

14 April 2015

Peter Jordan
President
CFMEU- Northern Mining & NSW Energy District

By Email

Dear Peter

Potential resolution to ongoing issues at Mount Arthur Coal

I refer to our meeting on Monday 13 April 2015, where Col Ongley and I attended a meeting with yourself, Shane Thomson –Vice President and Alex Bukarica- National Legal Director.

The CFMEU convened the meeting to discuss its views and a possible resolution to the issues it has with respect to Chandler Macleod's:

- variation process of the *Gunnedah Basin Coal Mining Agreement 2014* to extend coverage to employees engaged at other sites including the Hunter Valley;
- engagement of casual employees at the Mount Arthur Coal (MAC) site.

We note that the Agreement of itself causes limited to no substantive concerns for the CFMEU or its members, noting it was agreed directly with the CFMEU and has already passed the relevant BOOT for employees that it was designed to cover.

In this meeting the CFMEU proposed a resolution to the above issues as follows:

- a) Reduce the scope of the coverage clause of the proposed variation to the Northern Region Coalfields, rather than the whole of NSW; and
- b) Amend the pay rates clause so that employees engaged at MAC receive retrospectively the benefit of proposed pay increases in Schedule B. This is noted to be specifically with reference to the \$3 per hour 'loyalty bonus' currently being held by MAC for payment to employees- but which only commenced on 3 January 2015.

Furthermore the CFMEU expressed its strong preference that such a revised arrangement be entered into by way of a new agreement agreed via a bargaining process commenced under Part 2-4, Division 1 of the Fair Work Act 2009 rather than as a variation to the existing Gunnedah Basin Agreement.

Chandler Macleod undertook to consider the proposed option and provide a response. I confirm that despite the fact that this arrangement would result in a significant financial burden for the business, as a gesture of good faith and without admission of liability, we are prepared to consider this solution subject to the following conditions:

- a) The CFMEU agrees that the attached marked up version of the proposed *Chandler Macleod Northern Region Black Coal Mining Agreement 2015* would constitute the complete set of terms and conditions that the CMFEU would seek to pursue during any bargaining process;
- b) The CFMEU would be available to participate in a bargaining meeting in the week of 20 April 2015 and at this meeting formally, the acceptance of the proposed EA would occur;

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- c) The CFMEU and Chandler Macleod would present this EA to employees for their consideration, noting that both parties support the approval of the proposed EA and a vote would be held as soon as possible, and as early as 7 May 2015 seeking employees to endorse the proposed EA; and
- d) The CFMEU would agree to cease from any current and future actions and claims (in its own right or on behalf of members) directed towards ventilating and agitating its view that employees currently engaged by Chandler Macleod companies as casuals to perform black coal mining production work may be entitled to "leave and other entitlements" associated with permanent employment or that Chandler Macleod is not paying employees their "lawful terms and conditions".

Provided these terms are accepted in writing, Chandler Macleod would cease the variation process on foot and issue a notice of representational rights under s173 of the Act and advise our employees of the process agreed.

However, Chandler Macleod reserves its right position to re-commence a variation process, should any non-compliance with these conditions occur. We note that we have placed on record our strong view that the variation process is a lawful and reasonable means of proceeding with seeking to obtain coverage for employees employed in Black Coal work in NSW. Nothing that was said at the meeting yesterday changes that view.

If the CFMEU is amenable to these proposed terms and conditions, please confirm in writing by no later than **12PM Wednesday 15 April 2015**. We note that under the current variation process the vote is scheduled to commence at 12AM on Friday 17 April 2015 and communication is expected by employees on Thursday to provide voting details, so this matter is time critical.

Yours sincerely

Tory Kakoschke

**General Manager- E/IR
Chandler Macleod**