

MARCH 2021

Common Cause.



Convention 2021: Mining and Energy Future MEMBERS TO VOTE ON INDEPENDENCE





MEMBERS TO VOTE ON INDEPENDENT FUTURE

The Mining and Energy Division has applied to the Fair Work Commission for a member ballot to leave the Construction Forestry Maritime Mining and Energy Union (CFMMEU). All members will get a vote.

On 1 March, over 300 delegates at our National Convention unanimously endorsed applying for the ballot to give members a say on whether to stay in the CFMMEU or form a standalone Mining and Energy Union.

On 25 March, Central Council endorsed the application, which was lodged with the Fair Work Commission (FWC) the following day.

Now, the FWC will set a timetable for the process.

Our new website MiningandEnergyFuture.org.au will keep you up to date during this time - with news, FAQs and member videos.

Convention delegates enthusiastically supported the resolution for a ballot after hearing reports from General President Tony Maher and all District leaders.

The application proposes a new set of rules for the Mining and Energy Union which reflect the rules of the existing Mining and Energy Division.

If a majority of members support forming a new union, the Mining and Energy Division will then apply to the Federal Court for orders regarding transfer of assets and a withdrawal date.

Once legal processes are complete, all members would transfer to the new union along with elected positions, lodge, district and national structures. The Mining and Energy Division has the resources, experience and enthusiasm to operate as a standalone union.







Rix's Creek miners strike for fair leave

Coal miners at Rix's Creek mine in the Hunter Valley are taking strike action to address a long-term concern over unfair leave arrangements for shift workers.

Workers went on strike for seven days earlier this month, following prior shorter stoppages. At a mass meeting in Singleton on 11 March, a campaign involving significant further industrial action was unanimously endorsed by members.

The next strike begins on Wednesday 7 April, for three days.

Members are determined to use the current round of bargaining to address a long-standing concern about night-shift workers missing out on their shift loadings when taking sick and annual leave.

Leave being 'paid as at work' is a key demand for a new Enterprise Agreement at Rix's Creek, to prevent permanent night shift workers losing hundreds of dollars a week when they take leave.

Workers currently lose \$580 a week on sick leave and \$370 a week when they take annual leave.

"These are permanent night shift workers, they've earned those entitlements and we are determined to fix this," said Northern Mining and NSW Energy District Vice President Jeremy McWilliams.

He said Bloomfield Collieries had traditionally been a fair and reasonable, family-owned mining company that prioritised looking after workers and working through problems.

However, a management change has seen the company become more hostile and litigious, like the big foreign-owned mining companies operating in the region.

"The family-owned company has morphed into a usual coal company and Bloomfield collieries today is significantly different to what it was 30 years ago. Now it's just like dealing with another Yancoal or Glencore.

"But if they think they can exhaust us through legal action or divide and conquer the workforce they are wrong.

"Our members at Rix's Creek are strong, united and determined to resolve this issue."



Class actions undermined as One Nation sells out casuals

Miners slam One Nation over IR 'betrayal'

David Martin Gorman
Workforce correspondent

Coal miners who backed One Nation have accused the party of a "disgusting betrayal" over its support for laws that prevent casuals claiming holiday pay on top of their loading, threatening the party's support in Queensland and NSW.

One Nation's star NSW candidate, Stuart Bonds, has also voiced his disappointment about senators Pauline Hanson's and Malcolm Roberts' vote for the government's industrial relations bill, saying it was a total "betrayal" from their past support for casuals.

While business praised One Nation for backing the bill because it stopped casuals from "double dipping" on their entitlements and avoided an estimated \$39 billion backpay bill, the stance could become a hot election issue in coal mining seats.

Simon Turner, a local chairman in coal miners' class action against labour hire firms in the Hunter Valley and who was regularly targeted by Senator Roberts in his opposition to exploitation of casuals, said he was stunned to hear of the party's vote on Friday.

"I was disgusted and felt betrayed at the highest level," he said. "It's a complete lack of loyalty from representing Hunter coal miners. They made no changes to the IR bill. What [Senator Roberts] actually did is make casual employment legal for



Class action chairman Simon Turner. "I was disgusted and felt betrayed at the highest level." PHOTO: MICKLETHORPE

everyone in Australia. Everyone who goes for a job now can legally be put on as casuals regardless of the hours they work".

One Nation provided crucial votes to the government's bill, along with Centre Alliance senator Sterling Gill.

But they may have helped casual miners' compensation claims in class action for working regular hours.

In the months leading up to the vote, Senator Roberts said the government's proposal to define casuals based on

their job description rather than their actual hours of work "had not passed the pain test" and would cause "industrial turmoil".

