

Common Cause.



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The media is changing, but we still want CFMEU Mining & Energy members to have the latest workplace and industry news. Look out for your monthly Common Cause e-news bulletin, like us on Facebook @CFMEUMining, follow us on Twitter @CFMEU_ME and keep an eye on our website me.cfmeu.org.au. Send your feedback and story ideas to commoncause@cfmeu.com.au.

HAPPY READING!
GRAHAME KELLY,
GENERAL SECRETARY



“WE ARE COAL MINERS” – HITACHI FIELD CREW WIN THEIR FIGHT



CFMEU MEMBERS AT HITACHI WHO SERVICE EQUIPMENT IN HUNTER VALLEY COAL MINES HAVE WON EMPLOYMENT ENTITLEMENTS THAT REFLECT THE REAL CONDITIONS OF THEIR WORK.

After 12 months of negotiations and over six months of industrial action, tradesmen at Hitachi's Muswellbrook depot have voted up a new enterprise agreement that reflects coal industry conditions, with significant improvements in pay, accident pay and a range of allowances.

It includes a pay rise of more than 17% over four years – including annual pay rises and improved night shift, tool and travel allowances; and increased accident pay to match the Black Coal Mining Industry Award.

The new agreement clarifies allowances that have previously been inconsistently applied, including paid meal breaks and travel times. The CFMEU made an application to the Fair Work Commission over unpaid travel time, which will result in tens of thousands of dollars of backpay for some workers.

At stake in this dispute was Hitachi's refusal to recognise the field service fitters and electricians as coal mineworkers, even though they work in coal mines maintaining coal mining machinery.

"All we wanted was our proper entitlements," said Ken Porthouse, Vice President of the newly established Hitachi Muswellbrook CFMEU Lodge. *"We work in coal mines every day and we knew we weren't getting a fair deal."*

Before going on strike, CFMEU membership at Hitachi grew from about 15 to over 50, giving workers confidence that if they stuck together, they could win a better deal.

“WE HAVE A YOUNG WORKFORCE, MANY HAD NEVER BEEN IN A UNION BEFORE LET ALONE TAKEN INDUSTRIAL ACTION,” SAID KEN. “NOW, THE YOUNG GUYS HAVE REALISED THAT THEY HAVE SOME POWER, THEY HAVE A VOICE. THAT’S WHAT IT’S ALL ABOUT.”

Workers started taking industrial action in June including stoppages and work bans. In November, they took their picket line down to Hitachi's Sydney headquarters to get the attention of senior executives who were refusing to meet with them.

CFMEU Northern Mining and NSW Energy District President Peter Jordan said mining industry employers would always look for ways to drive down wages and conditions.

"Our members at Hitachi show that workers using their collective power to fight back can win. They knew they weren't getting a fair deal, so they got organised, stood up and did something about it."

"I congratulate our members at Hitachi for this outcome. If you work in a coal mine - whether you're a contractor, labour hire or a permanent worker - you deserve the same entitlements as the person next to you."

STEERING WORKERS THROUGH TOUGH TIMES

MEET TWO OF OUR WOMEN WORKPLACE LEADERS STANDING UP FOR RIGHTS AND CONDITIONS IN TOUGH CIRCUMSTANCES.

Danielle Hage represents iron ore train drivers as the CFMEU Mining and Energy Lodge Secretary at Rio Tinto's 7-Mile railyard, between Dampier and Karratha.

She loves driving trains up to 2.5 kilometres long through the remote landscape of north Western Australia. "It's a big responsibility. It's worth millions of dollars with the loco and 240 carriages of iron ore. It's awesome when you look out the window and can't even see the end of your train."

The job is changing though, as Rio Tinto has moves to automation of its rail operations. For Danielle, that means less time doing the driving she loves and more time sitting in crib rooms and attending break downs.

Danielle isn't fazed by the fact that women train drivers on the Rio Tinto mainline are greatly outnumbered by men.

"The issues for men and women drivers are the same, except for things like toilet facilities when we're out and about. This is where we need the men to speak up for us too."

"I like being delegate because it means I can support people and I can challenge the status quo. If you don't think things are right for workers, you can have your say."

