



# CFMEU Mining and Energy

Telephone: (+61.2) 9267 1035  
Facsimile: (+61.2) 9267 3198

Level 1, 365 Sussex Street  
Sydney NSW 2000

26<sup>th</sup> February 2004

Mr Peter McKerrow  
Australian Industrial Registry

Fax: 02 93806990

## Re: CFMEU Mining & Energy - Victorian District Branch Elections

Please find the prescribed information under subsection 189(1) of the RAO Schedule and Regulation 138 of the Workplace Relations (Registration and Accountability of Organisations) Regulations.

The names of each office or position for which an election is required are:-

- District President
- District Secretary
- District Vice President

The reason for the election is that the term of office is due to expire at end of June 2004.

The electorate is the members of the CFMEU Mining & Energy – Victorian District branch.

Nominations will open 9am 14 April 2004 and close 5pm 21<sup>st</sup> April 2004.

The Electoral roll will be closed on Monday 5<sup>th</sup> April 2004.

The voting system will be direct voting and first past the post.

As previously discussed the Union is carrying out elections nationally for all divisional and district branch positions at the same time so we request wherever possible that a similar timeframe be adopted for the Victorian District branch elections. I have attached for your information a copy of the Divisions schedule. Please note I have had initial discussions with John Nellor of Victorian AEC.



Postal Address: PO Box Q1641, Sydney NSW 1230, Australia

Please do not hesitate to contact me on either 02 9265 8460 or Mobile 0418 423176 should you require any further information.

Yours sincerely

A handwritten signature in black ink that reads "Bruce Watson". The signature is written in a cursive style with a large initial 'B'.

Bruce Watson  
General Secretary

Att.

# CFMEU Mining & Energy

## 2004 Union Election Schedule

### **November 2003**

Council appointment of Returning Officer Done

### **February 2004**

Appointment of local returning officers early  
February  
Prescribed information to AEC re: Vic

### **March 2004**

Returning Officer meetings 8 - 12 March  
Returning Officer kits to other Lodges mid March

### **April 2004**

Membership list closed and open for viewing 7<sup>th</sup> April  
Adverts placed in regional papers 6<sup>th</sup> to 15<sup>th</sup>  
Nomination period opens 14<sup>th</sup> April  
Nominations close 5pm 21<sup>st</sup> April  
Declaration of unopposed candidates 21<sup>st</sup> April  
  
Draw for positions on voting sheet 22<sup>nd</sup> April  
Preparation of voting papers 22 – 26 April  
Voting papers and electoral lists sent out 26<sup>th</sup> April on  
to sites in preparation for voting

### **May 2004**

Ballot opens at sites 3<sup>rd</sup> May  
Ballot closes and papers postmarked by 5pm 11<sup>th</sup> May  
Counting of voting papers commencing 14<sup>th</sup> May on

### **June 2004**

Declaration of ballot positions end May

## **CFMEU Mining and Energy Divisional Rules Extract**

### **17 - BALLOT RULE**

(a) The Central Council and each District Branch Board of Management shall appoint a Returning Officer to conduct elections within the Division and each District Branch respectively.

Such Returning Officer shall for the purpose of each election appoint Local Returning Officers who shall be responsible for the conduct of elections at each lodge or locality in such a way as to ensure, as far as practicable that no irregularities can occur in relation to an election.

Such Returning Officer or Local Returning Officer shall not be the holder of any office in or be an employee of the Union, a Division or a District Branch or lodge of the Division.

(b) The Returning Officer shall determine the times and dates of the commencement and close of the period for lodging nominations of candidates for election to an office having regard to:-

- (1) the date of the expiration of the term of office of the holder of the office;
- (2) the time required to lodge the nominations;
- (3) the time required to complete the election.

(c) (1) The Returning Officer shall, within the period of 21 days before the date of the commencement of the period for lodging nominations of candidates for an election for an office within the Division or a District Branch, cause to be published by the Division in a newspaper or such other publications as the Returning Officer considers appropriate a notice setting out:-

- (A) the title of the office;
- (B) if a District Branch office, the name of the District Branch;
- (C) the form in which nominations are to be made;
- (D) the place for lodging nominations;

(E) the times and dates of the commencement and close of the period for lodging nominations;

(F) the times and dates of the commencement and close of the period of the ballot and inviting nominations of persons, eligible for election for the office under these rules to stand as candidates for election to the office.

