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May 2023



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## Coal Miners take Same Job Same Pay message to Canberra

We have launched a new campaign to back Same Job Same Pay laws for labour hire workers and challenge mining company scare campaigns.

At the end of May, a Mining and Energy Union delegation travelled to Parliament House in Canberra to talk to MPs about the damage caused by widespread replacement of permanent mining jobs with insecure, lower-paid labour hire jobs and launch the new ads.

Development of the new laws is underway, with unions, employers and industry groups being consulted on their design. Our print, television and social media campaign will continue running until the new laws pass Parliament.

One week after the MEU launched our campaign, as expected, the Minerals Council launched a bizarre and misleading ad campaign trying to muddy the waters around Same Job Same Pay.

MEU General Secretary Grahame Kelly said that despite mining company fearmongering, Same Job

Same Pay laws would be good for the industry.

“Mining companies are notorious for throwing their weight around when governments propose changes requiring them to act in the community’s best interests.

“But Same Job Same Pay will be a positive for mining because it will end a rort affecting the workers and regional communities that sustain the industry.

“Same Job Same Pay will improve wages and conditions for labour hire workers and prevent them being treated as second class citizens. It will strengthen collective bargaining by ensuring companies stick to their end of the bargain. And it will be great for regional communities who lose out when big employers cut wages for half the workforce.

“We welcome the Government’s commitment but we are not taking our foot off the pedal until Same Job Same Pay becomes law.”

Our delegation included four MEU mineworkers:

**Brodie Allen, Central Queensland**

Brodie said: “Labour hire workers are brought onto mine sites to do the work cheaper, there’s no other reason.

“At my mine site, permanent coal mineworkers have recently been given decent pay rises in their Enterprise Agreement to recognise cost of living increases. We don’t get anything because they say we have to compete on the market.

“I’m in Canberra to make politicians aware of how our big mining companies have used loopholes to create a cheaper workforce they treat as second class citizens.”

**Rebecca McDonald, Hunter Valley**

Rebecca said: “On our production crew of 100, about a third are labour hire. Once they’ve finished training, contractors do the same work as permanent workers but they are paid much less and they miss out on the entitlements available under our Enterprise Agreement.

“Labour hire workers fear that if they join the union, take leave or raise a safety concern, they will never get a permanent job.

“I was labour hire for about five years and it was exhausting and demoralising.”

**Mark Bryant, NSW South Coast**

Mark said: “I’ve worked in coal mining for four years

and contracting is out of control. On my mine site, there are multiple labour hire companies providing workers. We all get paid less than permanents employed directly by the mine, but we also get paid differently to each other, even when we are working side by side.

“I’ve got no gripe with the company that employs me, because I know that the terms and conditions for contractors are all dictated by the mine operator.

“It’s very hard to organise for a better deal because the mine operator can just end the contract and give the work to someone else.”

**Rob Moran, NSW South Coast**

Rob said: “There are 450 mineworkers at my site and only 150 of them are employed by the mine. I’ve been working here over nine years and I’ve been labour hire for the whole time. In the past, everyone in mining was employed direct by the mine operator but that has eroded over the past 15 years.

“I work underground next to guys earning much more than me, it’s unfair and demoralising. It’s not just at my site where it happens, it’s a common practice in the Southern coalfields. We need Same Job Same Pay to end this unfair system.”

We send a huge thank you to ACTU Secretary Sally McManus and the broader trade union movement for their support. We also thank Hunter MP to Dan Repacholi for his continuing support on this issue and for his advocacy in the Parliament.



Mineworkers L to R: Rebecca McDonald, Brodie Allen, Rob Moran, Mark Bryant

# Mail your ballot today!

**Voting is well underway in the CFMMEU withdrawal ballot. If you're voting by postal ballot, pop it in the mail as soon as possible make sure your vote arrives in time to be counted. Our thanks to everyone who has helped administer attendance ballots around the country.**

## New Authority a game-changer for workers affected by energy transition



A new statutory authority announced by the Federal Government in May will be a game-changer for workers and communities affected by the energy transition.

The Mining and Energy Union has long been working towards the establishment of a statutory authority to support workers in emissions-intensive sectors to access new employment, skills and other support as needed; and support energy regions to diversify.

The Authority will have workers' backs at a time of rapid change in the energy sector, because blue collar workers should not have to bear the brunt of the nation's decarbonisation efforts when the costs could easily be share.

"Workers in coal-fired power stations and associated coal mines are living with the reality that the timeline for closure of coal-fired power stations is accelerating," General President, Tony Maher said.

"Until now, co-ordinated federal support for coal-power workers and communities has been the

missing piece when it comes to climate and energy policy.

"This announcement means that the future of workers in emissions-intensive facilities facing closure won't be simply left up to patchy employer programs and struggling local jobs markets. The Authority will have powers to support workers into new jobs and to facilitate investment in affected communities to create the good jobs of the future."

The design of the Net Zero Authority was based on extensive consultation with workers, unions and community representatives in energy regions already grappling with the seismic changes caused by decarbonisation.

"The Government has listened and taken action to make sure that workers and communities reliant on emissions-intensive industries aren't left to bear the brunt of national efforts to address climate change," he said.