Danielle is currently involved in negotiating a new enterprise agreement with Rio Tinto that will be central to making sure that workers get a fair deal as automation becomes a reality.

"People's jobs are constantly evolving, but we need to protect our conditions."

"I really want to see that new EBA signed so that pay and conditions locked in, so that people are supported in transition to other areas and our jobs don't become mindless and devoid of meaning."

"All we can do is keep fighting."

Jenna Saunders was born in the central Queensland mining town of Blackwater and has spent most of her life around the area.

For 15 years, she has been a coal mineworker at BHP's Blackwater mine, where she has worked as a laboratory technician, operator for coal mining and pre-strip departments, a trainer assessor and is now an Open Cut Examiner trainee

Since 2017 she's also been the Assistant Secretary of the CFMEU Blackwater No.1 Lodge.



Danielle Hage



Jenna Saunders

Jenna nominated for a lodge executive position at the urging of her co-workers.

"The boys came and saw me and said we really think you would do a great job, you stand up for all of us, and our rights."

"I slept on it for a couple of nights and decided to put my hat in the ring, where to this day I haven't looked back."

"I'm very honoured and privileged to stand beside the men and women of Blackwater and continue our fight for the coal mineworkers' rights," she said.

There is plenty to keep her and the other lodge executives busy with the mine's EA bargaining, disputes, lodge members' concerns and making sure BHP honour the EA that is in place at the mine.

Over the last 15 years working at the mine she has seen the workforce that once was mostly permanent change to a workforce divided between permanent workers, labour hire employees and contractors.

Jenna has hated watching as employees of labour hire and contractors have lost the rights as a coal mineworker for doing the same job she does, including receiving no paid annual leave or sick leave.

"It's terrible to see so much casualisation in our industry these days, all these people would love is a permanent job. We have seen so much change in our industry over the past ten years with the highs and lows of the market, with job losses and mining communities and local businesses suffering."

"For the past couple of years Jenna has been advocating for her fellow mineworkers, especially the next generation."

"I love seeing and training new coal mineworkers in our industry and being able to give them guidance and knowledge to become a competent operator and able to adapt to changing conditions."

"It gives me a great feeling of self-worth that I have been able to help them to have a better future in our industry, hopefully a future with more permanent jobs and better conditions."

Jenna loves her job as coal mineworker and an executive for her Lodge, but most of all she loves the people that she works with each and every day at the coal mine.

"In the long hours of working day and night shifts - the people that I work with make it worth every moment."

TRUCK DRIVER DIES AS TERMINAL LOCK OUT CONTINUES



TRUCK DRIVER MARK ROBERTS HAS DIED AFTER A SHOCKING ACCIDENT AT PORT KEMBLA COAL TERMINAL LAST WEEK. CFMEU MEMBERS, WHO ARE LOCKED OUT OF THE TERMINAL DUE TO A BARGAINING DISPUTE, ARE DEVASTATED. THEY HAVE PLACED FLOWERS AT THE LOCKED TERMINAL GATES AS A MEMORIAL TO MARK.

An inspection by CFMEU safety reps following the accident revealed serious concerns about the safe operation of the site while the permanent workforce is locked out – including lack of site supervision and an inadequate emergency response system.

South West District Secretary Lee Webb said the union was alarmed that the terminal was continuing to operate before the accident has been properly investigated and safety systems have been audited.

"If coal loading continues, we fear someone else will be hurt. We have been given no indication from management that safety systems for rail receipt and loading have been audited – we think there's a very good chance PKCT is operating unsafely."

"IF WE DON'T FIGHT FOR OUR JOBS, OUR KIDS WON'T HAVE THE BENEFITS OF PERMANENT, STABLE EMPLOYMENT."

LOCKED OUT

Aggressive lock-outs during a bargaining dispute mean that the permanent workforce, including site Health and Safety reps, have not been on site for over two months.

Workers at Port Kembla Coal Terminal face termination of their enterprise agreement this week as South32 management insists on trashing their job security protections.

PKCT workers have been at the rough end of unfair bargaining laws, with the Fair Work Commission agreeing to the employer's request to terminate their existing agreement before a new deal was in place.

