

From: Declan Murphy <DMurphy@mauriceblackburn.com.au>
Sent: Monday, 14 June 2021 4:21 PM
To: Phillip Pasfield; Chambers - Ross J
Cc: J Bornstein; Vivienne Wiles; jkruschel@cfmeumd.org; Tom Roberts
Subject: RE: Application by Kelly - D2021/2 [MBC-VIC.FID5758433]
Attachments: CFMMEU submissions in reply to ACTU.pdf

Dear Associate,

We refer to Mr Pasfield's email below.

Please find attached the CFMMEU's submissions in reply to the ACTU's submissions.

We note that paragraph 2 of the attached submissions direct the Commission's attention to the Full Bench's decision in *AIPA v AFAP* [2021] FWCFB 3293, which was handed down after the hearing in this matter. Before filing the attached submissions, we provided a draft to the Applicant and advised we intended to refer to that decision in our further submissions. The Applicant's submissions at paragraphs 36 and 37 have addressed the decision. Our client reserves its right to respond to the Applicant's submissions.

The representatives for the Applicant, the Manufacturing Division and the ACTU have been copied in by way of service.

Kind regards

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From: Phillip Pasfield <Phillip.Pasfield@slatertgordon.com.au>
Sent: Monday, 14 June 2021 3:53 PM
To: Chambers - Ross J (Chambers.Ross.j@fwc.gov.au) <Chambers.Ross.j@fwc.gov.au>
Cc: Declan Murphy <DMurphy@mauriceblackburn.com.au>; Josh Bornstein <JBornstein@mauriceblackburn.com.au>; Vivienne Wiles <vwiles@cfmeumd.org>; jkruschel@cfmeumd.org; Tom Roberts <troberts@actu.org.au>
Subject: Application by Kelly - D2021/2

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Dear Associate

Please find attached for lodgement the Applicant's Further Written Submissions.

The representatives of the amalgamated organisation, the Manufacturing Division and the ACTU have been copied into this email by way of service.

Regards

Phillip Pasfield

National Practice Group Leader
Industrial and Employment Law



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IN THE FAIR WORK COMMISSION

Re Application By: Grahame Patrick Kelly

Section 94 Fair Work (Registered Organisations) Act 2009 – Application for ballots for withdrawal from amalgamated organisation

Matter No.: D2021/2

CFMMEU'S SUBMISSIONS IN RESPONSE TO ACTU'S SUBMISSIONS

RESPONSE TO ACTU'S SUBMISSIONS

1. The submissions made on behalf of the ACTU are consistent with those made on behalf of the CFMMEU. The CFMMEU supports and agrees with the submissions made by the ACTU.

COMPETITIVE UNIONISM

2. Having regard to the applicant's submissions at [73], the CFMMEU refers the Commission to the decision in *AIPA v AFAP* [2021] FWCFB 3293 at [6] and [48] which was handed down after the hearing of this matter.

DISPOSITION OF THE APPLICATION

3. The CFMMEU submits that if the Commission is against the applicant in respect of either of the questions for determination, the application should be dismissed.

CW Dowling

CA Massy

14 June 2021