Form F68 Application for consent to the alteration of eligibility rules of an organisation

*Fair Work (Registered Organisations) Act 2009*

*Fair Work (Registered Organisations) Regulations 2009*, paragraph 121(1)(b)

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| **FAIR WORK COMMISSION** | *Commission use only* |
|  | **Commission Matter No.:**  |

**Applicant Organisation**

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| **Name:** | “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU) |
|  |  | **ABN:** | 59 459 725 116 |
| **Address:** | Level 4, 133 Parramatta Road (P O Box 160) |
| **Suburb:** | Granville | **State:** | NSW | **Postcode:** | 2160 |
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The Applicant applies for consent to the alteration of the eligibility rules of the organisation to the following:

## 1 - NAME OBJECTS AND CONSTITUTION

The Union formed under these Rules (hereinafter called the "Union") shall be named the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers’ Union (AMWU). It shall be a registered Trade Union.

1A. Without in any way limiting or being limited by sub-rules 1B, 1C, 1D, 1E, 1F, 1G, 1H and 1I the Union shall consist of an unlimited number of persons who are employed or usually employed in or in connection with the following trades or calling or branches thereof:

(a) Smiths, ship smiths, angle iron smiths, drop-hammer smiths, spring smiths, oliver smiths, spring fitters, swaging machine operators, operators on smithing machines similar to swaging machines, nut and bolt makers, windmill erectors, motor, motor cycle, and cycle mechanics, tuners and testers in motor industry, enamellers, typewriter mechanics, well-borers, scale-makers, metal safe makers, locksmiths, forge hammermen, forgemen, strikers, drop-hammer stampers, forging machine workers, forge, iron, and brass furnace-men, ship's plumbers, fitters, turners, grinders, whetstone grinders and glazers, sea-going engineers, shift engineers, roll turners, patternmakers, model makers, millwrights, mechanical draughtsmen, technical assistants, planners, borers, slotters, machine drillers, milling machine workers, shapers, machinists, brass founders, brass finishers, brass smiths and operators of machines in connection with same, coppersmiths, armature winders, equipment examiners, and electrical engineers generally, radio workers, mechanical and scientific instrument makers and optical glassmakers, linotype mechanics, press mechanics, machine joiners employed in the construction of cotton, silk, flax, woollen or other machines, die sinkers, press tool makers and stampers, electroplaters, polishers, electroplate makers up, sheet metal spinners, assemblers, skilled acetylene and electrical welders, aero mechanics, duralium workers, including forgers, fitters, and all other aircraft workers who are employed on the fuselage or engine work, and all workers engaged in the engineering, shipbuilding and kindred trades.

Notwithstanding anything contained in the immediately preceding paragraph, persons employed by Donaghys Industries Pty Ltd as production employees shall not be eligible for membership of the Union.

(b) (i) Persons other than boilermakers' helpers and labourers engaged in marking off, making templates, making jigs (except precision work associated therewith), plating, bolting (temporary or otherwise), hand and/or machine riveting, caulking, chipping, flanging, furnaceing, levelling, angle or boilersmithing, welding, staying, tapping, reaming, drilling (other than on stationary drilling machines), tube staying, tubing, operating machines for punching and shearing, rolling, bending, angle or plate straightening, hydraulic presses (except helpers and labourers to boilermakers), nipping and notching machines, operators of all gas welding and cutting plants, Anglo-Swedish or electric arc welding processors in connection with the making and/or repairing and/or demolition of iron, steel, aluminium, copper, or other metal or alloys, boilers, vats, digesters, receivers, retorts, ships, vessels other than ships, tanks, wagons, trucks, rolling-stock, bridges, girders, principals (roof or otherwise), pontoons, gasometers, pipes, mining plates, and structural iron and steel work used in connection with buildings and assemblers.

 Provided that assistants or labourers, general or special employed in connection with the work of a boilermaker or other mechanic shall not be eligible for membership in the Union; Provided further that such making and/or repairing and/or demolition of classes of work as enumerated herein, of aluminium, copper, and other metal or alloys shall not extend beyond established trade practice where work is being performed by members of other organisations registered in or in connection with the Engineering and/or metal working industries.

 (ii) Agricultural smiths, coach smiths, engine smiths, farrier smiths, floor-men farriers, general smiths, implement smiths, ship smiths, tool smiths, heat treaters, heat treater operatives, angle-iron smiths, motor smiths, rolling stock smiths, wheelwright smiths, oliver smiths, forgers, forgers on hot presses, setters and spring smiths, chain makers, tool sharpeners, finn cutting machinists, profile cutters, bolt, nut and/or rivet machinists and men in charge of bull-dozers, swadging, upsetting and other machines used for Blacksmiths work, oxy acetylene welders, electric welders, carbon-arc welders, cutters and all other welders, ornamental gate, fence and balustrade smiths.

 (iii) The provisions of subclauses (i) and (ii) of this clause (b) shall apply to all industries associated with the processes of boilermaking and black-smithing except as to the industry of agricultural implement making in Victoria and South Australia other than those employees who were members of the Boilermakers & Blacksmiths Society at the date of its amalgamation in 1965.

 (iv) Notwithstanding the provisions of subclauses (i), (ii) and (iii) of this clause (b) all persons employed in the industries or occupations within the callings covered by the constitution of the Australian Workers' Union as registered on the 1st day of September, 1965 shall not be eligible for membership within the scope of this clause (b).

