

**From:** Chambers - Hatcher J <Chambers.Hatcher.J@fwc.gov.au>  
**Sent:** Tuesday, 21 March 2023 11:36 AM  
**To:** Imogen Szumer <ISzumer@mauriceblackburn.com.au>  
**Cc:** Phillip.Pasfield@slatertgordon.com.au; J Bornstein <JBornstein@mauriceblackburn.com.au>; Jessica Dawson-Field <JDawson-Field@mauriceblackburn.com.au>  
**Subject:** RE: Application by Kelly - D2022/10 [S+G-ACTIVE.7592.M659724.FID4985934]

OFFICIAL

Dear parties,

I confirm the Full Bench has considered the applicant's requested amendments and has instructed me to advise that the amendments are allowed.

Kind regards  
Caroline

**Caroline Beasley**  
**Associate to Justice Hatcher, President**



## Fair Work Commission

Australia's national workplace relations tribunal

T (02) 9308 1812

E [chambers.hatcher.j@fwc.gov.au](mailto:chambers.hatcher.j@fwc.gov.au)

Level 11, Terrace Tower, 80 William Street, EAST SYDNEY NSW 2011  
[www.fwc.gov.au](http://www.fwc.gov.au)

The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

**This email was sent from Gadigal Country.**

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**From:** Imogen Szumer <[ISzumer@mauriceblackburn.com.au](mailto:ISzumer@mauriceblackburn.com.au)>  
**Sent:** Monday, 20 March 2023 11:13 AM  
**To:** Chambers - Hatcher J <[Chambers.Hatcher.J@fwc.gov.au](mailto:Chambers.Hatcher.J@fwc.gov.au)>  
**Cc:** [Phillip.Pasfield@slatertgordon.com.au](mailto:Phillip.Pasfield@slatertgordon.com.au); J Bornstein <[JBornstein@mauriceblackburn.com.au](mailto:JBornstein@mauriceblackburn.com.au)>; Jessica Dawson-Field <[JDawson-Field@mauriceblackburn.com.au](mailto:JDawson-Field@mauriceblackburn.com.au)>  
**Subject:** FW: Application by Kelly - D2022/10 [S+G-ACTIVE.7592.M659724.FID4985934]

Dear Associate

We refer to the below email and confirm the CFMMEU does not oppose the amendments.

Kind regards

**Imogen Szumer** T 03 9960 7058 F 03 9258 9613

Associate

E [ISzumer@mauriceblackburn.com.au](mailto:ISzumer@mauriceblackburn.com.au)

Naarm

Level 21, 380 La Trobe Street  
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**From:** Chambers - Hatcher J <[Chambers.Hatcher.J@fwc.gov.au](mailto:Chambers.Hatcher.J@fwc.gov.au)>

**Sent:** Monday, March 20, 2023 8:33:59 AM

**To:** Phillip Pasfield <[Phillip.Pasfield@slatertgordon.com.au](mailto:Phillip.Pasfield@slatertgordon.com.au)>

**Cc:** Jessica Dawson-Field <[JDawson-Field@mauriceblackburn.com.au](mailto:JDawson-Field@mauriceblackburn.com.au)>; Imogen Szumer <[ISzumer@mauriceblackburn.com.au](mailto:ISzumer@mauriceblackburn.com.au)>; Josh Bornstein <[JBornstein@mauriceblackburn.com.au](mailto:JBornstein@mauriceblackburn.com.au)>

**Subject:** RE: Application by Kelly - D2022/10 [S+G-ACTIVE.7592.M659724.FID4985934]

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OFFICIAL

Dear parties,

I have brought Mr Pasfield's emails of Friday 17 March to the attention of the Full Bench.

They have instructed me to inquire as to whether the CFMMEU opposes the amendments sought by the applicant being allowed?

