

## Annexure 2

### Outline of Proposed Withdrawal of the Manufacturing Division from the Construction, Forestry and Maritime Employees Union

#### A. Introduction

1. On 12 and 27 September 2024, the Divisional Executive of the Manufacturing Division of the Construction, Forestry and Maritime Employees Union (**CFMEU**):
  - a. voted to authorise and instruct Michael O'Connor to make an application to the Fair Work Commission (**FWC**) under subclause 3(1) of Schedule 3 of the the *Fair Work (Registered Organisations) Act 2009 (RO Act)* for a ballot of members to decide whether the Manufacturing Division should withdraw from the CFMEU and form its own registered organisation; and
  - b. specifically approved a detailed scheme of withdrawal, including this Outline and appointed and authorised Michael O'Connor to make the application as provided for in s.94(3)(d) of the old Act (**Old Act**), as defined in clause 1 of Schedule 3 of the RO Act.

**Annexure 1 to the FWC Application** contains a copy of the resolutions of the Divisional Executive which were passed on 12 and 27 September 2024.

2. If approved the newly registered organisation would have approximately 9,262 members who would automatically transfer across from the CFMEU pursuant to s.111 of the Old Act; it would have approximately \$5.3 million in net assets; its existing officials, professional and administrative staff would transfer to the newly registered organisation and the existing democratic structures would be preserved in the newly registered organisation.
3. Importantly, if approved the newly registered organisation will not be responsible for any penalties, liabilities or debts that belong to other Divisions of the CFMEU. The newly registered organisation, as an independent organisation, will also be free to set its own industrial priorities free from any interference from the CFMEU.

#### B. The proposal

4. The Manufacturing Division is a division of the CFMEU. The CFMEU is an 'amalgamated organisation' for the purposes of Chapter 3, Part 3 of the RO Act.
5. Subclause 3(1) of Schedule 3 of the the RO Act provides that the Manufacturing Division is permitted to apply to the FWC for a secret ballot to decide whether or not the Manufacturing Division should withdraw from the CFMEU.
6. It is proposed that the ballot question to be put to the members of the Manufacturing Division will be as follows:

“Do you approve the proposed withdrawal of the Manufacturing 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*?”
7. The ballot question will require members to vote 'yes' or 'no'. If a majority of the Manufacturing Division members who participate in the ballot vote 'yes' to the ballot question, the members of the Manufacturing Division will have approved the proposed withdrawal from the CFMEU.
8. It is proposed that the ballot be conducted in part as an attendance ballot and in part as a postal ballot, and be conducted by the Australian Electoral Commission pursuant to s.102(1) of the RO Act. It is proposed that a postal ballot be conducted in respect of members for whom it is not practical to conduct an attendance ballot. The ballot will be conducted in accordance with the requirements of the RO Act and the *Fair Work (Registered Organisations) Regulations 2009* (“**Regulations**”).
9. Following the declaration of the ballot result, if a majority of the members of the Manufacturing Division who vote in the ballot, vote 'yes', Michael O'Connor will make application to the Federal Court of Australia pursuant to s.109 of the RO Act. The application will seek orders fixing the withdrawal date of the Manufacturing Division and will seek orders dealing with the transfer of assets to the newly registered organisation and any other matters requiring Court approval.
10. Once the Federal Court of Australia determines the withdrawal date, the General Manager of the FWC will enter the new registered organisation into the register of organisations pursuant to and in accordance with s.110 of the RO Act.

11. Subject to clause 5(9) of Schedule 3 of the RO Act, pursuant to s.111 of the RO Act, existing members of the Manufacturing Division will automatically become members of the newly registered organisation on registration day and will cease being members of the CFMEU. The former members of the CFMEU will become members of the newly registered organisation without the payment of entrance fees.

**C. Names of the newly registered organisation and the amalgamated organisation**

12. It is proposed that the name of the newly registered organisation will be the Timber, Furnishing and Textiles Union (**New Union**).
13. It is proposed that the name of the amalgamated organisation after withdrawal, will be the “Construction and Maritime Employees Union, CFMEU”.
14. The proposed name of the newly registered organisation reflects its key areas of coverage of workers. The proposed name of the newly registered organisation does not offend s.95A(2) of the RO Act, as it is not so similar to the proposed name of the amalgamated organisation or any other organisation as to cause confusion.

