

**From:** Chambers - Hatcher VP  
**Sent:** Monday, 13 February 2017 1:25 PM  
**To:** [Trent.Sebbens@ashurst.com](mailto:Trent.Sebbens@ashurst.com); [Adrian.Morris@ashurst.com](mailto:Adrian.Morris@ashurst.com); [gunzburg@bigpond.net.au](mailto:gunzburg@bigpond.net.au); Sydney Registry; AMOD; [athomas@cfmeu.com.au](mailto:athomas@cfmeu.com.au); [aguy@professionalsaustralia.org.au](mailto:aguy@professionalsaustralia.org.au); [cbolger@professionalsaustralia.org.au](mailto:cbolger@professionalsaustralia.org.au); [gsouth@cfmeu.com.au](mailto:gsouth@cfmeu.com.au); [osman.basiacik@amwu.asn.au](mailto:osman.basiacik@amwu.asn.au); [ruchi.bhatt@aigroup.asn.au](mailto:ruchi.bhatt@aigroup.asn.au); [abukarica@cfmeu.com.au](mailto:abukarica@cfmeu.com.au); [sally.taylor@amwu.asn.au](mailto:sally.taylor@amwu.asn.au); [SCarswell@professionalsaustralia.org.au](mailto:SCarswell@professionalsaustralia.org.au)  
**Subject:** AM2014/67 - Black Coal Industry Mining Award 2014

Dear Mr Morris,

**Re: AM2014/67 Black Coal Industry Mining Award 2014**

In response to the correspondence from the Unions dated Friday 10 February 2017 attached, the Full Bench is considering deferring issuing the determination varying the Black Coal Industry Mining Award until 13 March 2017. If you would like to make any submissions in relation to this please do so by **5pm 17 February 2017**.

Kind regards,

**Helen Hamberger**  
Associate to Vice President Hatcher

**Fair Work Commission**  
Tel: (02) 9308 1812  
Fax: (02) 9380 6990  
[helen.hamberger@fwc.gov.au](mailto:helen.hamberger@fwc.gov.au)

Level 10 Tower Terrace  
80 William Street  
East Sydney NSW 2011  
[www.fwc.gov.au](http://www.fwc.gov.au)

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**From:** [Elysse.Lloyd@ashurst.com](mailto:Elysse.Lloyd@ashurst.com) [<mailto:Elysse.Lloyd@ashurst.com>]  
**Sent:** Monday, 13 February 2017 11:36 AM  
**To:** Chambers - Hatcher VP  
**Cc:** [Trent.Sebbens@ashurst.com](mailto:Trent.Sebbens@ashurst.com); [Adrian.Morris@ashurst.com](mailto:Adrian.Morris@ashurst.com); [gunzburg@bigpond.net.au](mailto:gunzburg@bigpond.net.au); Sydney Registry; AMOD; [athomas@cfmeu.com.au](mailto:athomas@cfmeu.com.au); [aguy@professionalsaustralia.org.au](mailto:aguy@professionalsaustralia.org.au); [cbolger@professionalsaustralia.org.au](mailto:cbolger@professionalsaustralia.org.au); [gsouth@cfmeu.com.au](mailto:gsouth@cfmeu.com.au); [osman.basiacik@amwu.asn.au](mailto:osman.basiacik@amwu.asn.au); [ruchi.bhatt@aigroup.asn.au](mailto:ruchi.bhatt@aigroup.asn.au); [abukarica@cfmeu.com.au](mailto:abukarica@cfmeu.com.au); [sally.taylor@amwu.asn.au](mailto:sally.taylor@amwu.asn.au); [SCarswell@professionalsaustralia.org.au](mailto:SCarswell@professionalsaustralia.org.au)  
**Subject:** Re: AM2014/67 - Black Coal Mining Industry Award

Dear Associate

**AM2014/67 - 4 yearly review of modern awards – Black Coal Mining Industry Award – redundancy pay**

We refer to the correspondence on behalf of APESMA and the CFMEU sent last Friday (10 February 2017).

In that correspondence, APESMA and the CFMEU indicated that they may seek a stay from the Federal Court, and requested that, accordingly "*the effective date of the variation [to the Award] be deferred for at least 30 days to preserve the status quo pending any application for a stay*" by those parties to the Federal Court. In the absence of either an order of the Federal Court, or an application to the Commission for it to stay the proceedings, the Commission ought not defer exercising its jurisdiction by issuing a determination to amend clause 14 of the Black Coal Mining Industry Award 2010 with effect from 27 January 2017 in accordance with its decision.