(2) The Returning Officer shall forward a notice containing the information referred to in paragraph (c)(i) to each lodge involved in the election and the notice should be displayed at each lodge and locality.

(d) (1) A person is not eligible for election for an office unless the nomination is in writing and is signed by the person and two other financial members.

(2) Where the Returning Officer finds that a document lodged at the place and within the period determined by the Returning Officer under paragraph (b) of this Rule and purporting to be the nomination of a person as a candidate for an election to an office is not a nomination in accordance with the provisions of this paragraph the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give the person the opportunity of remedying the defect within not less than seven days after the Returning Officer being so notified.

(3) A person is not eligible for election unless the nomination of the person as a candidate for election is lodged at the place determined by the Returning Officer under paragraph (c)(i)(D) of this Rule and within the period for lodging nominations under paragraph (b)(2), or under paragraph (d)(2) of this Rule.

(e) Where on the expiry of the period for lodging the nomination of a candidate for election to an office, only one candidate is nominated for election for the office, the Returning Officer shall declare under paragraph (i) of this Rule that the candidate has been elected to that office.

(f) (1) The Returning Officer shall prepare a roll of voters who are entitled to vote in the election.

(2) The names of members of the Division or the District Branch who are entitled under the rules to vote in an election shall form the roll of voters for the election. **"The roll of voters shall be closed on the date which is seven days before the day on which nominations for the election open."**

**Note: the bold type is awaiting certification by Industrial Registrar.**

(3) The Returning Officer shall, at the place where the Returning Officer carries out the functions as Returning Officer, make the roll of voters in an election for an office available for inspection by members or by any person authorised by the Returning Officer, during the ordinary hours of business in the period that commences fourteen (14) days before the date of commencement of the issuing of ballot papers and ends on the day on which the result of the election is declared.

(g) (1) Where more than one candidate is nominated for election for an office the Returning Officer shall determine the date of commencement of issuing ballot papers and the time and date of the close of the ballot having regard to:

- (a) the date of expiration of the term of office of the holder of the office;
- (b) the time required for the Returning Officer to send the Local Returning Officers return ballot papers by post; and
- (c) the time required to complete the election.

(2) The names of candidates for election for an office shall appear on the ballot paper for that election in the order determined as a result of a draw conducted by the Returning Officer. Each candidate may either attend the draw in person or nominate a person to attend on the candidates behalf.

(3) As soon as practicable after the date determined for the commencement of issuing ballot papers in respect of an election, the Returning Officer shall issue by posting by registered post to each Local Returning Officer appointed under paragraph (a) of this Rule, sufficient ballot papers for each person whose name appears on the roll of voters for the relevant lodge or locality.

(h) (1) Where, on application before the time of the close of the ballot in an election, the Returning Officer or a Local Returning Officer is satisfied that a ballot paper issued to a person whose name is on the roll of voters, has not been received or has been lost, destroyed or spoiled, the Returning Officer shall issue to that person, a duplicate ballot paper.

(2) If a member whose name is on the roll of voters for any election will be absent from the lodge or locality during a ballot, such member may apply to the Returning Officer for a ballot paper to be sent to the Returning Officer at an address which the Returning Officer nominates.

(i) The Local Returning Officer shall as soon as practicable after the receipt of the ballot papers from the Returning Officer as provided for in paragraph (g)(2), but in any event before the close of ballot as determined by the Returning Officer pursuant to paragraph (g)(1):

- (a) provide to each member whose name appears on the roll of voters in the lodge or locality, a ballot paper either by attending the mine or work site at the beginning of each shift or such other means as may be required;
- (b) initial each ballot paper so provided;

- (c) ensure that each ballot paper so provided contains written instructions to the voter as to the proper method of completion of the ballot paper in order to record a formal vote;
  - (d) provide a sealed container into which each member voting shall place the completed ballot paper;
  - (e) at the close of the ballot, open the sealed container and send the contents thereof in sealed envelopes by registered post to the Returning Officer.
- (j) (1) The Returning Officer shall open the sealed envelopes in which the ballot papers have been placed, withdraw each ballot paper and after rejecting informal ballot papers:-
- (a) count the number of votes to ascertain which candidate is successful in the election to the relevant office;
  - (b) place into a container or containers the ballot papers admitted as formal, seal each of the containers and endorse on each of the containers:-
    - (i) if relevant, the name of the District Branch and the title of the office;
    - (ii) the words "Ballot Papers admitted as formal";
    - (iii) the Returning Officer's signature; and
    - (iv) the date of signing.
  - (c) place into a container or containers the ballot papers rejected as informal, seal each of the containers and endorse on each of the containers:-
    - (i) if relevant the name of the District Branch and the title of the office;
    - (ii) the words "Ballot Papers rejected as informal";
    - (iii) the Returning Officer's signature; and
    - (iv) the date of signing; and
  - (d) subject to Section 217 of the Industrial Relations Act, 1988 keep each of the containers in safe custody.