**D. General rules of the proposed newly registered organisation**

15. The proposed rules of the amalgamated organisation after the withdrawal takes effect and the proposed rules of the New Union are attached to the FWC Application.

**‘Annexure 3 to the FWC Application’** contains the proposed rules of the New Union.

**‘Annexure 4 to the FWC Application’** contains the proposed rules of the amalgamated organisation after the withdrawal takes effect.

16. The proposed rules of the New Union largely reflect the existing rules of the Manufacturing Division. This is because it has been sought to only amend the existing Manufacturing Division rules to the extent necessary to give effect to the withdrawal, to incorporate rules which had been contained in the “National Rules” of the CFMEU, or to ensure consistency in processes of the newly registered organisation and consistency in terminology, or to otherwise ensure compliance with the RO Act and in particular with clause 5(7) of Schedule 3 of the RO Act.
17. Accordingly, the vast majority of the changes to the Manufacturing Division rules concern the change of the word ‘Division’ to ‘Union’ (as the relevant context requires) and similar consequential changes to give effect to the existence of a new registered organisation out

of what was the Manufacturing Division, or to ensure consistency in processes of the newly registered organisation and consistency in terminology.

18. The organisational structure of the Manufacturing Division will be retained in the New Union. That is, each of the existing Districts is identified and retained and the relevant governing bodies of the Manufacturing Division become the governing bodies of the New Union. There are other rule changes that are more substantive and reflect the need to deal with organisational matters that were previously dealt with in the national rules of the CFMEU.
19. Also, the rules contain a substantial transitional rule which explicitly deals with the transfer of existing office holders and structures of the Manufacturing Division into the New Union. The transition rule is necessary to ensure that there is no confusion or interruption to the normal operation of the Manufacturing Division as it transitions into the New Union.

#### **E. General rules of the amalgamated organisation after withdrawal**

20. The Manufacturing Division has sought only to amend the rules of the amalgamated organisation to the extent necessary to reflect the withdrawal of the Manufacturing Division. Accordingly, the approach taken has been to simply delete all references to the Manufacturing Division, its members, its officers and Districts.
21. The deletion of references to the Manufacturing Division is also reflected in rules dealing with the governing bodies of the amalgamated organisation. The rule changes simply provide that the Manufacturing Division no longer exists as part of the amalgamated organisation and has no presence on its governing bodies.
22. The proposed rules of the amalgamated organisation have been provided to the FWC with tracked changes in order to demonstrate the limited nature of the proposed alterations to the rules of the amalgamated organisation.

#### **F. Eligibility rules of the amalgamated organisation and the newly registered organisation**

23. The approach that has been taken to the drafting of the eligibility rules of the respective organisations is to give effect to the requirements of clause 5(7) of Schedule 3 of the RO Act.

24. Accordingly, the proposed eligibility rules of the New Union are comprised of the following components:
- a. Proposed rule 2(A) of the proposed rules deals with the coverage of the New Union in the forestry, pulp and paper industries. The Manufacturing Division has at all relevant times had exclusive coverage of workers in these industries as part of the CFMEU.
  - b. Proposed rule 2(B) of the proposed rules deals with the coverage of the New Union in the furnishing products industry. The Manufacturing Division has at all relevant times since the abolition of the FFTS Union Division had exclusive coverage of workers in this industry within the CFMEU. This rule is subject to an exclusion of workers, as required by clause 5(7) of Schedule 3 of the RO Act. The excluded workers from this rule are:
    - (i) *persons who are engaged in Queensland, the Northern Territory or the Australian Capital Territory;*
    - (ii) *persons who are engaged in the plate, sheet or ornamental glass industry in New South Wales or Western Australia;*
    - (iii) *persons engaged in or in connection with the following industries or trades in New South Wales or Western Australia:*  
*Plate and sheet glass in warehouses, shops, factories or stores, glass bevellers, glass benders, glass worker (excepting those on spectacles, lenses or frames and employees in firms where such employees are engaged on work connected with the manufacture or repair of scientific, precision or other instruments such as binoculars, microscopes, military, aircraft and naval instruments), glass lampshade workers, safety glass workers, glaziers, glass polishing, cutting, painting, cementing, leadlight glaziers and cutters and plate-glass factories and luxfer glazing; and*
    - (iv) *floor covering layers in Queensland or Western Australia.*
  - c. Proposed rule 2(C) of the proposed rules deals with the the additional eligibility that accrues to the New Union as a result of the ‘uplifting’ of the eligibility rules of counterpart State registered organisations in the State of New South Wales under s.158A of the RO Act.

