a recruitment agency for management positions. We had an 86% turnover rate in 2020.
7. Our venues open for lunch and dinner, 7 days per week from 11am to 10pm.

	Composition of staff	Hours Estimated per day
Monday	Day Shift: 1 Senior FoH FT/PT 1 Senior BoH FT/PT 1 FoH TM PT 2 BoH TMs PT Dinner Shift: 1 Senior FoH FT/PT 1 Senior BoH FT/PT 2 FoH TM PT 4 BoH TMs PT	55
Tuesday	Day Shift: 1 Senior FoH FT/PT 1 Senior BoH FT/PT 1 FoH TM PT 2 BoH TMs PT Dinner Shift:	55

	1 Senior FoH FT/PT 1 Senior BoH FT/PT 2 FoH TM PT 4 BoH TMs PT	
Wednesday	Day Shift: 1 Senior FoH FT/PT 1 Senior BoH FT/PT 1 FoH TM PT 2 BoH TMs PT Dinner Shift: 1 Senior FoH FT/PT 1 Senior BoH FT/PT 2 FoH TM PT 4 BoH TMs PT	60
Thursday	Day Shift: 1 Senior FoH FT/PT 1 Senior BoH FT/PT 1 FoH TM PT 2 BoH TMs PT Dinner Shift: 1 Senior FoH FT/PT 1 Senior BoH FT/PT 2 FoH TM PT 4 BoH TMs PT	65
Friday	Day Shift: 1 Senior FoH FT/PT 2 Senior BoH FT/PT 1 FoH TM PT	90

	2 BoH TMs PT Dinner Shift: 2 Senior FoH FT/PT 2 Senior BoH FT/PT 6 FoH TM PT 6 BoH TMs PT	
Saturday	Day Shift: 1 Senior FoH FT/PT 2 Senior BoH FT/PT 1 FoH TM PT 2 BoH TMs PT Dinner Shift: 2 Senior FoH FT/PT 2 Senior BoH FT/PT 6 FoH TM PT 6 BoH TMs PT	110
Sunday	Day Shift: 1 Senior FoH FT/PT 1 Senior BoH FT/PT 1 FoH TM PT 2 BoH TMs PT Dinner Shift: 1 Senior FoH FT/PT 1 Senior BoH FT/PT 3 FoH TM PT 4 BoH TMs PT	70

8. The rostering structure is driven by sale projection and budget based on the previous week results, weather, upcoming special events or functions.

9. When COVID-19 hit, the staff at 2 venues were stood down due to the lockdown. They were given the option to find employment at one of our other venues. We had to reduce our opening times based on the reduced consumer demand from the restrictions.
10. The biggest aftermath that we have to deal with in our daily operations is finding qualified and skilled staff for senior positions and management. There has been a lack of candidates for senior positions with less applicants available and potential applicants are less committed to the hiring process. We have had an increase in the ratio of people quitting during the hiring process. It has taken more time to fill vacancies and the recruitment process costs have gone up significantly. The training costs have also gone up as the skill levels of applicants are lower than pre-COVID and we have had to settle for less skilled applicants because of this severe shortage.
11. I have read the Application by Restaurant and Catering Industrial in this matter.
12. If the Determination were to come into effect, I would use the new simplified classification structure and substitute allowance proposal. These proposals would allow our business to better cashflow, higher investment in training and more flexibility with allowances.
13. We would apply the new simplified classification structure and substitute allowance proposal to our entire team, all the full-time and part-time staff in all our venues. The new classification structure with a broader band will result in multi-skilling of our existing and future employees which will be beneficial in response to the skill shortage. This will lead to productivity increases across our staff as we invest in their training to be equipped for other duties in the other streams, whilst ensuring the classification is clear and simple.
14. The substitute allowance would result in a higher headline rate for our all employees and allow us to attract more staff. Further, this would simplify the allowance calculation process and reduce the compliance costs and time that it takes to administer this.
15. We would implement these proposals by seeking board approval, having workshops and meetings with our staff to explain these changes, make the requisite adjustments to our systems and training for support staff to accommodate these changes.
16. This would allow us to dedicate more time to the hiring process and training of new employees to upskill them as quickly as possible. This would lead to a positive impact with more investment being channelled to cover the rising hiring costs, allow us to budget more for training, increase marketing investment, upgrade our equipment to boost revenue and higher staff satisfaction and confidence.



Signature

TIM JOHNSON

Full name

28/05/2021

Date