(2) The Returning Officer shall reject as informal a ballot paper that:-

- (a) does not bear the initials of the Local Returning Officer;
- (b) has upon it a mark or writing by which the voter can be identified.

(3) Where, during the scrutiny, the Returning Officer is informed by a scrutineer appointed under paragraph (k) that the scrutineer objects to a ballot paper being admitted as formal, or rejected as informal, as the case may be, the Returning Officer shall decide the matter and endorse the decision on the ballot paper.

(k) (1) Each lodge or locality shall in respect of each election appoint a scrutineer. Each candidate may appoint a scrutineer in respect of each election for which the candidate has nominated. Any appointment of a scrutineer by a candidate shall be made by notice in writing addressed to the Returning Officer or the Local Returning Officer. Not more than one scrutineer shall be allowed to each candidate in an election at each lodge or locality.

(2) Subject to sub-paragraph (3), a scrutineer appointed under this sub-rule may:-

(a) be present while the Returning Officer carries out the functions under paragraphs (j) or while a Local Returning Officer carries out the functions under paragraph (i); and

(b) direct the attention of the Returning Officer or a Local Returning Officer to any irregularity concerning the issue of ballot papers, the admission of any envelope to scrutiny, the admission of a ballot paper as formal, the rejection of a ballot paper as informal or the counting of the votes.

(3) Where a scrutineer appointed under this sub-rule:

(a) interrupts the scrutiny otherwise than in accordance with sub-paragraph (2)(b); or

(b) fails to carry out a lawful request by the Returning Officer;

the Returning Officer may direct the scrutineer to leave the place where the scrutiny is being conducted.

(4) A scrutineer appointed under this paragraph shall comply with a direction by the Returning Officer under sub-paragraph (3).



(1) (1) As soon as is practicable the Returning Officer shall declare the result of an election by giving notice in writing to the Division at its registered office (and to any District Branch in relation to which such election applies) of the result.

(2) When declaring the result in respect of the election the Returning Officer shall also declare in respect of the election:-

- (a) the number of ballot papers issued (other than duplicate ballot papers);
- (b) the number of duplicate ballot papers issued;
- (c) the number of ballot papers admitted as formal;
- (d) the number of ballot papers rejected as informal.

### **18 - ELIGIBILITY FOR DIVISIONAL OFFICE**

No member shall be eligible for any office unless he has been a financial member continuously for at least twelve (12) months prior to the closing date of nominations but a member who has been cavilled out for any period, and had not forfeited seniority rights prior to resumption shall have the period during which he has been cavilled out counted as continuous financial membership. For the purposes of this Rule, cavilled out shall mean retrenched involuntarily.

**PENNA, Belinda**  
**From:** PENNA, Belinda  
**Sent:** Thursday, 26 February 2004 4:44 PM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** CFMEU - Mining & Energy Division - Victorian District Branch

Please find attached newly lodged prescribed information for above election.



105nvdst.tif

Belinda Penna

# Turner Freeman

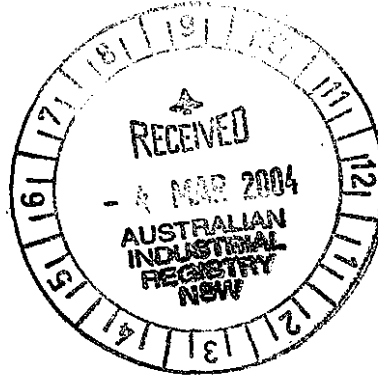
---

Solicitors

Our ref: PRT/54150-029  
Your ref:  
Direct e-mail: prt@turnerfreeman.com.au  
Direct phone: 02 8267 9407

4 March 2004

Mr Barry Jenkins  
Deputy Industrial Registrar  
Australian Industrial Registry  
Level 8  
Terrace Towers  
80 William Street  
EAST SYDNEY NSW 2011



By facsimile: 9380 6990

Dear Mr Jenkins

**RE: VICTORIAN DISTRICT BRANCH**

We refer to our recent telephone discussion.