(c) (i) Producing, making, completing by any process such as oxidising or electroplating, or vitreous enamelling, or repairing, or assisting to produce, make or repair any articles, goods or chattels, in or in connection with the tinplate, tinsmithing, sheet metal working, gas meter making, motor car building or repairing so far as panel beating or sheet metal work is concerned, sheet metal trunk and box making, or canister making industries; and shall include spinners, draw moulders, ceiling fixers, welders, metal polishers and revolving shutter machinists engaged in or on or about sheet metal work.

 (ii) Producing plastic articles in the industries set forth in sub-clause (i) hereof in a factory or in a section of a factory where the major portion of the work performed in such factory or section is work usually performed in a sheet metal and/or canister making factory and where such articles are used as substitutes for products covered by this constitution.

 (iii) In finishing as completed, repaired marketable articles, goods or chattels, including painting, japanning, tinning, galvanising, sharadising, lacquering, oxidising or electroplating, or vitreous enamelling any articles, goods or chattels, in any wise relating to, or in connection with, the industries set forth in sub-clause (i).

 (iv) All employees in any establishments connected with manufacture, assembling, dismantling, erecting, replacing, or repairing of agricultural implements, machinery, utensils, flax making machinery, wagon building and irrigation plant; the trades connected with white and black sheet metal working, blacksmiths, general blacksmiths farriers; the manufactories of iron, copper, tin or galvanised iron utensils, stoves, ranges, grates, registers, copper casings or other heating apparatus, domestic appliances made of metal

fireproof or other iron doors, bedsteads, wire-mattresses, or other iron work used in connection with beds, coppersmith wares or parts thereof; porcelain enamelling of steel and iron plates and hollow-ware baths, sinks, cisterns, household utensils and builders' material or in the manufacture of frit.

 (v) Producing, making or repairing, or assisting to produce, make or repair, jewellery, metal badge making and electroplated ware, and shall include jewellers, gilders, chasers, engravers, lapidaries, metal badge workers, electroplaters, makers of electroplated ware, metal polishers, stampers and spinners.

 (vi) Producing, making or repairing, or assisting to produce, make or repair, watches, clocks, taximeters, taxi timepieces, synchronome clocks and spring dial clocks and shall include attendants and winders.

(d) An unlimited number of employees engaged or usually engaged in the process, trade or business connected with or incidental to the manufacture, construction or repair of iron, steel, wooden or concrete ships, boats, vessels, punts, pontoons, floating stages, targets, preventers and torpedo netting booms and such like constructions, balsa rafts, life-saving rafts, dock gates, caissons and cofferdam gates, aircraft, sea-planes (where work on such aircraft or sea-planes is done in an establishment the principal business of which is work of the other classes hereinbefore mentioned) or any other floating structure being persons employed or usually employed as shipwrights, naval architects, ship's draughtsmen, boatbuilders, or aircraft constructors in such establishments.

(e) Such other persons, whether employees in the industries associated with the constitution or not, who have been appointed officers of the Union and admitted as members thereof or whilst financial members of the Union have been elected as fulltime representatives of any working class organisation to which the Union is affiliated, or as a working class member of Parliament, or as a fulltime representative on any Government Tribunal or Board, in the interests of the Union or Unions.

Together with such trades as may be represented by trade unions hereinafter amalgamating with the Union.

(f) All other workers engaged in any metal industry or trade provided that no applicant for membership shall be eligible for membership under this paragraph while there exists in the State in which such applicant is employed a registered organisation operating in the immediate locality of the applicant's work and dealing solely with workers of the particular class of which such applicant is a member unless arrangements can be made for the amalgamation of such organisation with this Union.

(g) In the State of Western Australia:

(i) Tool makers, heat treaters, drill doctors, electrical fitters, electrical installers, electrical wiremen, electrical linemen and electrical workers generally, refrigeration fitters, pipe fitters, skip repairers, iron workers' assistants, moulders' assistants, boilermakers' assistants, dressers, drillers, pipe makers, riggers, die makers, press operators, fettlers and machinists engaged in the production of plastics, and all workers of any of the classifications mentioned above employed in work with fibre glass or nylon materials where such fibre glass or nylon materials replace or are substituted for other materials with which such workers formerly worked and the work is of a kind which when done in such other materials would have been done by such a worker or some other classification mentioned.

(ii) all persons in the process, trade avocations or callings connected with or incidental to the manufacture or repairing of carriages, carts, wagons, railway cars, tram cars, motor cars, sidecars, aircrafts or any vehicle, together with farriers.

Provided that persons employed as Production Team Members by Southern Aluminium Pty. Ltd. at Bell Bay, Tasmania are not eligible, under this sub-rule, for membership of the Union.

(h) In the State of Queensland, without in any way limiting and without in any way being limited by the remainder of Rule 1A:-

(i) All employees of Mount Isa Mines Limited who are engaged in the following Divisions or Departments:-

1. Engineering Division (except for employees engaged in Control Systems Maintenance Department); or
2. Surface Workshop Department of the Copper Stream and the Fans and Refrigeration Department of the Copper Stream

shall be eligible for membership in the union.

But employees of Mount Isa Mines Limited other than those described in this sub-rule, shall not be enrolled as members of the Union.

(ii) The following classes of person shall also be eligible for membership: all employees of sugar mills, refineries, distilleries, terminals, storage operations or other sectors of the sugar industry (herein called “the sugar industry”) who, on 16 December 1994, were eligible for membership of The Plumbers and Gasfitters Employees Union of Australia, Queensland Branch, Union of Employees or the Amalgamated Society of Carpenters, Joiners, Bricklayers, Plasterers, Painters and Decorators of Australasia, Union of Employees, Queensland and any persons employed in the sugar industry subsequent to 16 December 1994 who would have been eligible for membership of the abovementioned unions if so employed on 16 December 1994.