Kind regards,  
Caroline

**Caroline Beasley**  
Associate to Justice Hatcher, President



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Australia's national workplace relations tribunal

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**This email was sent from Gadigal Country.**

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**From:** Phillip Pasfield <[Phillip.Pasfield@slatergordon.com.au](mailto:Phillip.Pasfield@slatergordon.com.au)>

**Sent:** Friday, 17 March 2023 4:42 PM

**To:** Chambers - Hatcher J <[Chambers.Hatcher.J@fwc.gov.au](mailto:Chambers.Hatcher.J@fwc.gov.au)>

**Cc:** 'Jessica Dawson-Field ([JDawson-Field@mauriceblackburn.com.au](mailto:JDawson-Field@mauriceblackburn.com.au))' <[JDawson-Field@mauriceblackburn.com.au](mailto:JDawson-Field@mauriceblackburn.com.au)>; Imogen Szumer <[ISzumer@mauriceblackburn.com.au](mailto:ISzumer@mauriceblackburn.com.au)>; J Bornstein <[JBornstein@mauriceblackburn.com.au](mailto:JBornstein@mauriceblackburn.com.au)>

**Subject:** Application by Kelly - D2022/10 [S+G-ACTIVE.7592.M659724.FID4985934]

Dear Associate

We refer to the hearing before the Full Bench on 1 March 2023.

#### The proposed MEU Rules

During the hearing on 1 March 2023, the Applicant's counsel explained that there was an extant rule change application in respect of the Mining and Energy Division's Rules that was before the General Manager (**M&E Rule Change Application**). The Applicant sought liberty to apply to amend the proposed MEU Rules to reflect the changes in the M&E Rule Change application in the event that the M&E Rule Change application was granted. The Commission granted the requested leave (see PN141 – PN142).

On 16 March in decision [2023] FWCG 11 the M&E Rule Change Application was approved. Please find **attached** a copy of the decision.

The Applicant has amended the proposed rules of the MEU to reflect the changes made as a result of the M&E Rule Change Application. Please find **attached** an amended version of the proposed MEU Rules; the changes are at PDF pages 66-70 and 133-135. To assist the Commission identify the changes we have also **attached** a version of the amended rules with tracked changes.

The Applicant applies for leave pursuant to s.95A(10) to amend the proposed MEU rules.

We have also **attached** a Further Amended Order. The amendments made to the draft order provided to the Commission on 1 March 2023 are identified with double underlining and strikethrough.

The order sought in respect of the proposed amendments to the proposed MEU rules is at [6]. Further, a consequential change is made at (c).

#### The yes case

We have identified a typographical error in the Yes Case annexed to the witness statement of Grahame Kelly dated 27 February 2023 as annexure GK-94. Namely, in the authorisation in the footer of the first page “St” is missing after the word “Clarence”.

We will send in a separate email an amended Yes Case which corrects this error.

The Applicant applies for leave pursuant to s.95A(10) to amend the Yes Case to correct the error. The order sought is at [3] of the Further Amended Draft Order.

#### The outline of proposed withdrawal

During the hearing the Applicant’s counsel and the Bench discussed the QR code which was proposed to be included at the end of the outline to enable members to access documents. Counsel for the Applicant at PN 282 proposed to amend the outline by adding a website URL in addition to the QR code. At PN283 the Commission acceded to this application.

On reflection the Applicant considers that it would be preferable for there to only be a website URL at the end of the outline (i.e. for there to be no QR code). We have **attached** an amended outline which makes this amendment.

The Applicant applies for leave pursuant to s.98(2) to amend the outline accordingly. The order sought is at [4] of the Further Amended Draft Order. Further, a consequential change is made at (b).

#### Other amendments to the draft order

Further to the abovementioned alterations to the draft order we have also: deleted the date of the order and deleted [1] as the adjournment sought of the application in respect of the alternative Constituent part was granted on 1 March 2023 (PN159)

The lawyers for the CFMMEU have been copied into this email.

Please let us know if we can be of any further assistance to the Commission in respect of this matter.

Regards

**Phillip Pasfield**

National Practice Group Leader  
Industrial and Employment Law



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