One Nation eventually supported the casuals reforms without significant amendments, its "non-negotiable" proposal to shorten casuals' conversion

deadline from 12 months to six, which could have opened it up to labour hire workers, was not passed.

CFMEU mining president Tony Maher said One Nation had supported laws "explicitly designed to overturn rights for casual mine workers".

"Coal miners are rightly furious," Senator Malcolm Roberts has been exposed as a fraud, pretending to stand up for casual coal miners, then selling them out to Parliament at the first opportunity," he said.

Senator Roberts said while he had advocated for exploited casual coal miners, he was "opposed to double dipping" and this has been [my] consistent position.

"In assessing our position on the bill last week, we were advised clearly that Mr Turner's commitments and his court case would not be affected as his court action related to the bill's status of limitation," he said.

But Mr Turner's lawyers say the bill is retrospective and noted amendments to exclude current court cases had not passed.

One Nation candidate and coal miner Mr Bonds, who rose from nowhere in 2002 to win 50 per cent of the vote in Labor MP Joel Fitzgibbon's Hunter Valley seat, said he was "disappointed in the position the party took".

"I can't justify it. I won't justify it. It doesn't appear to be a 180 - it is a 180," he said.

Our union has launched one such class action against WorkPac and class action law firms have launched several others. But these class actions – and future claims for rightful compensation – have been dealt a cruel blow by the new casual provisions.

The new legislation enshrines a definition of casual in the Fair Work Act based on the words in the employment contract, not the reality of the working conditions.

The definition says in part: "The question of whether a person is a casual employee of an employer is to be assessed on the basis of the offer of employment and the acceptance of that offer, not on the basis of any subsequent conduct of either party".

This definition is specifically designed to protect employers from facing the financial consequences of unlawfully employing permanent workers as casuals over many years – and allow them to continue doing so.

While our legal team will pursue every option in regards to our current class action, it is likely to be significantly impacted by the new legislation which applies the new definition of 'casual' retrospectively.

That means that even though the Federal Court found that casual coal miners were not genuine casuals, the Government has changed the law to make it legal – even for those employed as casuals years ago.

Meanwhile, WorkPac's appeal against the Rossato decision currently before the High Court will proceed, with hearings in May, however any broader application of the decision will be severely limited.

In short, says National Legal Director Alex Bukarica, all casual miners have been sold out by the new laws.

"These changes have sold out the interests of tens of thousands of workers and only benefit labour hire companies and big business.

"All our hard work and investment over many years to clarify the law and win justice for casuals has been severely compromised by a vote in Parliament.

"The Morrison Government and One Nation have shown their true colours. We will keep fighting for casuals but the only way to fix these unfair laws now is a change of government."

MINER SHAFT

Hunter coal industry in uproar over One Nation backing IR bill

BY IAN KIRKWOOD

CLASS action lawyers and the CFMEU are considering the possibility of a High Court challenge to the government's industrial relations bill that passed through Parliament on Monday, with its clauses on casual employment the only sections to survive.

The Morrison government

and employer groups are halting the changes as a win to end years of uncertainty and conflict over the treatment of casual workers, but the CFMEU and the ALP have lashed the result, which came after One Nation senators Pauline Hanson and Malcolm Roberts voted with the government.

Senator Roberts' back-

ing of the Coalition has also stunned One Nation's high-profile candidate for the seat of Hunter, incumbent Stuart Bonds, who said he was "disappointed with the party's position on the bill".

Also galled was Simon Turner, the former Mount Arthur contract miner/worker whose case Senator Roberts had elevated to a national

issue through parliamentary speeches and other efforts in Canberra.

The vote comes with One Nation NSW upper house member and former Labor federal opposition leader, Mark Latham, due to speak at a fundraiser for Mr Bonds at Crown Plaza Hunter Valley at Cessnock on Friday.

From my perspective

I've not a battle but I haven't lost the war," Mr Bonds said yesterday of his fight to secure Labor voters' help.

He said it was "obvious" now that One Nation's support for the government had given Labor and the CFMEU

"a big stick to hit me with".

Mr Fitzgibbon said the vote reinforced his warnings about One Nation.

"Senator Roberts has committed that a vote for One Nation is a vote for Labor and National Party, APY who are rarely on the side of working people," Mr Fitzgibbon said.

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NEWS: CITY AND SUBURBAN CRICKET FINANCES UNDER SCRUTINY P2

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Sailor, Captain, Junior, Red, Brownie: remembering Collie's pit ponies



Joe Hetherington, Raffael Pinneri and Alf Sanford worked with the pit ponies at Collie

A fantastic new statue unveiled in Collie honours the role of some special workers – pit ponies.