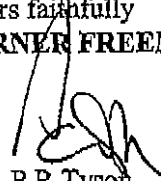
At that time you raised a concern about the proposed amendments to the Rules of the Victorian District Branch of the CFMEU Mining and Energy Division. As we understand the position, that concern related to the absence in Rule 15 - transitional arrangements of a specific date for the staging of the first election after what is termed in the Rules as the "inaugural election".

We can confirm our instructions from the District Branch that the intent of the Rule was that offices elected in the inaugural election should hold office until the first general elections of the Division and its District Branches. These elections are held simultaneously and will take place in the months of April and May of 2004. Each of the current officers were elected in the inaugural elections on this basis.

We would add that as a matter of interpretation, Rule 15 could only be construed in this way for the reasons discussed in our recent telephone conversation.

We trust this clarifies the position.

Yours faithfully  
**TURNER FREEMAN**

  
Per: P R Tyson  
Partner

---

Level 20  
580 George Street  
SYDNEY NSW 2000  
  
Locked Bag A6020  
SYDNEY SOUTH NSW 1235  
  
Telephone: (02) 8267 9400  
Facsimile: (02) 8267 9449  
  
DX 152 SYDNEY

e-mail: mail@turnerfreeman.com.au  
internet: http://www.turnerfreeman.com.au



## CFMEU Mining and Energy

Telephone: (+61.2) 9267 1035  
Facsimile: (+61.2) 9267 3198

Level 1, 365 Sussex Street  
Sydney NSW 2000

5<sup>th</sup> March 2004

Belinda Penna  
Australian Industrial Registry

Fax: 02 93806990



**Re: CFMEU Mining & Energy - Victorian District  
Branch Elections**

Please find the final prescribed information under subsection 189(1) of the RAO Schedule and Regulation 138 of the Workplace Relations (Registration and Accountability of Organisations) Regulations. Please disregard previous correspondence of 26 February 2004.

The names of each office or position for which an election is required are:-

Under Rule 8 (A) (1)  
District President

District Secretary

District Vice President

Under Rule 7(A) (2) and 11 (D)

Energy Brix Lodge President – elected by and from the Energy Brix Lodge membership

Hazelwood Lodge President (Mining) - elected by and from the Hazelwood Lodge mining membership

Hazelwood Lodge President (Energy) – elected by and from the Hazelwood Lodge energy membership

Loy Yang Mine Lodge President – elected by and from the Loy Yang Mine Lodge membership

Loy Yang Power Station Lodge President – elected by and from the Loy Yang Power Station Lodge membership

(cont)

Yallourn Lodge President (Mining) – elected by and from the Yallourn Lodge mining membership

Yallourn Lodge President (Energy) – elected by and from the Yallourn Lodge energy membership

The reason for the election is that the term of office is due to expire at end of June 2004.

The electorate is the members of the CFMEU Mining & Energy – Victorian District branch.

Nominations will open 9am 14 April 2004 and close 5pm 21<sup>st</sup> April 2004.

The Electoral roll will be closed on Wednesday 7<sup>th</sup> April 2004.

The voting system will be direct voting and first past the post.

As previously discussed the Union is carrying out elections nationally for all divisional and district branch positions at the same time so we request wherever possible that a similar timeframe be adopted for the Victorian District branch elections. I have attached for your information a copy of the Divisions schedule. Please note I have had initial discussions with John Nellor of Victorian AEC.

Please do not hesitate to contact me on either 02 9265 8460 or Mobile 0418 423176 should you require any further information.

Yours sincerely

Bruce Watson  
General Secretary

Att.

