

“While they say they won’t cut your pay rate, they will cut your take home pay”

CRU COMMENCES CONSULTATION WITH MEMBERS OVER FAIR WORK COMMISSION RECOMMENDATION

On Tuesday, 25 March the Combined Rail Union (CRU) delegates received an update on the progress of the EA negotiations as part of a week and a half of members meetings.

The briefing covered the following issues:

1. What has happened in meetings between the CRU and the rail entities since November last year;
2. The status of the “scope” (who is covered by what agreement) of the future agreement(s);
3. The s.240 Bargaining Dispute lodged by the rail entities in the Fair Work Commission (FWC);
4. The recommendation provided to the parties by the FWC on the number of agreements; and
5. Voting on whether to accept the FWC recommendation.



CRU Delegates Briefing discussing how negotiations should progress for their enterprise agreement

1. What has happened in meetings between CRU and rail entities since November last year

The CRU has continued to seek one rather than five agreements covering all the entities with the “Core” (Section 1) of new Agreement finalised prior to negotiations of specific functional sections and clarification of which agreements will cover which employees.

2. Status of the “scope” (who is covered by what agreement) of the future agreement(s)

The CRU advised the rail entities their insistence on five agreements is both unfair and is resulting in inefficient bargaining. The CRU also stated if this situation could not be resolved by Tuesday, 25 February 2014 then the CRU would make an application to FWC for Scope Orders. That is, run a legal case asking the FWC to make a judgement on whether there should be one or five agreements.

What’s The Legal Position?

The current EA covered one legal entity (RailCorp) and its employees. The NSW Government has split RailCorp into three legal entities, Sydney Trains, NSW Trains, and Transport Cleaning Services.

- The Government were proposing five EAs to cover the above legal entities (i.e. one for each of NSW Trains, Transport Cleaning Services and three for Sydney Trains covering Train Crew, Infrastructure and all other employees);

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If you have any questions or require more information contact your union:**

- Since bargaining commenced in December, the CRU has been arguing for one agreement and the Rail Entities have been arguing for five.
- The parties reached an impasse which could only be resolved by applying to the Fair Work Commission for an order in relation to the number of agreements. This is called a scope order.
- The CRU has prepared an application for a scope order which sought one agreement.
- It was anticipated that the Rail Entities will prepare their own application for a scope order which sought five agreements.
- If the Commission is asked to determine these applications, it is likely that it will make an order for either one agreement or five agreements, rather than something in between.
- Both the Rail Entities and CRU have argued their cases in support of their respective positions. It is therefore impossible to predict the outcome of the scope order.
- ***If the parties don't accept the recommendation of the Commission for two Agreements:***
 - ***The only option is to ask the Commission to make a scope order;***
 - ***There is a risk that the outcome of the scope order is five agreements.***

3. s.240 Bargaining Dispute lodged by the rail entities in the Fair Work Commission (FWC)

Before action for a scope order had commenced the rail entities lodge a dispute with the FWC (**s.240 Application for the FWC to deal with a bargaining dispute**) asking it to "...deal with a dispute about the agreement if the [parties] for the agreement are unable to resolve the dispute". As a result of this there were four days of conciliation meetings on 11, 12, 18 & 19 March 2014.

As part of the outcome of conciliation the following wording has been agreed by the parties to give certainty to the conditions of employment for all employees once the current EA expires on 31 March 2014:

"The parties agree to continue applying all clauses, including those expressed to be "for the life of the agreement," beyond 31 March 2014 as provided for by the Fair Work Act."

4. Recommendation provided to the parties by the FWC on the number of agreements

The meeting was also briefed on the recommendation provided by Commissioner Cargill which recommended that the negotiations between the parties should be for two agreements (**See attached**).

5. Voting on whether to accept the FWC recommendation

The CRU has advised the Commission and the rail entities it cannot accept the recommendation prior to consulting with the membership and getting their endorsement. As a result, the following process has been organised by the CRU:

CRU delegate's briefing at Unions NSW on Tuesday, 25 March 2014 to consider the recommendation and the following resolution:

This meeting of Combined Rail Union Members:

- 1. Accepts the recommendation of the Fair Work Commission (FWC) made on 19 March 2014 for negotiations to be for two agreements; and***
- 2. Endorses the CRU to continue bargaining based on agreement between the parties for two agreements as per the FWC recommendation.***

The resolution was overwhelmingly endorsed by the meeting of CRU delegates.

Next Steps

1. Workplace meetings with members from **Wednesday, 26 March - Friday, 4 April 2014** to consider the recommendation and the resolution. (Information attached).
2. Rail entities will consult their stakeholders NSW Government.
3. Once the consultation has finished the parties are to provide a response on their position to FWC and to each other by **7 April 2014**.
4. If after consultation with members and stakeholders, all parties agree with the FWC recommendation for 2 agreements then negotiations will start with the core conditions on 8 April 2014.



RECOMMENDATION

Fair Work Act 2009
s.240 - Application to deal with a bargaining dispute

NSW Trains, Sydney Trains, RailCorp

v

Australian Municipal, Administrative, Clerical and Services Union & Ors
(B2014/391, B2014/557, B2014/558)

COMMISSIONER CARGILL

SYDNEY, 19 MARCH 2014

Application to deal with a bargaining dispute.