Our latest podcast hears from some Collie coal mining veterans about their memories working with the horses.

Hear retired members Alf Sanford and Laurie Old talk about Sailor, Captain, Junior, Red – who caused a three-week strike – and Brownie, who found a special place in Laurie's heart.

Laurie describes how well the horses could find their way around underground:

“At knock off time we'd grab either my horse or me mate's horse's tail and we'd just let them go. They knew their way out, we used to just hang onto their tail and they'd drag you up through the old workings, open the doors for them and just take them home out of the mine. It was great, we used to love it.”

Pit ponies were used in the Collie mines from the 1920s to 1960, when Amalgamated Collieries closed.

The stories about the clever horses and the remarkable bond they developed with their handlers are entertaining and a part of mining history that deserves to be remembered.

Collie coal mining has a rich history that is now being told through an underground coal mine replica, virtual reality shovel diggers and a newly unveiled statue of a pit pony.

The 1000kg bronze sculpture in the workshop

Collie's new statue, unveiled on Australia Day, is the work of sculptor Robert Hitchcock.

The project was commissioned by the Collie Retired Mineworkers' Association with the assistance of our WA District Office, with funding from the WA Department of Primary Industries, Collie Futures Small Grants Program, Coal Miners Welfare Board and much support from local business.

The statue sits underneath the structure of the last remaining underground mine entrance on the Collie coal field, relocated in 1999 – a previous project of the Retired Mineworkers' Association.

Well done to all involved in keeping Collie's proud coal mining history alive.



The 1000kg bronze sculpture in the workshop

LATEST PODCAST

Listen to Alf Sanford and Laurie Old talk about their work with Collie's pit ponies

commoncause.cfmeu.org.au/podcast/



2021 looking better for coal, but bigger storm clouds loom



NATIONAL RESEARCH DIRECTOR PETER COLLEY LOOKS AT THE LATEST FORECASTS FOR COAL AND ENERGY...

I made a major presentation at the union's National Convention that said, while 2021 is looking up for the coal industry compared to 2020 (and despite the China ban) there are signs emerging that the next five years could see production and exports decline. And while it is likely that the Australian coal industry continues for decades, the more important issue for workers is when the industry might go into decline. Declining industries are tough for investors, companies, workers and communities.

That was the view in early March. But the world of energy is moving fast (unlike decades ago when coal power was easily the cheapest form of electricity, and energy growth was related to economic growth). Two further pieces of information have since emerged.

In early March the defining features of the coal market were:

- A bounce-back in 2021 from the modest decline of 2020 caused by the pandemic. Coal export volumes fell about 8-10%, though the value of exports fell much further. China implementing a ban on Australian coal from around September made the negative impacts worse
- But Asian markets have been recovering in 2021, and the China ban, while still in place, seems to have resulted in export destinations being swapped with other exporters rather than volumes falling dramatically.
- The domestic market for coal is in long term decline with most coal-fired power stations to be closed by 2035 and no planned public or private investment in new coal power that is more than a thought bubble in the minds of climate-sceptic politicians.
- The International Energy Agency (an inter-governmental body to which Australia belongs) had issued forecasts in late 2020 that showed, for the first time, that Australian coal export volumes would decline to 2025 after a brief recovery in 2021.

- The IEA view took into account that three major markets for Australian coal – Japan, China and South Korea – all announced in late 2020 that they would seek to achieve net zero greenhouse gas emissions by 2050 or 2060, with reducing coal use to the most-likely first step.

Since early March the news is:

- Energy Australia has brought forward the closure of the Yallourn brown coal power station in Victoria to 2028 from 2032.
- The head of the Energy Security Board and the Australian Energy Market Operator have both warned that domestic coal power stations are likely to close earlier than their current official closure dates
- The Office of the Chief Economist (OCE) in the Australian Government Department of Industry has issued 5 year forecasts that, while not as negative as those of the IEA, point in the same direction with export coal volumes plateauing in the three years 2023-24 to 2025-26.

We need to remember that, while production volumes are the first and most important indicator for jobs, revenues have a major impact too. If production is up or steady, but prices and revenue are down, the minds of management will be focused on cost-cutting.

The OCE forecasts that 2018-19 saw the peak of thermal coal export revenues, at \$25.6 billion, and by 2025-26 it will be \$16.5b – an average decline of 3.5% per year from 2020-21. For coking coal the 2018-19 peak was around \$42b, while in 2025-26 it will be \$34.2b – absolutely flat since 2020-21.

In the world of national and global politics the basic story is that most of the world – from the one-party dictatorship of China to the social-democratic high-union density countries of Scandinavia – has resolved to reduce GHG emissions strongly and limit global warming to less than 2 degrees.