1B. Without in any way limiting or being limited by sub-rules 1A, 1C, 1D, 1E, 1F, 1G, 1H and 1I the Union shall also consist of an unlimited number of persons employed or usually employed as moulders and/or coremakers, or apprentices, or juniors, and engaged in any class of moulding and/or coremaking for the production of castings from molten metal of any kind, or making moulds for other materials in any industry or branch of any industry together with such persons who have been appointed officers of the union and admitted as members thereof.

 Provided that persons employed as Production Team Members by Southern Aluminium Pty. Ltd. at Bell Bay, Tasmania are not eligible, under this sub-rule, for membership of the Union.

1C. Without in any way limiting or being limited by sub-rules 1A, 1B, 1D, 1E, 1F, 1G, 1H and 1I the Union shall also consist of -

(a) Persons employed in, usually employed in or qualified to be and desirous of being employed in one or more of the following callings:

(i) Architects and Naval Architects.

(ii) Aerodrome Engineers, Aeronautical Engineers, Chemical Engineers, Civil Engineers, Communication Engineers, Electrical Engineers, Electronic Engineers, Hydraulic Engineers, Local Government Engineers, Marine Engineers, Mechanical Engineers, Metallurgical Engineers, Mining Engineers, Production Engineers, Radio Engineers, Railway Engineers, Road Engineers, Structural Engineers, Water and Sewerage Engineers and Wireless Engineers.

(iii) Airworthiness Surveyors, Building Surveyors, Engineering Surveyors, Geodetic Surveyors and Computers, Hydrographic Surveyors, Land Surveyors, Marine Surveyors, Mining Surveyors, Quantity Surveyors, Survey Computers and Topographical Surveyors.

(iv) Aeronautical Draughtsmen, Architectural Draughtsmen, Cartographers, Cartographic Draughtsmen, Chemical Engineering Draughtsmen, Civil Engineering Draughtsmen, Electrical Engineering Draughtsmen, Engineering Draughtsmen, Estimating Draughtsmen, Hydraulic Engineering Draughtsmen, Jig and Tool Draughtsmen, Local Government Engineering Draughtsmen, Marine Engineering Draughtsmen, Mechanical Engineering Draughtsmen, Mining Engineering Draughtsmen, Photogrammetric Draughtsmen, Production Engineering Draughtsmen, Radio Engineering Draughtsmen, Railway Engineering Draughtsmen, Road Engineering Draughtsmen, Ship Building Draughtsmen, Structural Draughtsmen, Survey Draughtsmen, Water and Sewerage Engineering Draughtsmen, Wireless Engineering Draughtsmen and Technical Illustrators.

(v) Tracers.

(vi) Aircraft Inspectors and Examiners (other than inspectors and examiners employed inspecting or examining sheet metal work elsewhere than in the Directorate of Quality Assurance, RAAF), Certified Mine Managers, Engineering Inspectors, Building Inspectors, Testers of Engineering Materials, Production Planners, Planners of Engineering Production, Manufacturing Processes, Construction or Maintenance Work, Weather Officers.

(vii) All persons employed in any of the industries of Architecture, Chemistry, Engineering,

Science, Surveying and Draughting including Tracing as:

 Foremen and Supervisors of Engineering Production;

 Foremen and Supervisors of Manufacturing Processes;

 Foremen and Supervisors of Construction Work except where employed in the Building and Civil Engineering Construction Industry save that Foremen and Supervisors of Construction

 Work employed in the said Building and Civil Engineering Construction Industry by the Commonwealth, its departments, authorities, commissions or instrumentalities shall not be so excepted;

 Foremen and Supervisors of Maintenance Work except where employed in the Building and Civil Engineering Construction Industry save that Foremen and Supervisors of Maintenance Work employed in the said Building and Civil Engineering Construction Industry by the Commonwealth, its departments, authorities, commissions or instrumentalities shall not be so excepted; or

 Foremen and Supervisors of Repair Work except where employed in the Building and Civil Engineering Construction Industry save that Foremen and Supervisors of Repair Work employed in the said Building and Civil Engineering Construction Industry by the Commonwealth, its departments, authorities, commissions or instrumentalities shall not be so excepted;

 Provided that all Foremen and Supervisors of Engineering Production, Foremen and Supervisors of Manufacturing Processes, Foremen and Supervisors of Construction Work, Foremen and Supervisors of Maintenance Work and Foremen and Supervisors of Repair Work who are employed in any of the Metal Industry, the Aircraft Industry or the Vehicle Industry in any of their branches and in all Industries allied thereto shall remain eligible for membership of the Union.

 Provided further that the following shall not be eligible for membership of the Union pursuant to this sub-rule 1C:

(i) Foremen and Supervisors (other than Foremen and Supervisors of Engineering Production) employed in the New South Wales Metropolitan Water, Sewerage and Drainage Board;

(ii) Foremen and Supervisors (other than Supervisors of Engineering Production) who are eligible for membership of the Gas Industry Salaried Officers Federation;

(iii) Foremen and Supervisors (other than Foremen and Supervisors of Engineering Production) who are eligible for membership of the Australian Licensed Aircraft Engineers Association;

(iv) Foremen and Sub-Foremen on Civil Engineering sites and Construction and/or Maintenance Work who are members or who are eligible for membership of the Building Workers Industrial Union or the Operative Plasterers and Plaster Workers Federation of Australia;

(v) Foremen and Supervisors (other than Supervisors of Engineering Production) employed in or in connection with the Transport Industry whether by land, water or air when eligible for membership of the Australian Transport Officers' Federation;

(vi) Foremen and Supervisors (other than Supervisors of Engineering Production) employed in the Printing Industry.

