

Construction, Forestry, Mining and Energy Union Lodge Representatives

DECLARATION OF RESULTS FOR UNCONTESTED OFFICES

Results of the election for the following offices conducted in accordance with the provisions of the Workplace Relations Act 1996 and the rules of the organisation.

E2012/365

Loy Yang B Power Station

Loy Yang B Power Station Lodge President

Candidate

CLARK, Keith



Yallourn Lodge -Power

Yallourn Power Station Lodge President

Candidate

AITKEN, Geoff

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.

Shane Lanning
Returning Officer

Mr Andrew Vickers
General Secretary
Construction, Forestry, Mining and Energy Union
PO Box Q1641
SYDNEY NSW 1230

**Post Election Report For: Construction, Forestry, Mining and Energy Union
Mining and Energy Division
Election E2012/365**

I refer to the above election for your organisation.

Section 197(1) of Schedule 1 of the Fair Work (Registered Organisations) Act 2009 requires the AEC to provide a written report on the conduct of the election to Fair Work Australia and to the organisation or branch for whom the election was conducted. A copy of the report in relation to this election is attached.

Section 198 of Schedule 1 requires that if an organisation or branch is given a post election report under section 197 that identifies a rule that was difficult to interpret or apply, the organisation or branch must, within 30 days, give a written response to the AEC on that aspect of the report. The response must specify whether the organisation or branch intends to take any action in relation to the rule, and if so, what action it intends to take.

If the attached Report identifies a rule that was difficult to interpret or apply, you should forward your response to the AEC by email to 'industrial.elections@aec.gov.au' within thirty days of the date of the report.

Section 198 and the regulations also require an organisation to make the post election report and the organisation's response to the report (if applicable) available to members.

Further, Regulation 141(4) of the Fair Work (Registered Organisations) Act 2009 requires an organisation or branch to publish a notice on its web site advising members that a copy of the post election report is available upon request. If a website is not available, publishing a notice in a journal or newsletter would be considered appropriate.

Please contact me if you wish to clarify any aspect of this report.

Shane T Lanning
Returning Officer

23 November 2012

Fair Work (Registered Organisations) Act 2009

POST ELECTION REPORT

**Construction, Forestry, Mining and Energy Union
Mining and Energy Division**

ELECTION/S COVERED IN THIS REPORT

Election Decision No. E2012/365

RULES

Rules used for the election: [105N-MIN: Incorporates alterations of
26/09/2012 in matter R2012/110]
Rules difficult to apply/interpret: None
Model Rule reference (if any): N/A

ROLL OF VOTERS

Total number of voters on the Roll: No ballot required
Number of apparent workplace addresses: Nil
Number of non-current addresses: Nil
Other matters pertaining to the roll of voters: Nil

IRREGULARITIES

Details of written allegations of irregularities, and
action taken by AEC: Nil
Other irregularities identified, and action taken: Nil

ATTACHMENTS

Declaration of Results

Shane T Lanning
Returning Officer

23 November 2012



FAIR WORK
AUSTRALIA

19 October 2012

Mr Andrew Vickers
General Secretary
Mining and Energy Division
Construction, Forestry, Mining and Energy Union
PO BOX Q1641
SYDNEY NSW 1230

Also by fax: (02) 9267 3198

Dear Mr Vickers,

Re: Arrangements for the conduct of an election (E2012/365)

I refer to the prescribed information for the election of two Lodge Presidents in the Victorian District Branch, which was lodged with Fair Work Australia on 17 September 2012 and to the amended prescribed information lodged on 11 October 2012.

The information provided was sufficient for a decision to make arrangements for the conduct of an election to be made. However, when examining the Victorian District Branch rules, Fair Work Australia (FWA) identified an erroneous cross-reference. The error was found in rule 7(B)(1) which incorrectly refers to rule 7(A)(2)(h) rather than 7(A)(2)(k) to which, from the context, it appears clear rule 7(B)(1) should refer. The error dates from the alteration of rule 7(A) certified on 29 October 2009 in matter R2009/10064 when further sub rules to rule 7(A)(2) were added and rule 7(A)(2)(h) as it then was became renumbered as 7(A)(2)(k). At that time, rule 7(B)(1) was not altered by the Division to refer to the renumbered rule.

I recommend, for the sake of accuracy that the Division make an amendment to rule 7(B)(1) so that it reflects the correct reference to rule 7(A)(2)(k).

In addition, I note from the extract of the Board of Management meeting minutes which were provided with the amended prescribed information, that the Board passed a resolution to change the name of the existing Loy Yang Power Station Lodge to 'Loy Yang A Power Station Lodge'.

I therefore recommend that the Division amend rule 7(A)(2) so that the names of both Loy Yang A Power Station Lodge, and the Loy Yang B Power Station Lodge are reflected in rule 7(A)(2). This will remove any inconsistency or confusion.

