

STATEMENT

Fair Work Act 2009

s.240 - Application to deal with a bargaining dispute

Application by Construction, Forestry, Maritime, Mining and Energy Union (105N)

(B2020/175)

DEPUTY PRESIDENT SAUNDERS

NEWCASTLE, 26 MARCH 2020

[1] Earlier today the CFMMEU, CPSU, CEPU and AGL Macquarie participated in a conference, by telephone, before Deputy President Saunders. At the conference the parties discussed the proposed enterprise agreement which AGL Macquarie has put to employees for their vote on 5-9 April 2020, and in particular, the proposed new Salary Progression Process Standard (HRS 017) (*SPP Standard*).

[2] During the conference, Deputy President Saunders expressed the following opinions:

- a. An enterprise agreement imposes obligations and confers rights while it is in operation.
- b. Clause 14.2 of the AGL Macquarie Enterprise Agreement 2016 (*2016 EA*) imposes an obligation not to modify the SPP Standard while the 2016 EA is in operation, unless the requirements of clause 14.2 are met.
- c. If there is a desire to modify the SPP Standard and have that modified SPP Standard apply during the operation of the 2016 EA, then the process in clause 14.2 of the 2016 EA must be followed, including consultation and agreement “with representatives of the relevant classifications and Employee Representatives”.
- d. But, if the proposal is for a new or modified SPP Standard to apply if and when a new enterprise agreement comes into operation, then that is a matter that can be put forward as part of a new proposed enterprise agreement and the process in clause 14.2 of the 2016 EA does not have any application.
- e. It is a matter for the employees who will vote on the new proposed enterprise agreement from 5-9 April 2020 to consider the proposed new SPP Standard and weigh it up, together with all other relevant considerations, and decided whether or not to vote up the new proposed enterprise agreement.

- f. Deputy President Saunders recommends that employees give the new proposed enterprise agreement serious consideration when they vote on it.



DEPUTY PRESIDENT