Provided still further that notwithstanding anything contained in this clause the Union shall not be entitled to enrol as members persons who are now eligible or may become eligible for membership of the Commonwealth Foremen's Association (other than Supervisors of Engineering Production).

(viii) Technical Assistants and Technical Officers other than those employed;

(i) in the Public Services of the States of Australia;

(ii) in or by any of the following New South Wales Trusts, Commissions or Boards; Viz;

The Maritime Services Board;

The Metropolitan Water, Sewerage and Drainage Board;

The Hunter District Water Board;

The Public Transport Commission;

The Water Conservation and Irrigation Commission;

The Forestry Commission;

(iii) in the Commonwealth Scientific and Industrial Research Organisation;

Provided that any person who is employed in the Commonwealth Scientific and Industrial Research Organisation as a Technical Assistant or Technical Officer in an area of employment which since 1 November 1970 has come within the area of operation of the Commonwealth Scientific and Industrial Research Organisation and who at the time of change over is a member, shall remain eligible for membership of the Union.

(iv) in the Overseas Telecommunications Commission;

(v) in laboratory work in the Australian Public Service unless they are employed in any of the industries of Architecture, Chemistry, Engineering, Science, Surveying and Draughting including Tracing.

Providing that any person employed in or usually employed in any of the callings prescribed in clause (a) of sub-rule 1C undergoing a fulltime course of training the object of which is to further qualify him or her for employment in any one or more of the said callings shall be classified as a student member.

(b) (i) Persons who are employed in the work of an artisan or mechanic (other than a postal electrician) as permanent or continuing employees of:-

(a) the Australian Public Service,

(b) the Commonwealth Scientific and Industrial Research Organisation,

(c) the Australian Postal Commission,

(d) the Australian Telecommunications Commission,

(e) Australian Defence Industries Pty Ltd,

(f) Federal Airports Corporation, or

(g) Civil Aviation Authority.

(ii) Persons who are employed in the foregoing as examiners, viewers, overlookers, officers in charge of proof grounds, or proof masters or on comparable duties where duties include the inspection of work of artisans or mechanics;

(iii) Persons who are employed as permanent or exempt employees of the Australian National Railways Commission in the Australian Capital Territory or in South Australia in the Northern Region of the Commission within the classification structure of the Commission to which those classifications covered as at 1 March 1978, by Determination No. 58 of 1948 have been translated;

(iv) Persons who are employed in the Commonwealth Fire Brigade.

Provided that:-

(a) a member of the Union eligible for membership under clause (b) of sub-rule 1C who is transferred in his or her employment with the Australian National Railways Commission from the Australian Capital Territory or the Northern Region of the Australian National Railways Commission in South Australia and would otherwise be eligible to be a member of the Union shall be entitled to be and remain a member of the Union, and,

(b) the Union shall not admit as members under clause (b) of sub-rule 1C exempt employees who, at the time of application for membership, are performing work for which provision is made in awards of the Australian Industrial Relations Commission or awards or determinations of a State Industrial Authority obtained at the instance of other organisations, and,

(c) for the purpose of clause (b) of sub-rule 1C, the Northern Region of the Australian National Railways Commission in South Australia shall mean and include that area in South Australia covered by the Commonwealth Railways prior to 1st July 1975, and

(d) nothing contained in clause (b)(i) of sub-rule 1C of this Rule shall render eligible for membership of the Union any person who, as at 2nd May 1990, was not a member of the Association of Draughting, Supervisory and Technical Employees and is employed by or in:

(i) Australian Defence Industries Pty Ltd, in the classifications of Foreman (Metal Trades), Foreman (Clothing), Foreman (Ship Joiners), Foreman (Shipwrights) or Foreman (ODP),

(ii) Federal Airports Corporation in the classifications of Supervising Mechanic, Lines Supervisor, Foreman (Metal Trades), Electrical Foreman or Foreman, or,

(iii) Civil Aviation Authority in the classifications of Supervising Mechanic, Lines Supervisor, Foreman (Metal Trades), Electrical Foreman or Foreman.

(v) Persons employed as air crew, other than as pilots, of helicopters engaged in emergency service, rescue or coastal surveillance activities.

Provided that this paragraph (v) shall not render eligible for membership of the Union:

a) any person trained an qualified to be a nurse, firefighter or paramedic and employed as such; or

b) any person employed by the Crown in right of a State or Territory, including any person employed in an instrumentality of a State or Territory; or

c) any person employed by the Queensland Ambulance Service or its successors; or

d) any person employed by a State or Commonwealth firefighting service or a State emergency service organisation; or

e) any person employed as an air crew member in a helicopter owned and operated by a company performing offshore construction or a company whose principal business is the production, processing and transmission of or exploration for hydrocarbons; or

f) any person employed by Hunter Region SLSA Helicopter Rescue Service Ltd at its helicopter bases at Tamworth and Newcastle in the State of New South Wales; or

g) any person employed in coal seam gas exploration, cattle and livestock mustering or animal control; or

h) any person employed as an air crew member in a helicopter service in the Northern Territory or the States of Queensland and Victoria the principal function of which is patient transport; or

i) any person employed principally to provide aerial surveillance or observation for the purposes of firefighting.

