

From: Phillip Pasfield [Phillip.Pasfield@slatertgordon.com.au]
Sent: Thursday, 1 December 2022 2:41 PM
To: Chambers - Acting President Hatcher[Chambers.Hatcher.VP@fwc.gov.au]
CC: 'Jessica Dawson-Field (JDawson-Field@mauriceblackburn.com.au)'; JDawson-Field@mauriceblackburn.com.au]; J Bornstein[JBornstein@mauriceblackburn.com.au]; Justin Go[justingo@mauriceblackburn.com.au]
Subject: FW: D2022/10 - Application by Kelly - Access to produced documents [MBC-VIC.FID8032398] [S+G-ACTIVE.7592.M659724.FID4985938]

Dear Associate

Having regard to the response below, the Applicant has nothing to add and relies on the matters previously submitted.

The lawyers for the CFMMEU have been copied in.

Regards

Phillip Pasfield

National Practice Group Leader
Industrial and Employment Law



SLATER AND GORDON LAWYERS

Level 14, 55 Market Street, Sydney New South Wales 2000

D +61 2 8267 0613 | **T** +61 2 8071 2790 |

M +61 419 295 492 | **F** (02) 8267 0650

W slatertgordon.com.au

From: Jessica Dawson-Field <JDawson-Field@mauriceblackburn.com.au>
Sent: Thursday, 1 December 2022 12:00 PM
To: Phillip Pasfield <Phillip.Pasfield@slatertgordon.com.au>; Chambers - Acting President Hatcher <Chambers.Hatcher.VP@fwc.gov.au>
Cc: Josh Bornstein <JBornstein@mauriceblackburn.com.au>; Justin Go <justingo@mauriceblackburn.com.au>
Subject: RE: D2022/10 - Application by Kelly - Access to produced documents [S+G-ACTIVE.7592.M659724.FID4985938] [MBC-VIC.FID8032398]

This Message Is From an External Sender

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Associate

Please see our response below:

1. Is access to a physical copy of the produced documents at the Sydney registry of the Commission suitable?

Yes. We propose to make a digital copy from any hard copy that is provided. A digital copy will allow us to conduct the relevant searches efficiently. We anticipate that it would be time consuming and costly to review the roll in physical form. Physical extracts of the documents may be generated for the purpose of collating the relevant parts of the documents for review. From Mr Pasfield's email of 28 November 2022, we understand a digital copy may already be available. In that case, the provision of a copy of that digital file would reduce the costs associated with the digitisation of the physical copy produced.

2. Does the CFMMEU propose to make a physical and a digital copy of the produced documents? If the CFMMEU proposes to make a digital copy, why is this sought?

See answer 1.

3. What date does the CFMMEU propose to return the produced documents and any physical or digital copies to the Sydney registry?

As set out in the proposed order, we would be able to return the hard copy to the Registry within 2 business days (subject to the volume of the hard copy material to be copied, and any delays with our external document provider) . All digital copies and any extracts in hard copy retained by Maurice Blackburn would be deleted at the conclusion of the matter.

Kind regards

Jessica Dawson-Field

Senior Associate

T 03 9605 2809

F 03 9258 9613

E JDawson-Field@mauriceblackburn.com.au

mauriceblackburn.com.au

Naarm

Level 21, 380 La Trobe Street

Melbourne VIC 3000

From: Phillip Pasfield <Phillip.Pasfield@slatertgordon.com.au>

Sent: Wednesday, 30 November 2022 5:04 PM

To: Chambers - Acting President Hatcher <Chambers.Hatcher.VP@fwc.gov.au>

Cc: Josh Bornstein <JBornstein@mauriceblackburn.com.au>; Justin Go <justingo@mauriceblackburn.com.au>; Jessica Dawson-Field <JDawson-Field@mauriceblackburn.com.au>

Subject: RE: D2022/10 - Application by Kelly - Access to produced documents [S+G-ACTIVE.7592.M659724.FID4985938]

CAUTION: This email originated from outside of the organisation . Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Associate

I refer to your email below.

