



Chairman: Peter Parkinson
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CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION (CFMEU)

and

DOWNER EDI ENGINEERING POWER PTY LTD
(DOWNER)

ORBOST GAS PLANT UPGRADE

RE: ALLEGED FAILURE TO CONSULT REGARDING HEALTH AND SAFETY
DESIGNATED WORK GROUPS AND TERMINATION OF HEALTH AND SAFETY
REPRESENTATIVE

6 DECEMBER 2019

027-2019

STATEMENT

[1] The CFMEU notified a dispute on 29 November 2019 alleging significant changes to OHS practices and the termination of a Health and Safety Rep under the *Downer EDI Engineering Power Pty Ltd/AMWU/AWU/CFMEU Metal Engineering On-Site Construction Agreement 2017-2020*.

[2] The Panel scheduled a Conference of the parties on 5 December 2019.

[3] In summary, the following has occurred:

- Downer terminated a CFMEU member who held the position of Health and Safety Representative for what had been an agreed Designated Work Group on the grounds of redundancy.
- On the day of notice of termination, the CFMEU formally raised a dispute with Downer.
- Dialogue occurred between the CFMEU and Downer but the matter was unresolved and the following day the employee's termination took effect.
- The CFMEU subsequently filed the Dispute Notification to the Panel.

[4] The Panel is satisfied that there had been no consultation prior to the decision to remove the position of Health and Safety Representative for this particular Designated Work Group. We consider this is an important element of the obligations that arise in these circumstances. Whilst there had been consultation over redundancies arising from the phased demobilisation of the workforce as the Project was reaching anticipated completion some time later this year, this had not included any consultation in relation to the Health and Safety Representative.

[5] Downer has acknowledged that after the termination had been effected it sought to consult with the remaining Health and Safety Representatives, however this did not include as a participant the then terminated Health and Safety Representative or his representatives. It is clear there is a dispute as to the ongoing requirements for appropriate representation for this Designated Work Group, for which it seems there may still be some work to do, nor is it clear as to how long the Project is to continue, or the amount of work available for this role.

[6] The Panel recommended and the parties accepted that in the first instance there should be an onsite conference as soon as possible, with the relevant parties, to establish whether or not there should be a continued Health and Safety Representative for this Designated Work Group and what arrangements should then be effected to resolve the dispute. The Panel urged the parties to take a common sense approach to any outcome. The Panel understands that arrangements will be made for this conference to proceed on Monday 9 December 2019.

[7] In the event the matter is not resolved, the Panel will require final written submissions by each party to be filed no later than 5.00pm Wednesday 11 December 2019 and the matter will be determined by the Panel. The CFMEU is required to advise the Panel no later than 5.00pm Tuesday 10 December 2019 as to the status of the matter.



Peter Parkinson
Chairman



Daniel Hodges
Panel Member



Tony Cordier
Panel Member