

Fair Work (Registered Organisations) Act 2009, subsection 94(4)

APPLICATION FOR BALLOT UNDER PART 3 OF CHAPTER 3

TO: THE FAIR WORK COMMISSION

I, Grahame Kelly:

- (a) apply for a ballot to be held to decide whether the Mining and Energy Division should withdraw from the Construction, Forestry, Maritime, Mining and Energy Union; and
- (b) nominate myself, of 215-217 Clarence Street Sydney in the State of New South Wales as the representative constituent member for the purposes of the ballot.

PARTICULARS

1. Grahame Kelly (**the Applicant**) is a member of the Central Council of the Mining and Energy Division (**ME Division**) of the Construction, Forestry, Maritime, Mining and Energy Union (**CFMMEU**). The Central Council of the ME Division is the committee of management of the ME Division within the meaning of s.6 of the *Fair Work (Registered Organisations) Act 2009* (Cth) (**RO Act**).
2. On 25 March 2021 the Central Council of the ME Division passed a resolution which, inter alia, authorised the Applicant to make this application and nominated him as the representative constituent member for the purposed of the ballot. A copy of the resolution is attached to this application and marked "**Annexure 1**".
3. The ME Division became part of the CFMMEU as a result of an amalgamation under Chapter 3, Part 2 of the RO Act between the Construction, Forestry, Mining and Energy Union, the Maritime Union of Australia and the Textile Clothing and Footwear Union of Australia which took effect on 27 March 2018. Accordingly, this application meets the requirements of s.94(1) of the RO Act.
4. The Fair Work Commission has not rejected an application for a ballot to be held in relation to the ME Division, nor has a ballot been held that rejected the withdrawal of the ME Division from the CFMMEU.
5. It is proposed that the ballot question to be put to the members of the ME division be as follows:
"Do you approve the proposed withdrawal of the Mining and Energy Division from the Construction, Forestry, Maritime, Mining and Energy Union and its registration as a separate organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth)?"
6. This application is accompanied by the following documents:
 - (a) a written outline of the proposal for the ME Division to withdraw from the CFMMEU which is marked "**Annexure 2**"
 - (b) a copy of the rules and name proposed for the new organisation, "**Annexure 3**";
 - (c) a copy of the altered rules and name proposed for the CFMMEU when the proposed withdrawal of the ME Division takes effect, which is marked "**Annexure 4**".

Lodged by: Grahame Kelly

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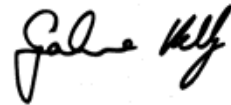
Email: phillip.pasfield@slatergordon.com.au

7. The Applicant applies for an order pursuant to s.102(1)(a) of the RO Act allowing the proposed ballot to be conducted by a designated official pursuant to an exemption which is in force under s.186 of the RO Act. The Applicant seeks that the ballot be conducted as an attendance ballot but that the designated official have the power to conduct a postal ballot in respect of members for whom it is not practical to conduct an attendance ballot.

Note 1: Section 95 of the Act requires this application to be accompanied by a fair and accurate written outline of the proposal to withdraw from the amalgamation.

Note 2: Section 95A of the Act requires this application to be accompanied by a statement of the name, and a copy of the rules, proposed for the new organisation and a statement of the name, and a copy of the alterations of the rules, proposed for the amalgamated organisation.

Dated: 26 March 2021



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Signature of Grahame Kelly