# CFMEU Mining & Energy

## 2004 Union Election Schedule

### November 2003

Council appointment of Returning Officer Done

### February 2004

Appointment of local returning officers early February  
Prescribed information to AEC re: Vic

### March 2004

Returning Officer meetings 8 - 12 March  
Returning Officer kits to other Lodges mid March

### April 2004

Membership list closed and open for viewing 7<sup>th</sup> April  
Adverts placed in regional papers 6<sup>th</sup> to 15<sup>th</sup>  
Nomination period opens 14<sup>th</sup> April  
Nominations close 5pm 21<sup>st</sup> April  
Declaration of unopposed candidates 21<sup>st</sup> April  
  
Draw for positions on voting sheet 22<sup>nd</sup> April  
Preparation of voting papers 22 - 26 April  
Voting papers and electoral lists sent out 26<sup>th</sup> April on  
to sites in preparation for voting

### May 2004

Ballot opens at sites 3<sup>rd</sup> May  
Ballot closes and papers postmarked by 5pm 11<sup>th</sup> May  
Counting of voting papers commencing 14<sup>th</sup> May on

### June 2004

Declaration of ballot positions end May

**PENNA, Belinda**

---

**From:** PENNA, Belinda  
**Sent:** Friday, 5 March 2004 11:50 AM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** CFMEU - Mining & Energy Division - Victorian District Branch

Please see attached amending prescribed information in E2004/137



amending PI  
VDST.tif

Belinda Penna

PR944281

WORKPLACE RELATIONS ACT 1996  
s189 RAO Schedule - arrangement for conduct of an election

**Construction, Forestry, Mining and Energy Union**  
**(E2004/137)**

B. R. JENKINS  
DEPUTY INDUSTRIAL REGISTRAR

SYDNEY, 8 MARCH 2004

DECISION

On 5 March 2004 the Mining & Energy Division of the abovenamed organisation lodged in the Industrial Registry prescribed information in relation to the conduct of an election for the following offices:

See Attachment A

I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of Schedule 1B of the Workplace Relations Act 1996, I am making arrangements for the conduct of the election by the Australian Electoral Commission.





ATTACHMENT A

**Victorian District Branch**

**District Board of Management**

District Executive

District President	(1)
District Secretary	(1)
District Vice President	(1)

Lodge Representatives

Energy Brix Lodge President	(1)
Hazelwood Lodge President (Mining)	(1)
Hazelwood Lodge President (Energy)	(1)
Loy Yang Mine Lodge President	(1)
Loy Yang Power Station Lodge President	(1)
Yallourn Lodge President (Mining)	(1)
Yallourn Lodge President (Energy)	(1)



**AUSTRALIAN INDUSTRIAL REGISTRY**

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 8374 6666  
Fax: (02) 9380 6990

Electoral Commissioner Through  
Australian Electoral Officer (industrial.elections@aec.gov.au)

Under subsection 189 of Schedule 1B of the Workplace Relations Act 1996, please arrange for the conduct of the following election by the Australian Electoral Commission:

**E No 2004/137**

**Construction Forestry Mining & Energy Union - Mining & Energy Division  
Victorian District Branch**

Positions:

See decision

Relevant Information: Secret postal ballot

Contact: Mr Bruce Watson  
General Secretary Mining & Energy Division

Phone: (02) 9267 1035

A copy of the decision is enclosed.

I further request that you arrange for this office to be notified that arrangements for the conduct of this election have been made, by email transmission at [industrial.elections@air.gov.au](mailto:industrial.elections@air.gov.au)

Belinda Penna  
for Deputy Industrial Registrar

8 March 2004

## PENNA, Belinda

---

**From:** PENNA, Belinda  
**Sent:** Monday, 8 March 2004 3:12 PM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** Decision in E2004/137 CFMEU, Mining & Energy Division, Victorian District Branch

Please find attached decision in this matter. I have also attached current rulebook for you.



E124 of 2004  
Decision to AEC.p



CFMEU Mining  
5N-MIN (21-07

Belinda Penna



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 8374 6666  
Fax: (02) 9380 6990

Mr Bruce Watson  
General Secretary  
CFMEU  
Mining & Energy Division  
Level 1, 365 Sussex Street  
SYDNEY NSW 2000

Dear Mr Watson

**Re: Arrangements for the conduct of an Election for the Victorian District Branch  
(E2004/137)**

A copy of the Registrar's decision in relation to the above matter is enclosed.

The Registrar is making arrangements, under subsection 189(3) of Schedule 1B of the *Workplace Relations Act 1996*, with the Electoral Commissioner for the conduct of the subject election by a member of staff of the Australian Electoral Commission, who will contact you in the near future about the election.

Yours sincerely,

Belinda Penna  
for Deputy Industrial Registrar

8 March 2004