



# STATEMENT AND DIRECTIONS

*Fair Work (Registered Organisations) Act 2009 s.94*

**Application by Grahame Patrick Kelly – withdrawal from amalgamated organisation – Mining and Energy Division – Construction, Forestry, Maritime, Mining and Energy Union**  
(D2021/2)

Registered Organisations

JUSTICE ROSS, PRESIDENT  
VICE PRESIDENT HATCHER  
DEPUTY PRESIDENT GOSTENCNIK

MELBOURNE, 30 APRIL 2021

*Application for withdrawal from amalgamated organisation – Mining and Energy Division – Construction, Forestry, Maritime, Mining and Energy Union*

[1] Mr Grahame Kelly has applied under s.94 of the *Fair Work (Registered Organisations) Act 2009* (RO Act) for a secret ballot to be held to decide whether the Mining and Energy Division (M&E Division) of the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU) should withdraw from the CFMMEU (The Application). The Application and accompanying documents were lodged on 26 March 2021.

[2] A mention of interested parties was held on 28 April 2021. A copy of the Transcript is [here](#).

[3] One of the disputed issues concerns the application of s.94(1) of the RO Act and, in particular, whether the M&E Division ‘became part of’ the CFMMEU ‘as a result of’ the amalgamation with the MUA and TCFUA in March 2018 (the s.94(1) issue). We propose to determine this issue first. The following directions are issued in respect of the s.94(1) issue:

1. The CFMMEU (and any other party contesting the Application) is to file a full written submission and any statements of evidence in respect of the s.94(1) issue by **4pm on 19 May 2021**.
2. The Applicant is to file a full written submission and any statements of evidence in reply by **4pm on Wednesday 2 June 2021**.
3. The s.94(1) point will be the subject of a hearing at **9:30am (AEST) on Tuesday 8 June 2021**.

[4] The Commission has established a dedicated [Major Cases](#) webpage for this matter.

The Commission's subscription service will be used to notify interested parties of updates during this matter such as deadlines for the filing of submissions and evidence, notices of listing and when any decisions or statements are issued. A dedicated subscription service called 'Ballot for withdrawal of ME Division from CFMMEU' has been established. Interested parties are encouraged to subscribe to receive notifications on the [subscription services](#) page on our website. Any questions about the subscription service can be sent to [ros@fwc.gov.au](mailto:ros@fwc.gov.au) so we can triage them.

PRESIDENT

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