The applicant reserves any response until such time as the CFMMEU replies.

The lawyers for the CFMMEU have been copied in.

Regards

Phillip Pasfield

National Practice Group Leader
Industrial and Employment Law

SLATER AND GORDON LAWYERS

Level 14, 55 Market Street, Sydney New South Wales 2000
D +61 2 8267 0613 | T +61 2 8071 2790 |
M +61 419 295 492 | F (02) 8267 0650
W slatergordon.com.au

From: Chambers - Acting President Hatcher <Chambers.Hatcher.VP@fwc.gov.au>
Sent: Wednesday, 30 November 2022 3:26 PM
To: Jessica Dawson-Field <JDawson-Field@mauriceblackburn.com.au>
Cc: J Bornstein <JBornstein@mauriceblackburn.com.au>; Phillip Pasfield <Phillip.Pasfield@slatergordon.com.au>; Justin Go <justingo@mauriceblackburn.com.au>
Subject: RE: D2022/10 - Application by Kelly - Access to produced documents [S+G-ACTIVE.7592.M659724.FID4985938]

This Message Is From an External Sender

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

OFFICIAL

Dear Ms Dawson-Field,

Thank you for your email. Could you please confirm the following in relation to the CFMMEU's proposal for access to the produced documents:

1. Is access to a physical copy of the produced documents at the Sydney registry of the Commission suitable?
2. Does the CFMMEU propose to make a physical and a digital copy of the produced documents? If the CFMMEU proposes to make a digital copy, why is this sought?
3. What date does the CFMMEU propose to return the produced documents and any physical or digital copies to the Sydney registry?

Mr Kelly is also invited to respond to the above, should he wish to do so.

Kind regards,
Caroline

Caroline Beasley
Associate to Acting President Hatcher



Fair Work Commission
Australia's national workplace relations tribunal

T (02) 9308 1812

E chambers.hatcher.vp@fwc.gov.au

Level 11, Terrace Tower, 80 William Street, EAST SYDNEY NSW 2011
www.fwc.gov.au

The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

This email was sent from Gadigal Country.

From: Jessica Dawson-Field <JDawson-Field@mauriceblackburn.com.au>
Sent: Wednesday, 30 November 2022 2:52 PM
To: Chambers - Acting President Hatcher <Chambers.Hatcher.VP@fwc.gov.au>
Cc: J Bornstein <JBornstein@mauriceblackburn.com.au>; Phillip Pasfield <Phillip.Pasfield@slatertgordon.com.au>
Subject: Re: D2022/10 - Application by Kelly - Access to produced documents [S+G-ACTIVE.7592.M659724.FID4985938]

Dear Associate

We confirm both Mr Liley and Ms Weber have current practicing certificates.

Kind regards

Get [Outlook for iOS](#)

From: Chambers - Acting President Hatcher <Chambers.Hatcher.VP@fwc.gov.au>
Sent: Wednesday, November 30, 2022 1:43:48 PM
To: Jessica Dawson-Field <JDawson-Field@mauriceblackburn.com.au>
Cc: Josh Bornstein <JBornstein@mauriceblackburn.com.au>; Phillip Pasfield <Phillip.Pasfield@slatertgordon.com.au>
Subject: RE: D2022/10 - Application by Kelly - Access to produced documents [S+G-ACTIVE.7592.M659724.FID4985938]

CAUTION: This email originated from outside of the organisation . Do not click links or open attachments unless you recognise the sender and know the content is safe.

OFFICIAL

Dear parties,

I confirm receipt of your emails yesterday and proposed orders.

Ms Dawson-Field, could you please confirm whether the two CFMMEU lawyers are admitted legal practitioners with a current practising certificate?

Kind regards,
Caroline

Caroline Beasley
Associate to Acting President Hatcher



Fair Work Commission
Australia's national workplace relations tribunal

T (02) 9308 1812

E chambers.hatcher.vp@fwc.gov.au

Level 11, Terrace Tower, 80 William Street, EAST SYDNEY NSW 2011

www.fwc.gov.au

The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

This email was sent from Gadigal Country.