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

Fair Work Australia is making arrangements, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, 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

A handwritten signature in black ink, appearing to read 'Carolyn Moloney', with a large, sweeping flourish extending to the right.

Carolyn Moloney
Assistant Adviser
NSW Regulatory Compliance Branch
Fair Work Australia



FAIR WORK
AUSTRALIA

DECISION

Fair Work (Registered Organisations) Act 2009
s.189 – Arrangement for conduct of an election

Construction, Forestry, Mining and Energy Union
(E2012/365)

AILS A CARRUTHERS

MELBOURNE, 19 OCTOBER 2012

Arrangement for conduct of election.

[1] On 17 September 2012 the Mining and Energy Division of the above named organisation lodged with Fair Work Australia prescribed information in relation to an election for a casual vacancy, for the remainder of the term, and for a newly created office in its Victorian District Branch.

[2] On 11 October 2012 the Division lodged with Fair Work Australia amended and further prescribed information with respect to the election for the following offices:

District Board of Management

Lodge Representatives

Yallourn Power Station Lodge President (casual vacancy) (1)

Loy Yang B Power Station Lodge President (new office) (1)

[3] 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 the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.




DELEGATE OF THE GENERAL MANAGER
FAIR WORK AUSTRALIA

MOLONEY, Carolyn

From: MOLONEY, Carolyn
Sent: Thursday, 18 October 2012 4:24 PM
To: 'Industrial Elections'
Subject: E2012/365
Attachments: E2012_365 CFMEU M&E VIC Signed decision_19102012.pdf; E2012_365_CFMEU M&E letter to AEC_19102012.pdf

Please find attached a copy of the Decision for the Construction, Forestry, Mining and Energy Union - Mining and Energy Division, for its upcoming election (E2012/365).

Kind regards,

CAROLYN MOLONEY
Assistant Adviser
Regulatory Compliance Branch

Fair Work Australia
Tel: 02 8374 6510
Fax: 02 9380 6990
carolyn.moloney@fwa.gov.au

Level 8, Terrace Tower, 80 William Street
East Sydney NSW 2011

www.fwa.gov.au

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

Under subsection 189 of the *Fair Work (Registered Organisations) Act 2009*, please arrange for the conduct of the following election by the Australian Electoral Commission:

E No 2012/365

RE: THE CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION

Positions:

See Decision

Relevant Information: Casual vacancy; new office

Contact: Andrew Vickers
General Secretary, Mining and 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@fwa.gov.au

Carolyn Moloney
Fair Work Australia
19 October 2012

MOLONEY, Carolyn

From: MOLONEY, Carolyn
Sent: Thursday, 11 October 2012 11:04 AM
To: 'Industrial Elections'
Subject: E2012/365
Attachments: CFMEU M&E VIC Cas Vac_E2012_365 Amended PI lodged 11102012.pdf; 105N-MIN
CFMEU Mining & Energy R2012_110_26092012.pdf

Dear AEC

Please find attached amended prescribed information and a copy of the current rulebook of the Construction, Forestry, Mining and Energy Union - Mining and Energy Division, for its upcoming casual vacancy election (E2012/365).

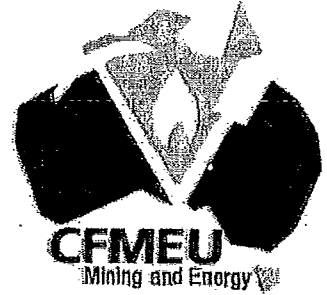
Kind regards,

CAROLYN MOLONEY
Assistant Adviser
Regulatory Compliance Branch

Fair Work Australia
Tel: 02 8374 6510
Fax: 02 9380 6990
carolyn.moloney@fwa.gov.au

Level 8, Terrace Tower, 80 William Street
East Sydney NSW 2011

www.fwa.gov.au



11 October 2012

Carolyn Moloney
Regulatory Compliance Branch
Fair Work Australia
Level 8
80 William Street
EAST SYDNEY NSW 2010



Dear Ms Moloney

Re: E2012/365 - Arrangements for the conduct of an election – Construction, Forestry, Mining and Energy Union, Mining and Energy Division, Victorian District Branch

I refer to your correspondence of 26 September 2012 regarding the above application. I will address each issue you have raised separately.

1. Yallourn Power Station Lodge President – casual vacancy

The current Yallourn Power Station Lodge President has accepted a position at another power station in the area. This leaves him eligible to hold the position of Yallourn Power Station Lodge President and therefore creates a vacancy. A copy of the resignation email is attached to the new statement and notice of prescribed information.

2. Loy Yang B Power Station Lodge President – creation of a new lodge

The Board of Management of the Victorian District Branch met on 20 March 2012, where it was resolved to create a new lodge at the Loy Yang B Power Station. A copy of the resolution is attached to the new statement and notice of prescribed information.