The election of the Biden administration in the USA has transformed the US role globally, swinging from climate-sceptic to an aggressive position that involves multiple top-level Cabinet committees tasked with reducing emissions. Biden has announced that the USA will eliminate emissions from the electricity industry by 2035 – requiring the shut-down of not only all remaining coal power (which is already in strong decline) but also gas power that has been growing strongly.

All State Governments in Australia are now committed to net zero goals. The federal LNP govt is the exception, but the accelerating decline in domestic coal power is happening despite their inaction, and the likely decline in coal exports in the next several years will be due to the actions of major importing nations over which we have no control.

The National Convention debated, and Central Council has adopted, an umbrella policy on Protecting Our Members' Jobs, which says that we will defend our industries but also recognise that we need to plan, and campaign for, measures to look after coal power and coal mining workers and communities where the industry is in decline already (coal power) or may go into decline in the medium term (coal exports.)

It's a bit like taking out insurance – you don't want bad things to happen but you take out insurance in case it does. And it is too late to take out home insurance when the bushfire or flood is kilometres away!

- **Peter Colley**



FROM THE PRESIDENT TONY MAHER

National Convention endorses bold roadmap

National Convention is our Union's most democratic forum, bringing together hundreds of delegates from mines, power stations, ports and coal terminals around the country to set our direction every four years.

Things were very different this year. For the first time, due to COVID, we met in state-based hubs, relying on technology to bring over three hundred rank and file representatives together from locations in Perth, the Hunter Valley and Central Queensland.

We were disappointed at not all being together. But the technology went to plan and we were able to have genuine national discussions and make important, collective decisions.

The first agenda item was the question of whether to apply for a member ballot to leave the CFMMEU and become an independent Mining and Energy Union.

I was very pleased that after hearing the reports and asking questions, delegates voted unanimously to support the member ballot.

It was a historic decision in the democratic tradition of our union and delegates did not shy away from it. As we move through the process ahead it is reassuring to know that there is unity and commitment across all our Districts.

But there were many other highlights over the three days.

We heard reports from all Districts on membership, current challenges and industrial disputes. It was encouraging to hear about all the work happening at the District level to grow our union, represent individual members while also fighting to maintain and raise standards in our industries.

We heard from our Unite organisers around the country about their work, which includes the hard yards of engaging and educating non-members about the value of the union and supporting their journey towards joining.

Legal Director Alex Bukarica reported on the important work of our legal and industrial team including recovering \$9.9 million in backpay and entitlements for members since our last Convention, in addition to funds recovered by Districts.

We heard from all of our industry check inspectors on the latest pressing safety concerns from mine dust management to traffic management in open cut mines, the deadly risks of arc flash events and gas management in underground mines.

We had an in-depth report on the state of our industries by Research Director Peter Colley and a discussion about union policies to support members' jobs.

Our Cessnock hub dinner was addressed by Federal ALP

leader Anthony Albanese, who outlined Labor's commitment to ending the 'permanent casual' rort in mining and legislating 'same job same pay' for labour hire workers.

Senator Murray Watt addressed the Mackay dinner where he acknowledged special guest Paul Skene, our member who was the claimant in the landmark WorkPac v Skene Federal Court decision.

Now that the Morrison Government has done its best to overturn our big wins for casual miners, we will be relying on a future Labor Government to restore rights for casuals.

Importantly, our raffle raised \$19,000 for Mates in Mining, a program close to all our hearts.

And for me, it was a highlight to see delegates proudly wear their yellow convention shirts, with the fantastic Indigenous design by our member Chris Dodd from our Anvil Hill Lodge. Many thanks to delegates around the country for making this most unusual Convention a success.

We have many challenges between now and our next Convention in four years. But with a bold roadmap endorsed by our workplace leaders I'm confident we are heading in the right direction. - **Tony Maher**



MINE SUPER LEGEND PETER MULDOON HONOURED

National Convention honoured Peter Muldoon for his fantastic contribution during his 39 years with Mine Super. Peter has been a great friend and supporter of our union throughout his long years of service.

He has attended and presented at many of our events, delivered countless pit top talks to coal miners on financial matters, attended picket lines to advise and support striking miners, assisted bereaved widows and supported members with home visits if they needed help with insurance applications or accessing their superannuation.

Peter even set up the Mine Super CFMEU Mining and Energy Lodge. We wish him the very best for his well deserved retirement.

South Western District President Graeme Osborne and Northern Mining and NSW Energy District President Peter Jordan make a presentation to Peter Muldoon



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Story idea?

Get in touch.

commoncause@cfmeu.com.au