



# RTBU NSW LOCO DIVISION NEWSFLASH

August 27, 2021

## RAILTRAIN PROGRESS

Today we achieved a milestone in our bargaining with Railtrain. As reported previously, the RTBU Locomotive division (**RTBULD**) lodged an application in the Fair Work Commission seeking bargaining orders on the basis Railtrain, Rail Shuttle Services and some other Railtrain Companies, were not meeting the bargaining requirements of the Fair Work Act.

A conciliation meeting was conducted by teleconference this morning before Deputy President Saunders of the Fair Work Commission (Newcastle Office). The RTBU Locomotive Division maintained Railtrain Pty Ltd, Rail Train Services Pty Ltd and Rail Shuttle Services Pty Ltd should have issued Notices of Representational Rights to all employees covered by the RTBU's scope claim, which is one NSW Enterprise agreement for Rail Operations employees.

Several other matters were also discussed including issues surrounding who employed Roll By employees in the Hunter Valley, who were included in a recent vote for the Hunter Port Services Agreement. In this regard, Railtrain stated they had made an administrative error and included three employees in the vote who were in fact employed by one of their other companies and that only left one employee employed under that proposed agreement. This raised questions as to whether the RTBU was a bargaining agent for that agreement because the employee was not an RTBU member. This has been challenged by the RTBU Locomotive Division and will be determined by the Deputy President.

Railtrain also complained that recent Loco Express articles were allegedly misleading, although this was strenuously denied by the RTBU Locomotive Division.

Despite the complicated issues in dispute, we were pleased by the meaningful conciliation that occurred and after much legal argument the company agreed that it would issue a Notice of Representational Rights to employees in the subsidiary companies of the Railtrain Group in NSW who had not received one yet.

### **What does this mean?**

This means that all rail operations employees of all Railtrain companies in NSW are bargaining for an Enterprise Agreement to improve their wages and conditions. This does not guarantee one EA for all NSW but rather requires the company to bargain with all operational employees from all three Railtrain companies.

It also means that a Majority Support Determination (**MSD**) is no longer necessary to commence bargaining, but all those who have signed the petition now have their chance to bargain and we were overwhelmed by the positive response to the online MSD petition.

The RTBU will continue to push Railtrain for one NSW wide operations agreement as we believe that is the best option to ensure all Railtrain employees are afforded job security, career progression, decent wages and conditions that are closer to other rail operators in NSW. We will of course, as part of negotiation and bargaining, consider all genuine reasoning put forward by Railtrain for other options.



As part of the conciliation today it was agreed by both parties to publish the Deputy Presidents' notation recording what was agreed. These are published below for your information.

### Where to from here?

The RTBU Locomotive division will be seeking feedback from all Railtrain members over the coming weeks and will be setting up zoom meetings so as members as possible can discuss their concerns and hear the latest. The agreement reached in conciliation today is a tremendous achievement and reflects the hard work and commitment from Railtrain members out there standing up for their rights with such actions as signing the MSD and letting Railtrain know they will not accept inferior conditions. There is a long way to go, and that will take member commitment and strength, but today has been a great start.

## STAY SAFE, STAY STRONG, STAY UNITED

### Deputy President Saunders' Notes

“From: Chambers - Saunders DP

OFFICIAL

Dear parties

I refer to the conciliation conference in this matter before Deputy President Saunders earlier today.

The Deputy President notes that there is a dispute about the scope of proposed enterprise agreements to cover employees in the Railtrain group. Railtrain is seeking two enterprise agreements: (1) an enterprise agreement covering employees of Railtrain Shuttle Services Pty Ltd who perform rail shuttle work in New South Wales (**RSS Agreement**) and (2) an enterprise agreement covering employees of Railtrain Services Pty Ltd who perform roll by services in the Hunter Valley region (**HPS Agreement**). The RTBU is seeking one enterprise agreement to cover all employees in the Railtrain group who are employed in rail operations in New South Wales.

The parties have agreed to move things forward as follows:

1. Notwithstanding that the RTBU is seeking one enterprise agreement with a broad scope, it will continue to meet with Railtrain and discuss the proposed RSS Agreement and the proposed HPS Agreement.



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2. Railtrain will issue a notice of employee representational rights to employees of Railtrain Services Pty Ltd and Railtrain Pty Ltd who perform rail operations work in New South Wales.
3. Deputy President Saunders will determine whether the RTBU is a bargaining representative for the proposed HPS Agreement. To that end, the Deputy President makes the following directions:
  - a. By 4pm on 31 August 2021, Railtrain must provide the Associate to Deputy President Saunders with a confidential list of the names of employees who are within the coverage of the proposed HPS Agreement, including the three employees who will be transferred to the correct Railtrain entity. This list will not be provided to the RTBU.
  - b. By 4pm on 31 August 2021, the RTBU must provide the Associate to Deputy President Saunders with a list of RTBU members who it believes are within the coverage of the proposed HPS Agreement, including the three employees who will be transferred to the correct Railtrain entity, together with documentary proof that such persons are members of the RTBU. This information will not be provided to Railtrain.
  - c. On receipt of the information provided in response to (a) and (b) above, Deputy President Saunders will compare the lists of names provided by the parties and determine whether the RTBU is a bargaining representative for the proposed HPS Agreement. The parties will be informed of the outcome.
4. The parties will engage in discussions concerning the alleged misleading statements made by the RTBU to its members and/or members of the public. If the RTBU agrees that any such statements have been misleading, it will endeavour to reach agreement with Railtrain on the content of communications to be sent to relevant persons to correct the misleading information previously provided. The parties will seek to reach agreement on these matters by 5pm on Friday, 3 September 2021. If any matter remains in dispute, either party may request that the matter be listed for further conciliation before Deputy President Saunders.
5. Each party will ensure that a copy of this email is provided to their members/employees/stakeholders as part of any communication concerning the outcome of the conciliation conference before Deputy President Saunders on 27 August 2021.

In the interim, the Commission will keep its file open in relation to this matter.”

End.