3. Lodgement of prescribed information in accordance with section 189(2) of the Fair Work (Registered Organisations) Act 2009

There was an error in the dates supplied in the Notice of Prescribed Information under Regulation 138 lodged on 17 September 2012. The correct dates are provided in the new statement of prescribed information.

Please do not hesitate to contact me if you need any further information.

Yours sincerely

A handwritten signature in black ink, appearing to read "Melanie Mitchell".

Melanie Mitchell
Legal Assistant

Statement and Notice of Prescribed Information under Regulation 138

I, Andrew Vickers, being the General Secretary of the Construction, Forestry, Mining and Energy Union, Mining and Energy Division, make the following statement:

I am the General Secretary of the CFMEU Mining & Energy Division.

I am authorised to lodge the following prescribed information concerning an election in the Victorian District of the CFMEU Mining and Energy Division, and

I confirm that the following information is being lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009*.

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

Yallourn Power Station Lodge President
Loy Yang B Power Station Lodge President

The reason for the election is:

- A vacancy for the position of Yallourn Power station Lodge President has occurred. The current Yallourn Power Station Lodge President has accepted a position at another power station in the area, leaving him ineligible to hold the position of Yallourn Power Station Lodge. This has created a vacancy for this position. A copy of the resignation of the outgoing Yallourn Power Station Lodge President Stuart Caines, is attached and marked "A".
- A new position has been created by the establishment of the Loy Yang B Power Station Lodge. The Victorian District Board of Management met on 20 March 2012 and resolved to establish a new Lodge at Loy Yang B Power Station. A copy of the resolution endorsing this decision is attached and marked "B".

The electorate is the members of the CFMEU Mining and Energy Division – Victorian District Branch. The voting system will be direct voting and first past the post.

Nominations will open on 19 November 2012 and close at 3pm on 26 November 2012



Andrew Vickers
General Secretary
CFMEU Mining and Energy Division
11 October 2012

CFMEU Mining and Energy Division

Victorian District Branch

Board of Management Meeting

20 March 2012.

Extract of Minutes

Loy Yang B

The Secretary advised that as the District had signed up almost 100 new members at the Loy Yang B Power Station it was appropriate to form a new Lodge at the site.

Rule 11(A) ←Formation of Lodges→ of the District's Rules provides as follows:

- (1) *The District Executive shall take whatever steps are necessary to establish Lodges of the District at all workplaces in the District.*
- (2) *Where there is no Lodge at a workplace and the District Executive is of the opinion that a Lodge should be formed, the Executive shall announce, in whatever way is best suited to the circumstances of the workplace, that a meeting will be held of eligible workers for the purposes of forming a Lodge of the District. The announcement shall state that officers of the Lodge will be elected at the foundation meeting.*
 - (a) *Any foundation meeting shall be chaired by a member of the District Executive.*
 - (b) *The foundation meeting shall be conducted according to the Standing Orders for District Lodge meetings.*
 - (c) *The foundation meeting shall elect a Lodge Committee, officers and representatives as required by these Rules.*

A first meeting of the Loy Yang B Power Station members was held at 4:30pm on 1 March 2012 at the Traralgon Tennis Association. The District President chaired that meeting and the District Secretary was also present. The meeting voted to form the new **Loy Yang B Power Station Lodge** of the District.

The meeting also opted to have the District conduct an election for Lodge Committee positions (Delegates) for the various identifiable workgroups among the membership with the Lodge President position to be included in the upcoming 4-yearly elections. The District President is the Returning Officer for the election of the Delegates.

Resolution 1. Formation of New Lodge

Moved Greg Hardy

Seconded Graeme Middlemiss

↑The Board of Management endorses the formation of the Loy Yang B Power Station Lodge and approves the creation of a new Board of Management position for the Lodge President of that Lodge as provided for by Rule 7(A)(2)(k).↓

Carried

Resolution 2. Change of Lodge Name

Moved Greg Hardy

Seconded Graeme Middlemiss

↑As a result of forming the Loy Yang B Power Station Lodge the Board of Management recommends to the Lodge Committee of the Loy Yang Power Station Lodge that they change their Lodge name to the Loy Yang A Power Station Lodge.↓

Carried



FAIR WORK
AUSTRALIA

26 September 2012

Mr Andrew Vickers
General Secretary
Mining and Energy Division
Construction, Forestry, Mining and Energy Union
PO BOX Q1641
SYDNEY NSW 1230

Also by fax: (02) 9267 3198

Dear Mr Vickers

**Re: Arrangements for the conduct of an Election
Construction, Forestry, Mining and Energy Union (E2012/365)**

I refer to the prescribed information dated 17 September 2012 which was lodged with Fair Work Australia (FWA) on 17 September 2012 for the conduct of an election for a casual vacancy and for a newly created office of Lodge President for a new Lodge.