[1] The Rail Entities and relevant unions have been engaged in a series of meetings with a view to reaching a new agreement or agreements to replace the *RailCorp Enterprise Agreement 2010*. Some of those meetings have been held in the Fair Work Commission.

[2] An issue has arisen as to the most appropriate number of agreements to be negotiated and the coverage of those agreements. Having heard the positions of the parties for and against various options it is my recommendation that the negotiations should be for two agreements:

- One agreement would cover NSW Trains and its employees;
- One agreement would cover Sydney Trains and its employees and all employees of RailCorp (including those assigned to Transport Cleaning Services).

Handwritten signature of H. Cargill in black ink.

COMMISSIONER

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Copy of Recommendation issued by the Fair Work Commission



TIMES FOR MARCH 2014 MEMBERS MEETINGS

LOCATION	VENUE	DATE	TIME(s)
Blacktown	Conference Room	Wednesday, 26 March	<ul style="list-style-type: none"> • 10:00am • 2:00pm
Burwood	16-24 Elsie St, Burwood, L1, Croydon Meeting Room (40P)	Wednesday, 26 March	<ul style="list-style-type: none"> • 12.30pm
Central	The Loft	Wednesday, 26 March	<ul style="list-style-type: none"> • 9:00am • 1:00pm
Wollongong	Wollongong Civil Meal Room	Wednesday, 26 March	<ul style="list-style-type: none"> • 9:00am • 11:30am • 1:30pm
Blacktown Centre of Excellence	Supa Centre	Thursday, 27 March	<ul style="list-style-type: none"> • 2.00pm
Hornsby Maintenance Centre	Workshop Meal Room	Thursday, 27 March	<ul style="list-style-type: none"> • 10:00am • 2:00pm • 7.00pm
Hornsby Station	Meal Room	Thursday, 27 March	<ul style="list-style-type: none"> • 12.00noon
Burwood	Elsie St, Burwood, L1, Summer Hill Meeting Room(40P)	Friday, 28 March	<ul style="list-style-type: none"> • 12.30pm
Campbelltown	Station Meal Room	Friday, 28 March	<ul style="list-style-type: none"> • 10:00am • 2:00pm
Central	Bradfield Room Central Concourse	Friday, 28 March	<ul style="list-style-type: none"> • 9:00am • 11.30am • 1:30pm
INS	Level 6 Job Club	Friday 28 th March	<ul style="list-style-type: none"> • 12.00noon
Hurstville	Hurstville Civic Centre	Friday, 28 March	<ul style="list-style-type: none"> • 12.30pm • 1.30pm
Liverpool	Station Meal Room	Friday, 28 March	<ul style="list-style-type: none"> • 12:00noon
Flemington MC	FMC Cleaner's Meal Room	Monday, 31 March	<ul style="list-style-type: none"> • 10:00am • 2:00pm
477 Pitt St	Ground Floor Meeting Room Gadigal Room	Monday, 31 March	<ul style="list-style-type: none"> • 1:30pm • 2:30pm
Hornsby	Hornsby Civil Meal Room	Monday, 31 st March	<ul style="list-style-type: none"> • 2.00pm
Lithgow	Station Meal Room	Monday, 31 st March	<ul style="list-style-type: none"> • 1:00pm
Mortdale MC	Mortdale MC Meal Room	Tuesday, 1 April	<ul style="list-style-type: none"> • 10:00am • 2:00pm
Gosford	Station Meal Room	Tuesday, 1 April	<ul style="list-style-type: none"> • 12:00noon • 3:00pm • 6:30pm
	Gosford Structures/Renewals Depot	Tuesday, 1 April	<ul style="list-style-type: none"> • 8:00am
Hamilton	Hamilton Meal Room (Snooker Room)	Tuesday, 1 April	<ul style="list-style-type: none"> • 2:00pm
Wyong	Platform 3 Meal Room	Tuesday, 1 April	<ul style="list-style-type: none"> • 8:00am
Moss Vale	Station Meal Room	Wednesday, 2 April	<ul style="list-style-type: none"> • 10:00am • 2:00pm
Sydenham Centre of Excellence	Meal room	Wednesday, 2 April	<ul style="list-style-type: none"> • 2.00pm
Newcastle	Train Crew Training Room/Meal Room	Wednesday, 2 April	<ul style="list-style-type: none"> • 7:30am • 12:30pm
Wharf Rd Newcastle	Conference Room	Wednesday, 2 April	<ul style="list-style-type: none"> • 9:00am • 2:00pm
Broadmeadow	Station Meal Room	Wednesday, 2 April	<ul style="list-style-type: none"> • 11:00am
Lidcombe Dooley's	Club	Thursday, 3 April	<ul style="list-style-type: none"> • 9:00am • 1:30pm
Penrith	Cleaner's lunch room	Friday, 4 April	<ul style="list-style-type: none"> • 10.00am • 1.30pm
Redfern Wilsons Street (Transits)	Training Hall	Friday, 4 April	<ul style="list-style-type: none"> • 12.30pm • 2.00pm
Katoomba	Katoomba Civil Depot (On upside of Katoomba Station)	Friday, 4 April	<ul style="list-style-type: none"> • 1:00pm
Glenfield Centre of Excellence	Glenfield Centre of Excellence	Friday, 4 April	<ul style="list-style-type: none"> • 8.00am