

CFMMEU's rules, I am comfortably satisfied, for the reasons given, that the Employees are not engaged in the coal industry, but they are engaged in connection with the coal industry within the meaning of rule 2(D) of the CFMMEU's rules. As a result, the CFMMEU is entitled to represent the industrial interests of the Employees who have joined, or in the future join, the CFMMEU. It follows that the CFMMEU is eligible to be a bargaining representative for the Employees.³³

[100] I am satisfied that all the requirements of ss 236 and 237 are met in this case. I therefore make the following majority support determination:

“A majority of employees of Orica Australia Pty Ltd who work in the classifications of shot firers, explosive handlers and laborers (bench hands), and who work at the Boggabri open cut coal mine, in New South Wales, want to bargain with Orica Australia Pty Ltd for a single enterprise agreement.”

[101] Pursuant to s 237(4) of the Act, this majority support determination comes into operation on 28 May 2020.

[102] I note for completeness that I have not made any determination in this decision as to whether any of the Employees or any other employees of Orica are covered by the Black Coal Award or entitled to long service leave benefits under the *Coal Mining Industry (Long Service Leave) Administration Act 1992* or associated legislation. Those questions do not arise in these proceedings.



DEPUTY PRESIDENT

Appearances:

Mr Slevin, of counsel, with *Ms Short*, CFMMEU Legal Officer, on behalf of the CFMMEU

Mr Williams, solicitor, with *Mr Nissen*, solicitor, on behalf of Orica

Hearing details:

2020.

Newcastle:

5 May.

Printed by authority of the Commonwealth Government Printer

³³ Section 176(3) of the Act