At stake in the long-running dispute is workers' attempts to protect a clause that prevents existing jobs being replaced by contractors doing the same work.

"In this day and age, it's all casual labour," said terminal worker Nicky Ostach. *"If we don't fight for our jobs, our kids won't have the benefits of permanent, stable employment."*

Negotiations for a new agreement began in 2015. Since that time, permanent jobs covered by the EA have been cut from 107 to 51. In 2017, workers voted down the first enterprise agreement proposed by management. In 2018, the existing agreement was terminated by the Fair Work Commission, with a 12-month 'drop-off' date to allow for resolution of resolve outstanding superannuation and pay issues.



UNFAIR PRESSURE

However, once the termination date of 29 March 2019 was set, management changed its position and insisted on removing the job security clause.

South Western District Vice President Bob Timbs explained that PKCT workers have given ground in many areas but agreeing to remove the job security clause would be like handing the terminal's multinational owners - Wollongong Coal, South32, Peabody Energy, SIMEC mining, Glencore and Centennial - a license to sack them and replace them with casuals.

"Workers are being asked to negotiate when they can't be confident they will still have jobs to negotiate over. It looks like PKCT is waiting for the agreement to expire to pressure them into accepting a sub-standard deal. It's wrong."

Industrial action taken by our members at PKCT has been met with extreme retaliatory lock-outs. So far, they have been locked out of their workplace for more than fifty days this year.

They've used the time to volunteer in the community, doing maintenance and gardening work for local organisations. They've also received strong support from across the labour movement.

BRING ON THE ELECTION

Visiting the picket line last week, ACTU secretary Sally McManus warned terminal owners the dispute would become a flashpoint in the upcoming federal election.

"This has been a well-executed plan for making our jobs less secure. We will not accept companies locking out their workforces, cancelling agreements and casualising the workforce."

"This election will be a referendum on fairness; the companies can pick which side they are on. We will make them the poster children for greed, of inequality, of the Americanisation of our working lives – bring it on."

Labor's workplace relations spokesman Brendan O'Connor called on management to resolve the dispute and said Labor would change bargaining laws to prevent employers terminating agreements during bargaining.

Meantime, the community is grieving the loss of a local worker and family man. *"The workers are gutted,"* said Lee Webb. *"Our deepest sympathies are with Mark's family and friends. We will do everything in our powers to understand what has caused this tragic accident, prevent it happening again and hold those responsible to account."*

VICTIMS HEAD TO MELBOURNE



WITH MORE VICTIMS EXPECTED TO BE DIAGNOSED IN THE MONTHS AND YEARS AHEAD, THE MINE DUST VICTIM'S GROUP HAS BEEN CAMPAIGNING FOR A LEVY ON COAL PRODUCTION TO FUND LONG-TERM SUPPORT FOR VICTIMS AND THEIR FAMILIES.

In February, victims and supporters travelled to BHP's head office in Melbourne to bring their message to senior executives. BHP is the company with the most cases of employees diagnosed with dust disease to date. Unfortunately, BHP chose not to meet them.

Victims are seeking a levy of 1c per tonne per week on Queensland coal production.

Victims' advocate Jim Pearce – a former coal miner and Queensland State MP – said mine dust victims would not accept being ignored by the mining corporations.

"These companies reap enormous profits from the labour of their workers.

"In fact, BHP made a staggering \$12.2 billion profit in 2018. Despite this, BHP does next to nothing to support employees who contract potentially deadly and debilitating mine dust diseases while working in their mines.

"Frankly the Big Australian is behaving like the Ugly Australian."

Travelling to the Melbourne rally from his home in Mackay, black lung sufferer Steve Mellor said victims were not provided adequate medical treatment in Australia. *"They don't treat us,"* he said. *"They just tell you to go away and die."*

SUPPORT FOR INDUSTRY FUND

Support for an industry fund for black lung victims is gaining traction, with Labor candidate for the Central Queensland seat of Capricornia and coal mineworker Russell Robertson calling on big mining companies to pay up.