I write to seek further information in relation to both offices so that the matter may be determined.

The prescribed information has not provided details of the reason the casual vacancy of the Yallourn Power Station Lodge President has arisen. Could you please provide the reason in an amended statement of prescribed information, attaching a copy of any resignation letter or other documentary evidence.

In regard to the newly created office of Lodge President for the Loy Yang B Power Station Lodge, could you please provide a copy of the minutes of any foundation meeting held in accordance with rule 11(A)(2) and of any determination by the District Board of Management in accordance with rule 7(A)(2)(k).

Further could you please provide confirmation or evidence that the establishment of the new Lodge and/or the inclusion of the newly created office on the District Board of Management was determined in accordance with any applicable rules [for example, rule 7(C)].

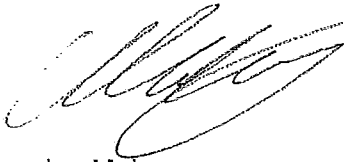
Finally, section 189(2) of the *Fair Work (Registered Organisations) Act 2009* states that prescribed information must be lodged before the prescribed day, which under regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*, is two months before the first day when a person may become a candidate. In your statement you have indicated that "nominations will open on 29 October 2012". The prescribed day was 29 August 2012. The lodgement of the statement on 17 September 2012 was therefore late by 19 days.

This is a civil penalty provision of the Act. Accordingly, where lodgement of prescribed information is late, the Delegate of the General Manager requires a written request for an

extension of time and providing reasons why the prescribed information was not lodged before the prescribed day.

If you have any questions relating to this matter please do not hesitate to contact me on (02) 8374 6510.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carolyn Moloney', written in a cursive style.

Carolyn Moloney
Regulatory Compliance Branch
Fair Work Australia

MOLONEY, Carolyn

From: MOLONEY, Carolyn
Sent: Monday, 17 September 2012 12:09 PM
To: 'Industrial Elections'
Subject: E2012/365
Attachments: CFMEU M&E VIC Cas Vac_E2012_365 PI lodged 17092012.pdf; 105N-MIN CFMEU Mining & Energy R2012_77_28082012.pdf

Dear AEC

Please find attached prescribed information and a copy of the current rulebook of the Construction, Forestry, Mining and Energy Union - Mining and Energy Division, for its upcoming casual vacancy election (E2012/365).

Kind regards,

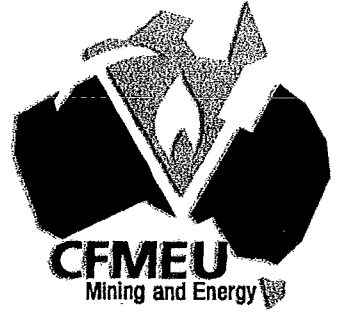
CAROLYN MOLONEY
Assistant Adviser
Regulatory Compliance Branch

Fair Work Australia
Tel: 02 8374 6510
Fax: 02 9380 6990
carolyn.moloney@fwa.gov.au

Level 8, Terrace Tower, 80 William Street
East Sydney NSW 2011

www.fwa.gov.au

E2012/365



17 September 2012

The General Manager
Fair Work Australia
Level 8
80 William Street
EAST SYDNEY NSW 2012



By Email: Sydney@fwa.gov.au

Dear General Manager

Re: CFMEU Mining and Energy Division – Victorian District

Please find attached a Statement and Notice of Prescribed Information under Regulation 138 of the Fair work (Registered Organisations) Act 2009 relating to elections required in the Victorian District.

Please do not hesitate to contact Melanie Mitchell of my office should you require any further information.

Yours sincerely

A handwritten signature in cursive script, appearing to read "A. Vickers".

Andrew Vickers
General Secretary

Statement and Notice of Prescribed Information under Regulation 138

I, Andrew Vickers, being the General Secretary of the Construction, Forestry, Mining and Energy Union, Mining and Energy Division, make the following statement:

I am the General Secretary of the CFMEU Mining & Energy Division.

I am authorised to lodge the following prescribed information concerning an election in the Victorian District of the CFMEU Mining and Energy Division, and

I confirm that the following information is being lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009*.

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

Yallourn Power Station Lodge President
Loy Yang B Power Station Lodge President

The reason for the election is:

- A casual vacancy for the position of Yallourn Power station Lodge President has occurred.
- A new position has been created by the establishment of the Loy Yang B Power Station Lodge.

The electorate is the members of the CFMEU Mining and Energy Division – Victorian District Branch. The voting system will be direct voting and first past the post.

Nominations will open on 29 October 2012 and close at 3pm on 5 November 2012

The electoral roll will be closed on 15 October 2012.



Andrew Vickers
General Secretary
CFMEU Mining and Energy Division
17 September 2012