

IN FAIR WORK COMMISSION

Matter No: D2022/10

Application by Graham Patrick Kelly, withdrawal from amalgamated organisation

Objections of the Construction Forestry Maritime Mining and Energy Union

1. This document is filed on behalf of the Construction Forestry Maritime Mining and Energy Union (the CFMMEU) pursuant to the directions made on 21 September 2022.

The document:

- (a) Sets out the basis for the CFMMEU's objections to the applicant's application for an extension of time;
- (b) Identifies other jurisdictional objections, that the CFMMEU submits should be heard and determined before the substantive application; and
- (c) Otherwise reserves the CFMMEU's rights to raise any other, non-jurisdictional, objections to the substantive application.

Objection to extension of time

2. The CFMMEU objects to the application on the basis that:

- (a) it has been made outside of the time prescribed by s. 94(1) of the *Fair Work (Registered Organisations) Act 2009* (Cth) (the **Act**);
- (b) an extension of time pursuant to s. 94A of the Act should not be granted because:
 - (i) s. 94A(3) does not apply because the constituent part, on behalf of which the application has been made, has contributed to the CFMMEU's record;
 - (ii) in all the circumstances, it is not appropriate, within the meaning of s. 94A(1) of the Act for an extension of time to be granted.

Other jurisdictional objections

3. Further and/or alternatively to 1., the CFMMEU objects to the application on the basis that the Mining and Energy Division did not, within the meaning of s. 94 of the Act, become part of the CFMMEU as a result of an amalgamation.
4. Further and/or alternatively to 1., the CFMMEU does not admit that the applicant has been authorised by the prescribed number of constituent members because after having made reasonable enquiries it does not know the truth of the allegation.

Rights reserved for other, non-jurisdictional, objections

5. The CFMMEU reserves its rights to identify any other objections to the application once the jurisdictional objections identified above have been determined.

Dated: 30 September 2022

Maurice Blackburn
Solicitors for the CFMMEU