Provided further that sub-paragraphs (b) to (e) inclusive shall not extend to include employees of companies providing helicopter services under contract to the employers specified in those sub-paragraphs.

(c) persons employed in the Public Services of the Commonwealth of Australia, the Northern Territory or the Australian Capital Territory or any instrumentalities of the Northern Territory or the Australian Capital Territory in any of the following positions:

(i) Senior Works Supervisor;

(ii) Senior Furniture Officer;

(iii) Works Supervisor;

(iv) Furniture Officer;

(v) Assistant Furniture Officer;

(vi) Building Officer, Commonwealth Experimental Building Station; or

(vii) Maintenance Officer, Department of Works.

(d) Persons who are employed in clerical and administrative work in ADI Limited, Aerospace Technologies of Australia Ltd, Snowy Mountains Engineering Corporation Limited or SMEC Services Pty Ltd. Provided that, for the purposes of this clause (d), Aerospace Technologies of Australia Ltd shall not include Boeing Australia Limited.

(e) Persons who are employed in clerical or administrative work in any of the industries of Architecture, Chemistry, Engineering, Science, Surveying and Draughting including Tracing. Provided that such persons shall:

(i) work in physical proximity to and in association with production, trade, technical, planning, drafting or related supervisory employees otherwise eligible to be members of the union under this Rule 1;

(ii) comprise 25% or less of the total number of employees in their particular workplace; and

(iii) perform work incidental to the principal function of that workplace; but

(iv) not work in a separate and distinct head office in which work outside the character of that covered by Parts I, II and IV of the Metal, Engineering and Associated

 Industries Award 1998 constitutes a majority of the work performed; a business may operate more than one head office.

For the purposes of paragraph (ii) of this clause:

(v) “clerical or administrative work” shall not extend to include supervisory nor technical, planning or drafting work as understood within the context of the Metal, Engineering and Associated Industries Award 1998 - Part V Supervisors or - Part II - Draughting, Planning and Technical Employees respectively or like awards;

(vi) “workplace” shall refer to an individual site rather than the business collectively, where a business is conducted at a number of geographically separate and distinct locations.

Provided further that this clause of sub-rule 1C shall not apply to:

(vii) persons who are members of the Australian Municipal, Administrative, Clerical and Services Union;

(viii) persons employed by the Commonwealth or by the Crown in right of a State or Territory;

(ix) subject to clause (d) of sub-rule 1C, persons eligible to be members of the CPSU, the Community and Public Sector Union:

(a) under its eligibility rules as registered at 15th May, 2002;

(b) as a result of any rule change granted in Matter D2002/8; nor

(x) persons eligible to be members of the Managers and Professionals Association under its eligibility rules as registered at 15th May, 2002.

This clause shall not operate such as to expand the classification coverage of any agreement which was certified prior to 1st September, 2003 pursuant to the Workplace Relations Act 1996.

This clause shall not operate prior to 1st September 2003.

1D. Without limiting the generality of the foregoing or by being limited in any way by the foregoing, the union shall also consist of an unlimited number of persons who are employed or usually employed by Queensland Alumina Limited at the company's Gladstone Refinery in the boiler station not being persons required to possess and apply electrical/electronic stream trade qualifications.

1E. Without in any way limiting or being limited by the sub-rules 1A, 1B, 1C, 1D, 1F, 1G, 1H and 1I, the Union shall also consist of an unlimited number of employees engaged in or usually engaged in the process, trade or business connected with or incidental to the manufacture, assembling or repairing of carriages, carts, wagons, trucks, railway cars, tram cars, motor cars, motorcycles, sidecars, aircraft and other vehicles used in air transit and all other vehicles or parts thereof and whether in wood and/or metal and/or other material, preparation for sale of motor vehicles (pre-delivery) and sale by auction of any motor vehicle, (including detailing work) **and the rental of motor vehicles (including cleaning and detailing work but not clerical and customer service work)** together with any persons appointed as officers of the Union and elected as members thereof.

1F. Without in any way limiting and without in any way being limited by sub-rules 1A, 1B, 1C, 1D, 1E, 1G, 1H and 1I, the Union shall also consist of persons, other than academic staff, wholly or substantially employed in the higher education industry who:

 In the State of South Australia

 are employed in technical, trades, scientific and engineering professional occupations by the Flinders University of South Australia.

 In the Australian Capital Territory

 are employed by the University of New South Wales at the Australian Defence Force Academy (other than in non-engineering professional, administrative and clerical occupations), the Australian National University and the University of Canberra.

 In the Northern Territory

 are employed by the Northern Territory University.

1G. Without in any way limiting the generality of the foregoing or being limited by sub-rules 1A, 1B, 1C, 1D, 1E, 1F, 1H and 1I, the Union shall also consist of an unlimited number of persons engaged in or in connection with:

(a) The manufacture, preparation, processing or putting up of:-

(i) Jams, jellies, honey, pastes, spreads, and similar preparations:

(ii) Pickles, salt preparations, sauces, chutneys, vinegar and other wet condiments;

(iii) Soups and other preparations of vegetables and/or food from animals; fish or sea food sold in containers;

(iv) Sliced fruit, fruit salads, and nut food;

(v) Pulp, fruit and vegetable juices and cordials whether such are made wholly or in part from fruit or vegetable juices or not;

(vi) Sugar from sugarbeet, (except in the states of New South Wales and Queensland);

(vii) Fish and seafood of any description and their by-products and the smoking of fish.