From: Jessica Dawson-Field <JDawson-Field@mauriceblackburn.com.au>

Sent: Tuesday, 29 November 2022 2:32 PM

To: Phillip Pasfield <Phillip.Pasfield@slatargordon.com.au>; Chambers - Acting President Hatcher <Chambers.Hatcher.VP@fwc.gov.au>

Cc: J Bornstein <JBornstein@mauriceblackburn.com.au>; Jessica Dawson-Field <JDawson-Field@mauriceblackburn.com.au>

Subject: RE: D2022/10 - Application by Kelly - Access to produced documents [S+G-ACTIVE.7592.M659724.FID4985938]

Dear Associate

We refer to the correspondence below.

While the CFMMEU does not resile from its position regarding undertakings, we did not understand the Vice President's order to require any such undertakings be given. We note the correspondence of 28 November indicates that access to documents is only "subject to the implied Harman undertaking." Our proposed order has been drafted to reflect that.

We note that our document is titled Directions, but we do not intend to draw any distinction between Directions and Orders. We seek that our proposed orders be made as either Directions or Orders.

Kind regards

Jessica Dawson-Field
Senior Associate

T 03 9605 2809

F 03 9258 9613

E JDawson-Field@mauriceblackburn.com.au

mauriceblackburn.com.au

Naarm

Level 21, 380 La Trobe Street

Melbourne VIC 3000



Maurice Blackburn acknowledges the traditional custodians of the lands on which we work, and pays respect to their Elders, past and present.

We are a leading Australian law firm certified to the international ISO 9001:2015 quality standard.

We are proudly carbon neutral and committed to a sustainable environment. Please provide requested documentation in electronic format and consider the environment before printing this email.

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, any use, dissemination, forwarding, printing or copying of this email is strictly prohibited. If you have received this email in error please notify the sender by reply email, delete the email, destroy any printed copy and do not disclose or use its information in any way. For additional information regarding Maurice Blackburn's privacy policy, [click here \(mauriceblackburn.com.au/privacy\)](https://mauriceblackburn.com.au/privacy)

From: Phillip Pasfield <Phillip.Pasfield@slatertgordon.com.au>

Sent: Tuesday, 29 November 2022 12:38 PM

To: 'chambers.hatcher.vp@fwc.gov.au' <chambers.hatcher.vp@fwc.gov.au>

Cc: Jessica Dawson-Field <JDawson-Field@mauriceblackburn.com.au>; Josh Bornstein <JBornstein@mauriceblackburn.com.au>

Subject: RE: D2022/10 - Application by Kelly - Access to produced documents [S+G-ACTIVE.7592.M659724.FID4985938]

CAUTION: This email originated from outside of the organisation . Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Associate

The parties have been unable to agree on a draft order as to access.

I have attached the Applicant's proposed draft order and schedule "A" thereto for the Commission's consideration.

The Applicant submits that it is appropriate that written undertakings are proffered to the Commission having regard to the correspondence to you from the lawyers for the CFMMEU dated 18.11.22, 23.11.22 and 25.11.22 as well as what was submitted at paragraph [23] of the CFMMEU submissions dated 16.11.22 and what was said at PN 582 of the transcript dated 17.11.22 by Senior Counsel for the CFMMEU.

The Applicant further submits that access be the subject of an Order of the Commission not Directions as now proposed by the CFMMEU.

The lawyers for the CFMMEU have been copied into this email.

Regards

Phillip Pasfield
National Practice Group Leader
Industrial and Employment Law



SLATER AND GORDON LAWYERS

Level 14, 55 Market Street, Sydney New South Wales 2000
D +61 2 8267 0613 | **T** +61 2 8071 2790 |
M +61 419 295 492 | **F** (02) 8267 0650
W slatergordon.com.au

From: Chambers - Acting President Hatcher <Chambers.Hatcher.VP@fwc.gov.au>

Sent: Monday, 28 November 2022 10:17 AM

To: Phillip Pasfield <Phillip.Pasfield@slatergordon.com.au>; 'Jessica Dawson-Field (JDawson-Field@mauriceblackburn.com.au)' <JDawson-Field@mauriceblackburn.com.au>; J Bornstein <JBornstein@mauriceblackburn.com.au>

Subject: D2022/10 - Application by Kelly - Access to produced documents

This Message Is From an External Sender

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

OFFICIAL

Dear parties,

I confirm the documents have been produced in the Sydney registry of the Commission pursuant to the order dated 18 November 2022.