It is a matter for APESMA and the CFMEU to formally seek relief from the Federal Court or the Commission, if it wishes to do so. The CMIEG would wish to be heard if the Commission intended to consider the indulgence sought by APESMA and the CFMEU, or upon any such application.

Yours faithfully

**Adrian Morris**

Senior Consultant

[adrian.morris@ashurst.com](mailto:adrian.morris@ashurst.com)

**Ashurst**

D: +61 2 9258 6025 | M: +61 418 243 422

**Trent Sebbens**

Counsel

[trent.sebbens@ashurst.com](mailto:trent.sebbens@ashurst.com)

**Ashurst**

D: +61 2 9258 6313 | M: +61 447 643 090

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Ashurst Australia, 5 Martin Place, Sydney, NSW 2000 Australia

T: +61 2 9258 6000 | F: +61 2 9258 6999 | DX 388 Sydney

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Begin forwarded message:

**From:** "Sue Carswell" <[SCarswell@professionalsaustralia.org.au](mailto:SCarswell@professionalsaustralia.org.au)>  
**To:** ""[chambers.hatcher.vp@fwc.gov.au](mailto:chambers.hatcher.vp@fwc.gov.au)"" <[chambers.hatcher.vp@fwc.gov.au](mailto:chambers.hatcher.vp@fwc.gov.au)>  
**Cc:** "Alex Bukarica" <[abukarica@cfmeu.com.au](mailto:abukarica@cfmeu.com.au)>, "Morris, Adrian 66025" <[Adrian.Morris@ashurst.com](mailto:Adrian.Morris@ashurst.com)>, "Catherine Bolger" <[cBolger@professionalsaustralia.org.au](mailto:cBolger@professionalsaustralia.org.au)>  
**Subject:** AM2014/67 - Black Coal Industry Mining Award 2014

Dear Associate to Vice President Hatcher  
Fair Work Commission

Please find attached correspondence from Catherine Bolger, Director on behalf of APESMA and the CFMEU in relation to the decision of the Full Bench in the matter AM2014/67 dated 27 January 2017.

Regards,

**Sue Carswell**

Industrial Relations & Organising Assistant

**Collieries' Staff and Officials Association**

Lvl 1, 491 Kent Street

Sydney NSW 2000.

[infocsd@professionalsaustralia.org.au](mailto:infocsd@professionalsaustralia.org.au)

[www.collieries.org.au](http://www.collieries.org.au)

P: 02 9269 0688F: 02 9269 0611

10 February 2017

Associate to Vice President Hatcher  
Fair Work Commission  
80 William Street  
EAST SYDNEY NSW 2011

By email: [chambers.hatcher.vp@fwc.gov.au](mailto:chambers.hatcher.vp@fwc.gov.au)

Dear Associate


**RE: AM2014/67 – Black Coal Industry Mining Award 2014**

I write on behalf of the Association of Professional Engineers, Scientists and Managers, Australia and the Construction, Forestry, Energy and Mining Union, Mining and Energy Division (**the Unions**) in relation to the decision of the Full Bench in this matter dated 27 January 2017 (**Decision**).

At paragraph [68] of the Decision the Full Bench invited the parties to file written submissions in relation to the form of the clause proposed in the Decision. Save for the question of effective date addressed below, the Unions do not wish to be heard in relation to the form of the clause. If submissions are made in relation to that matter, the Unions request the opportunity to respond.

As to the effective date of the variation, the Unions intend to make an application for the judicial review of the Decision and may ask the Federal Court to stay the Decision. On that basis, the Unions respectfully request that the effective date of the variation be deferred for at least 30 days to preserve the status quo pending any application for a stay.

Yours faithfully



**Catherine Bolger**  
**Director**

**P:** (02) 9269 0688

**E:** [cbolger@professionalsaustralia.org.au](mailto:cbolger@professionalsaustralia.org.au)

**CC:** Mr Adrian Morris, Senior Consultant, Ashurst Australia  
Mr Alex Bukarica, National Legal Director, CFMEU Mining and Energy Division