Provided that this paragraph shall not extend to persons engaged in or in connection with the manufacture, preparation, processing, or putting up:-

(i) In the states of Victoria and South Australia of pastes, spreads and similar preparations of preserved meat;

(ii) In the states of New South Wales, Victoria and South Australia of nut food;

(iii) In the state of New South Wales and in the state of Western Australia outside a radius of 30 miles of the General Post Office, Perth, of fish and seafood sold in containers;

unless the said persons are engaged in establishments where the chief product or products or one of the chief products manufactured in such establishment is otherwise provided for herein.

(b) (Without restricting the interpretation of the foregoing and subject to sub-rule 1G(ba)) the preparation and preservation as food of fruit and vegetables, their juices and pulp, meat, fish, sea food and the by-products of all of them together with such other persons whether employed in the industry or not as have been appointed officers of the Union or its branches and admitted as members thereof. Provided that this paragraph shall not extend to persons:- In the States of New South Wales, Queensland, South Australia and Western Australia engaged in any establishment where the predominant part of the product of such establishment is manufacture, preparation or putting up of preserved meat, rabbits, or poultry or to Berri Food Co-operative Ltd. in the manufacture, preparation, processing, or putting up of fruit juices at the companys' premises as constituted as 10 July, 1974 at Berri in the State of South Australia. Provided further that this paragraph shall not extend to persons engaged in the manufacture, preparation, processing or putting up of fruit juices in establishments respondent to the Aerated Waters Award 1974 or to an establishment where the work of that establishment falls within the scope of that award and such work is the predominant work performed at the said establishment.

(ba) Without limiting the foregoing, in the State of Western Australia, the union shall also consist of persons employed as production employees in the poultry processing industry by Inghams Enterprises Pty Ltd situated, as at 14 September 2000, in Baden Street and Powell Street, Osbourne Park or at such other location or locations at which the said enterprise at Osbourne Park may subsequently be carried out. In this paragraph, Inghams Enterprises Pty Ltd includes its successors, assignees, transmittees or any purchaser of the whole or any part of the business.

The persons identified in sub-rule 1G(ba) shall not include:

(i) persons involved in the inspection, regulation, research or policy development in

or in connection with the poultry industry in Western Australia.

(c) The Union shall consist of all journeymen Confectioners and all employees engaged in or in connection with the manufacture of Chocolate, Cocoa, liquorice, Candy and Confectionery, including Sweetmeats, chewing gum and the like throughout the Commonwealth, together with such other persons whether employees in any industrial pursuits or not who may have been appointed officers of the Union and admitted as members thereof. Provided that persons manufacturing Chocolate, and/or cocoa in the establishments of manufacturing grocers, whose part of the manufacturing business is to manufacture Cocoa and/or Chocolate shall not be enrolled.

(d) In New South Wales, without in any way limiting and without in any way being limited by the remainder of rule 1G, the manufacture, preparation, processing or putting up of ice cream.

1H. Without in any way limiting or being limited by sub-rules 1A, 1B, 1C, 1D, 1E, 1F, 1G and 1I, the Union shall consist of:-

(a) An unlimited number of persons (excepting journalists) who are employed or whose usual occupation is that of an employee in or in connection with:-

(i) any business, trade, manufacture, undertaking, calling, service, employment, handicraft or industrial occupation or avocation on land or water in the printing industry or a kindred industry including (without limiting the generality or ordinary meaning of the foregoing description) composing, reading, electrotyping,

 stereotyping, letterpress machining, lithographic machining, lithographing, machining, printing of all classes, slug-casting or type-casting machine attending and adjusting and/or repairing, type-founding, engraving, process engraving and/or photo-engraving, commercial and/or lithographic designing, writing and/or drawing, publishing, despatching, book-binding, binding, paperruling, paper cutting, paper making, paper working, calico and/or paper bag making, envelope making, stationery making, paper products working, embossing, cardboard box making, carton making (including the making of any kind of boxes and/or containers of paper and/or cardboard used alone or in combination with any other material or materials), plastics manufacturing or any of the processes of or incidental to the manufacturing of plastics or of goods manufactured therefrom or substitutes therefor; and

(ii) Without in any way limiting and without being in any way limited by paragraph (i) of this sub-rule: the composing or imposition or assembly of matter which is to be printed and the transference of images by use of cameras or scanners or transparency duplications to obtain a relief or planographic or intaglio formation for printing, composing, reading, electrotyping, stereotyping, letter-press machining, lithographic machining, lithographing, machining, printing of all classes, slug-casting or type-casting machine attending and adjusting and/or repairing, type-founding, engraving, process engraving and/or photo-engraving, commercial and/or lithographic designing, writing and/or drawing, publishing, despatching, book-binding, binding, paperruling, paper cutting, paper making, paper working, calico and/or paper-bag making, envelope making, stationery making, paper products working, embossing, cardboard box making, carton making (including the making of any kind of boxes and/or containers of paper and/or cardboard used alone or in combination with any other material or materials), plastics manufacturing or any of the processes of or incidental to the manufacturing of plastics or of goods manufactured therefrom or substitutes therefore. The Union shall also consist of such other persons, whether employees in the foregoing industries or industrial pursuits or not, as have been appointed officers of the Union and admitted as members thereof.