- d. Proposed rule 2(D) of the proposed rules deals with the coverage of the New Union in the textile, clothing and footwear industries. The Manufacturing Division has at all relevant times had exclusive coverage of workers in these industries as part of the CFMEU.

**G. Particulars of the assets and liabilities of the amalgamated organisation and the newly registered organisation**

- 25. The CFMEU is a reporting unit for the purposes of the RO Act. A reporting unit must comply with the reporting requirements set out in Chapter 8 of the RO Act. These requirements include detailing the financial and asset positions of the reporting unit, prepared in accordance with mandated accounting standards.
- 26. Each of the Divisions of the CFMEU is also a reporting unit for the purposes of the RO Act. As such, each of the Divisions is required to lodge annual financial reports with the FWC.
- 27. Rule 27(iii) of the CFMEU provides that: “*Each Division shall have autonomy in relation to its funds and property*”. This has meant that each Division has had the control and exclusive use of the funds and property that are attached to the Division.
- 28. The CFMEU has, in practice, operated on the basis of a highly decentralised financial structure with the funds and assets of the organisation residing overwhelmingly in the Divisions. That is shown by the fact the CFMEU National Office in its most recent financial year report (year ended 31 December 2023) recorded a total comprehensive income of \$705,248 and a net assets position of \$849,150.
- 29. The financial reports for each of the respective Divisions reveals the following results for funds and assets:
  - a. Construction and General Division (Divisional National Office only, for year ended 31 March 2023) – a total comprehensive (loss)/income of (\$2,193,278) and net asset value of \$9,617,430.
  - b. MUA Division (for year ended 30 June 2023) – a total comprehensive (loss)/income of (\$1,715,521) and a net asset value of \$55,976,429.

- c. Manufacturing Division (for year ended 31 December 2023) – a total comprehensive income of \$148,852 and a net asset value of \$5,331,905.<sup>1</sup>
30. In addition, whilst the MUA Division and Manufacturing Division reports consolidate the financial reports for their Divisional National Offices and each of their Branches/Districts in a single report, the Construction and General Division does not. the Construction and General Division prepares separate financial reports for each of its Branches. Accordingly, to ascertain the total financial and asset position of e the Construction and General Division, the financial returns of each of the Divisional Branches needs to be combined with the report of the Divisional National Office.
31. Tallying up the financial returns of each of the respective Divisional Branches, the total comprehensive income of the Construction and General Division is \$11,205,740.00 and the net asset position is \$122,374,197.
32. There is no property, assets or liabilities held in common by the Manufacturing Division and any other Division or part of the CFMEU.
33. It is proposed that the newly registered organisation will assume ownership of all of the funds, assets, property and liabilities of the Manufacturing Division as outlined in the most recent financial report to the FWC by the Manufacturing Division, with any necessary adjustments being made to reflect the date of withdrawal.
34. Further, it is proposed that the inventory of funds, assets, property and liabilities belonging to the Manufacturing Division will be subject of transfer to the newly registered organisation and will be the subject of orders sought from the Federal Court of Australia under s.109 of the RO Act.

#### **H. Access to documents**

35. The FWC Application (which annexes the proposed rules of the New Union and the proposed rules of the amalgamated organisation after withdrawal takes effect) and the above mentioned financial reports of the CFMEU, its Divisions and Divisional Branches, and the Rules of the CFMEU as at 2 December 2023 can be accessed via [\[link to be inserted\]](#).

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<sup>1</sup> These figures are set out in the financial report of the Manufacturing Division for the year ended 31 December 2023.