"As someone who has worked in the coal mines for the best part of my life, I won't stand by while these good men and women suffer," he said.

"These people are now suffering simply because they went to work, did their job and helped support these multinational mining companies make their mega profits.

"That's why I am publicly calling on the resource industry to put their hands in their pockets and support those who contracted the Black Lung disease while working in their industry.

"All options to provide this support must be looked at including placing a small levy on each tonne of coal."

CAMPAIGN WINS IMPROVEMENTS

Meanwhile, pressure from the Union and victims has resulted in a number of commitments from the Queensland Government to improve dust management and diagnosis, including lower allowable levels of respirable coal dust and silica in coal mines, independent dust testing and mobile screening units to improve workers' access to specialist medical attention.

"The Queensland Government inherited a flawed system that has let coal mineworkers down and I commend the action they are taking," said Stephen Smyth.

"But there is always more to be done. We go to work, not to die. We won't rest until we are confident coal mineworkers have the best possible protection and support."

PROFITS UP FOR TOP 3 COAL PRODUCERS



AUSTRALIA'S TOP THREE COAL PRODUCERS, GLENCORE, BHP AND YANCOAL, RECORDED HEFTY PROFITS LAST YEAR FROM COKING AND THERMAL COAL. THESE THREE COMPANIES CONTROL WELL OVER HALF OF AUSTRALIAN BLACK COAL PRODUCTION AND ALL HAVE SAID THEY ARE ENJOYING GREAT CASH MARGINS (REFLECTING PROFIT AFTER OPERATING COSTS) OF ABOUT 45%.

The exit of Rio Tinto from the global coal industry has seen it replaced in Australia by Yancoal and an even-bigger Glencore. Rio clearly thinks the long-term prospects for coal are poor, but right now it has said good bye to the healthy profits that the coal majors are making.

Glencore is now the biggest Australian coal producer, with attributable production of 76 million tonnes in 2018. (Attributable production excludes production from Glencore-managed mines that go to other joint venture parties.) That's a hefty chunk of Australia's total black coal production of around 447mt.

Glencore has a calendar year reporting period so we have their full year results for 2018. Glencore has very large trading activities as well as assets in many different minerals, so we need to separate out the Australian coal results.

Australian coking coal had revenues up from US\$1.1b to US\$1.3b, and EBITDA profit up from US\$541m to US\$673m. (Earnings Before Interest, Tax, Depreciation and Amortisation – a key measure of cash income after deducting operating costs.)

The much larger Australian thermal coal business had revenues up from US\$4.9b to US\$6.3b, and EBITDA profit up from US\$2b to US\$3.2b (up 60%).

Glencore claims a high cash margin of 46% on its coal business. An overall cash margin of US\$40 per tonne. That's a high rate of profit from any perspective.

BHP, which used to be the biggest Australian coal producer, had attributable production of 60 million tonnes in 2018. (It manages a lot more production than that, but the 60mt is its share of the various joint ventures.) As BHP is a diversified

resources company, its total profits don't tell us enough about the Australian coal business. But as with Glencore we can look at just the coal results.

BHP's financial year is to the end of June, so its recent results are for the half year to end December. Queensland Coal revenue increased from US\$3.35b to US\$3.77b and EBITDA profit from US\$1.5b to US\$1.8b. NSW Energy Coal had increased revenue – US\$799m, up from US\$750m – but lower EBITDA profit – declining from US\$304m to US\$229m. That's still a lot of profit from one mine – Mt Arthur Coal – in the Hunter valley!

BHP's cash profit rate on all its businesses is huge – it claims an overall cash margin above 50%. Coal has a cash margin of 45% and iron ore 59%.

Yancoal is now the third largest producer of Australian coal. While it is a publicly-listed company in Australia, it is dominated by its majority owner Yanzhou of China. Unlike BHP and Glencore, Yancoal is focused on Australian coal production so we can look at its overall results. It reports in Australian dollars, unlike BHP and Glencore that, as global businesses, report in US dollars.

Net profit was A\$852 million, while EBITDA profit was A\$2.2 billion, on sales revenues of A\$4.85b and 50 million tonnes of coal. That indicates a cash margin of 45% – very strong cash flow.