(b) An unlimited number of persons employed by:

(i) (A) employers in the "industry of the employer" engaged in mailing houses performing activities in folding, paging, numbering, perforating, gathering, collating, inter-leaving, wrapping, sealing, addressing, mailing, despatching, stamping, inserting, security paper working, wire stapling, envelope working, direct mail systems working, addressograph work, paper products work and machine work in or in connection with enveloping, sealing, automatic/computer addressing and/or wrapping.

(B) an employer hereinafter prescribed or the successor, assignee or transmittee of that employer's business:

Automail Pty. Limited

Canberra Mailing Co. Pty. Limited

Data Management Services

Data Mail Pty. Limited

Dynamic Direct Mail

Hermes Precisa Australia

Mail Care

Mail Management Australia

Metro Mail Pty. Limited

Permail Pty. Limited

Progress Press

Q.M. Industries Pty. Limited

R.L. Polk & Co. Pty. Limited

Salmat Direct Marketing

Security Mailing Services Pty. Limited

Sprintpak

Supermail

Waterford Mailing.

(ii) Provided that:

 (A) any person engaged in or in connection with the installation, maintenance or provision of postal services including but not limited to postal services such as provided by the Australian Postal Corporation shall not be eligible for membership.

 (B) all persons employed by employers in the "industry of the employer" engaged in mailing houses in the delivery of articles in or in connection with mailing houses shall not be eligible for membership.

(iii) For the purposes of paragraph (b), the "industry of the employer" shall mean:

(A) the printing industry, which includes any business, trade, manufacture, undertaking, calling, service, employment, handicraft or industrial occupation or avocation on land or water in the industry of printing and/or any kindred industries and/or in any group or branch of such industry or industries, including (without limiting the generality or ordinary meaning of the foregoing description) composing, reading,electrotyping, stereotyping, letterpress machining, lithographic machining, lithographing, photogravure and/or rotogravure, machining, printing of all classes, slug-casting or

 typecasting machine attending and adjusting and/or repairing, type-founding, engraving, process engraving and/or photo engraving, commercial art and/or lithographic designing, writing and/or drawing, publishing, despatching, bookbinding, binding, paper ruling, paper cutting, paper making, paper working, calico and/or paper bag making, envelope making, stationery making, paper products working, embossing, blocking, stamping, cardboard box making, carton making (including the making of any kind of boxes and/or containers of paper and/or cardboard used alone or in combination with any other material or materials), plastics manufacturing or any of the processes of or incidental to the manufacturing of plastics or of goods manufactured therefrom or substitutes therefore.

(B) without in any way limiting and without being in any way limited by sub-paragraph (A) of this paragraph (iii) mailing houses, including (without limiting the generality of the ordinary meaning of the phrase) folding, paging, numbering perforating, gathering, collating, inter-leaving, wrapping, sealing, addressing, mailing, despatching, stamping, inserting, security paper working, wire stapling, envelope working, direct mail systems working, addressograph work, paper products work and machine work in or in connection with enveloping, sealing, automatic/computer addressing and/or wrapping.

1I. Without in any way limiting or being limited by sub-rules 1A, 1B, 1C, 1D, 1E, 1F, 1G and 1H the Union shall also consist of employees who are wholly or substantially employed in:

(i) technical, trades (including printing trades), assistant printing and works supervisor occupations in the Department of Defence, Department of Primary Industries and Energy, Department of Environment, Sport and Territories (other than Bureau of Meteorology), Department of Health and Family Services, Department of Administrative Services, Department of Foreign Affairs and Trade, Department of Treasury at the Mint, President of the Senate and/or Speaker of the House of Representatives, Australian Sports Commission, Australian War Memorial, Australian Nuclear

 Science and Technology Organisation, Nuclear Safety Bureau, Australian Institute of Marine Science, Department of Industry, Science and Tourism at Australian Space Office, Department of Communications and Arts at National Science and Technology Centre and National Film and Sound Archive, National Library of Australia, Australian National Gallery, Australian National Maritime Museum and National Museum of Australia;

 (ii) trades occupations in Australian Maritime Safety Authority.

1J. Any person who is eligible for membership of the Union under the provisions of any of sub-rules 1A or 1B or 1C or 1D or 1E or 1F or 1G or 1H or 1I shall not be excluded from membership of the Union by any other of sub-rules 1A or 1B or 1C or 1D or 1E or 1F or 1G or 1H or 1I.

 And further, without in any way limiting and without in any way being limited by the remainder of these rules, the Union shall also consist of independent contractors who, if they were employees performing work of the kind which they usually perform as independent contractors, would be employees eligible for membership of the Union.

1K. Persons employed in any capacity by The Crippled Children's Association of South Australia Incorporated who commenced their employment on or after 30 April 1995 are not eligible for membership of the Union.

1L. Provided that persons employed or to be employed by Energy Developments Limited and/or its subsidiaries or related companies shall not be eligible for membership of the union, and the union shall not have the right to represent under the Act the industrial interests of such persons.

1M. With effect from 22 December 1997 and for the purpose of reflecting the order made on 24 July 1997 and recorded in Print P3383, which order provides that it shall remain in force until revoked, amended or varied by further order of the Commission, notwithstanding anything elsewhere contained in this rule, no person employed or to be employed by Philip Morris Limited in Victoria in or in connection with the preparation, manufacture, processing and packaging of tobacco, cigarettes, cigars and allied products and who is eligible for membership of The Australian Workers' Union shall be eligible for membership of the Union.

