



November 19, 2020

## **To all Pacific National – Outsourced Members**

**Members are advised that the as notified 24-hour stoppage from 6pm tonight will go ahead!**

Following the decision of Justice Nicholas in the Federal Court this afternoon employees working the blast furnace and hot metal areas **will be able** to take their 24-hour protected action work stoppage. This is great news for the union that we can continue with our protected industrial action!

*Please find attached the Orders which were handed down which we encourage you to read.*

We are working through practically how this will operate, but in effect the orders allow the action to commence with the provision that:

- Where the Applicant (Pacific National) has, formed the opinion in good faith and on reasonable grounds that circumstances have arisen that will mean there will be the dumping of hot metal, they may 'Call Out' a suitably qualified employee so as to avoid the dumping of hot metal.

Having spoken Your Delegates and with Pacific National following the Order being issued, the parties have agreed that to avoid confusion, any potential fatigue issues, and some certainty about who may or may not be called in:

- The 2 Drivers as originally rostered to work on the blast furnace will in a practical sense be "on call at home" for the duration of their originally rostered shift should they be required, and
- The Company, in accordance with the Orders, is required to notify the RTBU where this will happen. For this notification Locomotive Division Organiser Kevin Pryor will be the first point of contact.

Your Delegates have been contacted along with all those members who may be required to attend should it be necessary as per the requirements of the Order.

Members should not hesitate to contact their Delegate and or Organiser (Kevin Pryor) should any further information or clarification be required.

**AUTHORISED: R Hayden Locomotive Divisional Secretary**

Level 4, 321 Pitt St Sydney.NSW 2000



Federal Court of Australia

District Registry: New South Wales

Division: Fair Work

No: NSD1238/2020

**PACIFIC NATIONAL SERVICES PTY LTD ACN 052 134 362**

Applicant

**AUSTRALIAN RAIL TRAM AND BUS INDUSTRY UNION**

Respondent

### **ORDER**

**JUDGE:** JUSTICE NICHOLAS

**DATE OF ORDER:** 19 November 2020

**WHERE MADE:** Sydney

#### **THE COURT NOTES THAT:**

Upon the Applicant, by its counsel, giving the usual undertaking as to damages, namely to:

- (a) submit to such order (if any) as the Court may consider to be just for the payment of compensation, to be assessed by the Court or as it may direct, to any person whether or not a party, adversely affected by the operation of these orders; and
- (b) pay the compensation referred to in (a) to the person or persons there referred to.

#### **THE COURT ORDERS THAT:**

1. Until 6.00pm on Friday 20 November 2020 or further order:
  - (a) the Respondent is restrained from organising industrial action by its members who are employees of the Applicant ("Member Employees") at the Port Kembla steelworks in circumstances where the Respondent is given notice by the Applicant that dumping of hot metal from the No. 5 Blast Furnace will be necessary provided that such organisation of industrial action



is only restrained to the extent necessary to avert any need to dump hot metal;  
and

- (b) upon the Respondent being given notice in accordance with subpara (a) above, the Respondent is required to direct Member Employees to cease any such industrial action to the extent necessary to avoid the need to dump hot metal.
2. Notice may only be given by the Applicant to the Respondent pursuant to order 1 where the Applicant has, by its servants or agents with personal knowledge of the relevant facts, formed the opinion in good faith and on reasonable grounds that circumstances have arisen justifying the giving of such notice.
  3. The Applicant file and serve any Amended Originating Application within 14 days.
  4. Each party have liberty to apply on 3 hours' notice or on such shorter period of notice as a Judge may allow.

Date that entry is stamped: 19 November 2020

*Sia Lagos*  
Registrar