The Acting President grants access to the documents to the two identified CFMMEU internal lawyers subject to the implied *Harman* undertaking. The parties are directed to provide a draft order as to access (including how copying is to occur) by email to these chambers.

Kind regards,
Caroline

Caroline Beasley
Associate to Acting President Hatcher



T (02) 9308 1812

E chambers.hatcher.vp@fwc.gov.au

Level 11, Terrace Tower, 80 William Street, EAST SYDNEY NSW 2011
www.fwc.gov.au

The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

This email was sent from Gadigal Country.

Slater and Gordon Lawyers - <http://www.slatergordon.com.au>

If our bank account details change we will notify you by letter, phone call or face-to-face but never by email.

This e-mail (and any attachments) is for the exclusive use of the addressee and may contain information that is privileged, confidential or protected by copyright.

If you are not the addressee or the person responsible for delivering this e-mail to the addressee, you must not disclose, distribute, print or copy this e-mail and the contents must be kept strictly confidential.

If this e-mail has been sent to you in error, kindly notify us immediately on (03) 9602 6888, or by return e-mail and permanently destroy the original.

Electronic mail is not secure and there is also a risk that it may be corrupted in transmission. It is therefore your responsibility to check this e-mail (and any attachment) carefully for corruption and viruses and if there are any errors to contact us immediately. We do not accept liability for any loss or damage caused by such lack of security.

Slater and Gordon collects personal information to provide and market its services.

For more information about use, disclosure and access, see our privacy policy at <http://www.slatergordon.com.au>

Slater and Gordon Lawyers - <http://www.slatergordon.com.au>

If our bank account details change we will notify you by letter, phone call or face-to-face but never by email.

This e-mail (and any attachments) is for the exclusive use of the addressee and may contain information that is privileged, confidential or protected by copyright.

If you are not the addressee or the person responsible for delivering this e-mail to the addressee, you must not disclose, distribute, print or copy this e-mail and the contents must be kept strictly confidential.

If this e-mail has been sent to you in error, kindly notify us immediately on (03) 9602 6888, or by return e-mail and permanently destroy the original.

Electronic mail is not secure and there is also a risk that it may be corrupted in transmission. It is therefore your responsibility to check this e-mail (and any attachment) carefully for corruption and viruses and if there are any errors to contact us immediately. We do not accept liability for any loss or damage caused by such lack of security.

Slater and Gordon collects personal information to provide and market its services.

For more information about use, disclosure and access, see our privacy policy at <http://www.slatergordon.com.au>

Slater and Gordon Lawyers - <http://www.slatergordon.com.au>

If our bank account details change we will notify you by letter, phone call or face-to-face but never by email.

This e-mail (and any attachments) is for the exclusive use of the addressee and may contain information that is privileged, confidential or protected by copyright.

If you are not the addressee or the person responsible for delivering this e-mail to the addressee, you must not disclose, distribute, print or copy this e-mail and the contents must be kept strictly confidential.

If this e-mail has been sent to you in error, kindly notify us immediately on (03) 9602 6888, or by return e-mail and permanently destroy the original.

Electronic mail is not secure and there is also a risk that it may be corrupted in transmission. It is therefore your responsibility to check this e-mail (and any attachment) carefully for corruption and viruses and if there are any errors to contact us immediately. We do not accept liability for any loss or damage caused by such lack of security.

Slater and Gordon collects personal information to provide and market its services.

For more information about use, disclosure and access, see our privacy policy at <http://www.slatergordon.com.au>