1N. Without in any way limiting or being limited by subrules 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H and 1I, the Union shall consist of:

(a) an unlimited number of persons who are employed or usually employed within the manufacturing operations and ancillary functions of ResMed Limited (including, without limitation, production, manufacturing, maintenance and warehouse workers, line level coordinators, team leaders, and local level supervisors, and also including, without limitation, all other employees working in the component of ResMed Limited’s business known as at 18 January 2016 as the “Manufacturing Centre”), but not including managers.

(b) an unlimited number of persons who are employed or usually employed in the manufacturing operations and ancillary functions of any successor, assignee or transmittee of the whole or part of the business of ResMed Limited (including, without limitation, production, manufacturing, maintenance and warehouse workers, line level coordinators, team leaders, and local level supervisors, and also including, without limitation, all other employees working in the component of the business known as at 18 January 2016 as the “Manufacturing Centre”), but not including managers.

(c) for the avoidance of doubt, an unlimited number of persons employed by any employer which supplies labour on an on-hire basis to perform work within Rule 1N(a) and/or (b) above.

(d) for the avoidance of doubt, an unlimited number of apprentices and/or trainees engaged by a group training service and hosted by ResMed Limited in respect of work within Rule 1N(a) above or by any business in respect of work within Rule 1N(b) above.

**Particulars**

1. The proposed alteration is to include in Rule 1E the words “and the rental of motor vehicles (including cleaning and detailing work but not clerical and customer service work)” in the registered rules of the “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU), in the terms set out in bold on page 11 above.

2. The proposed alteration was made in accordance with the registered rules of the AMWU. The National Conference of the AMWU has the power to amend the rules of the AMWU pursuant to Rule 6, subrule 1 paragraph (h) of the rules. The action taken to make the alteration were as follows:

1. Pursuant to Rule 6 subrule 4 paragraph (a), on 21 March, 2017 a majority of members of National Council endorsed the alterations and resolved to refer the alterations to National Conference for determination by postal ballot.
2. On 21 March, 2017, I wrote to all members of National Conference setting out the proposed alterations and enclosing a ballot paper for return by close of business on 11 April, 2017.
3. On 31 March, 2017, a majority of the members of National Conference endorsed the alterations. I note that National Conference has the power to amend the Rules of the Union pursuant to Rule 6, subrule 1 paragraph (h) of the Union’s Rules. The power is expressed to be subject to subrule 6.1A.
4. On 4 April, 2017, I referred the alteration to Mr Dave Smith, National Secretary – Vehicle Division.
5. As at 5 May, 2017, I had not received any response to the correspondence outlined in sub-paragraph (d) above.

3. The effect of the alteration is to provide for unambiguous coverage of all persons employed to perform such work, notwithstanding and without limiting any coverage arising from the AMWU’s current eligibility rules. This will allow the AMWU to, subject to any agreements entered into or undertakings given in settlement of any objections which may be made to this application, enrol and represent such persons.

5. A statutory declaration made by Paul Bastian affirming the above particulars is annexed hereto and marked “A”.

|  |  |
| --- | --- |
| **Date:** | 8 May, 2017 |
|  |  |
| **The Common Seal of the “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU) was hereunto affixed**  | PAUL BASTIANTIM AYRES |

**IN THE FAIR WORK COMMISSION**

**Matter No.**

**Applicant:** Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU)

**Respondent(s):**

**STATUTORY DECLARATION**

*Statutory Declarations Act 1959*

I, Paul Bastian of 133 Parramatta Road, Granville in the State of NSW, Union Official, make the following declaration under the *Statutory Declarations Act 1959*:

1. I am the National Secretary of the AMWU, which is an organisation of employees registered under the *Fair Work (Registered Organisations) Act 2009* (the Act), and am authorised to make this declaration on behalf of the AMWU.

2. The AMWU makes application to the Fair Work Commission under s.158 of the Act seeking consent to the alteration of its eligibility rule. I declare that the particulars of the alteration set out in the application, and the facts stated in the application, are true and correct to the best of my knowledge and belief.

3. I declare that the alterations were made in accordance with the Rules of the AMWU. The action taken under the Rules to make the alteration was as follows:

1. Pursuant to Rule 6 subrule 4 paragraph (a), on 21 March, 2017 a majority of members of National Council endorsed the alterations attached and resolved to refer the alterations to National Conference for determination by postal ballot.
2. On 21 March, 2017, I wrote to all members of National Conference setting out the proposed alterations and enclosing a ballot paper for return by close of business on 11 April, 2017.
3. On 31 March, 2017, a majority of the members of National Conference endorsed the alterations. I note that National Conference has the power to amend the Rules of the Union pursuant to Rule 6, subrule 1 paragraph (h) of the Union’s Rules. The power is expressed to be subject to subrule 6.1A.
4. On 4 April, 2017, I referred the alteration to Mr Dave Smith, National Secretary – Vehicle Division.
5. As at 5 May, 2017, I had not received any response to the correspondence outlined in sub-paragraph (d) above.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959,* and I believe that the statements in this declaration are true in every particular.

Signature of person making declaration:

Declared at 133 Parramatta Road, Granville NSW 2142

on 8 May, 2017 before me:

Signature of witness:

Name of witness:

Qualification of witness:

Address of witness:

Lodged by: Applicant Telephone: (02) 8868 1524

Address for service: 133 Parramatta Road Facsimile: (02) 9897 9274

 Granville NSW 2142 Email: peter.cozens@amwu.asn.au

**ATTACHMENT ‘PB-1’**

1. In Rule 1E, by inserting the following words after the existing words “(including detailing work)”:

“and the rental of motor vehicles (including cleaning and detailing work but not clerical and customer service work)”