So these three companies together own about 42% of Australian black coal production, and would control well over 50%. All have said they are enjoying great cash margins of about 45%.

Every producer will not be making the same great profits, but these numbers show an industry that is making loads of money. Earnings and profits will be lower over the course of 2019 as coal prices have declined. But these three companies all claim to be positioned for good profits for years to come.

- PETER COLLEY, CFMEU MINING AND ENERGY DIRECTOR OF RESEARCH

FROM THE PRESIDENT

'Right to request' permanency no answer for casuals



Tony Maher

WHAT WOULD A LABOUR HIRE BOSS SAY IF A CASUAL MINERWORKER ASKED FOR A PERMANENT JOB? A) NO B) DON'T COME BACK TOMORROW C) NOTHING, TOO BUSY LAUGHING.

Yet the 'right to request' permanent work is what the Coalition is proposing as a solution to the casualisation crisis in our industries.

In response to the community pressure Coalition candidates are feeling over job insecurity, the Morrison Government has introduced the Fair Work Amendment (Right to Request Casual Conversion) Bill 2019. It proposes that casual workers should have the right to ask to convert to permanency and the boss should have the right to refuse on reasonable business grounds. In other words, it doesn't mean much at all.

As our National Legal Director Alex Bukarica told a senate inquiry into this Bill last week: "Let's say that, in labour hire company X, there are employees who ask for or request the right to convert. Labour hire company X could say, 'Sorry, we can't, because the client says to us that we must provide casual employees and, if we convert you to permanent, we will lose our contract.' That's reasonable business grounds."

In the coal mining industry, employing large sections of the workforce on casual arrangements through a labour hire employer has become the preferred business model for most operators.

At many coal mines, half or more of the workforce are casual labour hire workers earning much less than the permanent workers next to them. It's wrong.

Our Union's win last year in the matter of WorkPac v Skene exposed the widespread 'permanent casual' rort. Coal miner Paul Skene, like the vast majority of casual labour hire mineworkers, was designated and paid as a casual but had regular, on-going work that was permanent in nature. He was therefore entitled to receive backpay for annual leave under the National Employment Standards.

This case has created an important legal precedent that has rattled employers and generated retaliatory legal action that is still being played out.

Importantly, it has exposed the lack of adequate definition of casual work in the Fair Work Act.

Employers argue that if they call someone a casual and pay them as a casual, they are a casual. The Skene ruling says that even if an employee is in full-time, regular, on-going work with an advance roster, they are a permanent employee regardless of how the employer designates them.

Apart from not giving casual workers any meaningful hope of converting to permanency, the 'Right to Request casual Conversion' Bill would lock in a definition of casual that is purely based on employer designation.



This would be a bad outcome for workers, allowing employers to continue to dodge their obligations to provide on-going employees with annual leave, carer's leave and job security. Permanent workers deserve permanent entitlements. That's why we are arguing against this bill becoming law.

Instead, we need real protections against casual exploitation. There have been some important commitments from federal Labor including 'same job, same pay' for labour hire workers – to prevent employers using casuals to drive down wages; and a right for casual workers in on-going work to convert to permanency after 12 months, not just request it. These are the kind of changes that would make employers change their dodgy practices.

One thing is certain. We can always count on employers in our industries to find new and creative ways to get out of giving workers a fair deal. BHP has demonstrated this with its new 'Operations Services' subsidiary that effectively brings a cut-price labour hire workforce in-house. We are challenging the Operations Services agreement in the Fair Work Commission and will do everything we can to fight arrangements that treat some workers as second-class citizens.

The best way to win better conditions for all mineworkers – labour hire and permanent – is to have organised, unionised workplaces. Our great wins at Hitachi ([link](#)) and Wongawilli ([link](#)) show that by building union density in our workplaces and being willing to take on the boss, we can deliver real improvements in pay and conditions, including permanent work.

WE ARE ALWAYS STRONGER TOGETHER.

**TONY MAHER, NATIONAL PRESIDENT
CONSTRUCTION, FORESTRY, MARITIME,
MINING AND ENERGY UNION**