"We know from looking around the world energy transition can be done well or poorly, with consequent positive or devastating outcomes for energy-dependent regions.

"With today's announcement, Australia is setting out on a path of doing energy transition well. The benefits of the Net Zero Authority will flow through our regional communities in terms of jobs, economic activity and positive social outcomes for generations."

The Union will contribute to the Authority's work."

# Ride on! Women winners in 80th anniversary cycling event



Western Australian District Secretary, Greg Busson said that Tom helped usher in a lot of positive change in the mining industry, including in safety and improving working conditions, and his legacy lives on in Collie through the race.

The race is 102km in distance and begins at the Collie Motorplex in Cardiff.

"The race would be one of the longest continuously running races in Australia," said Greg.

"The race has run continuously for 80 years, with only one year it not being held due to COVID-19 restrictions in 2020.

The Collie community recently held their 80th Tom Lowry Memorial Race on 29 April. The race has also recently broken a glass ceiling with the first woman, Sally Carter coming in first place, as well as another woman, Kate Bonner placing third.

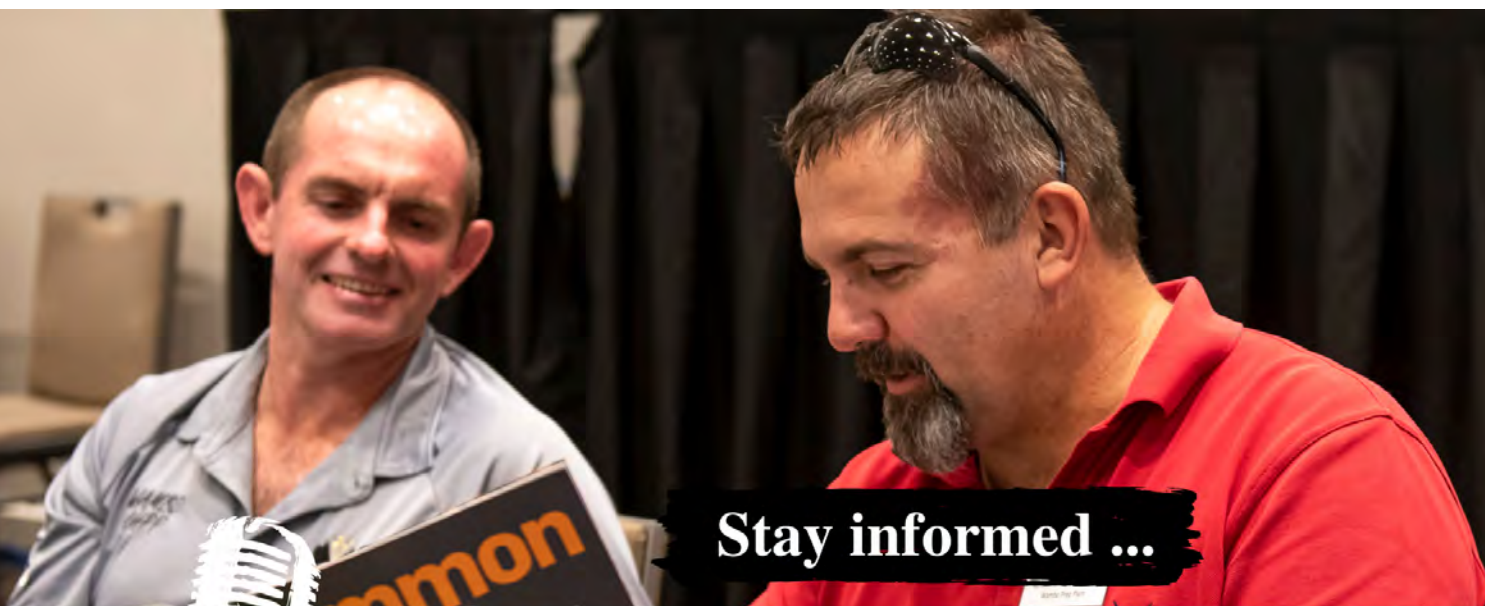
The Mining and Energy Union has long sponsored the event every year since it began in 1942.

The Tom Lowry Memorial Race was named after Tom Lowry, who was the Secretary of the Coal Miners Industrial Union of Workers of Western Australia from 1932 to 1941.

"Collie has a long history of cycling, including hosting the Donnybrook Cycling Classic which is another historic racing event that starts in Collie.

"We've seen events such as the Tom Lowry Memorial Race continue to be a cornerstone of our community, particularly as Collie transitions away from being solely reliant on coal production."

In 2019, the Western Australian State Budget committed \$10 million to create over 180km of high-quality mountain bike and bushwalking trails in Collie.



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# Vale, Vic Fitzgerald



In May we farewellled Vic Fitzgerald, a giant of the trade union movement who lived and breathed his values.

As a leader of the Federated Engine Drivers and Fireman's Association (FEDFA) and the Construction Forestry Maritime Mining and Energy Union (CFMEU), Vic was a fierce champion for working people in Australia.

Vic started his working life and union career at the Leichhardt depot of the Commonwealth Hiring Equipment Pool (CHEP), which was set up by the Australian Government after World War II with equipment including cranes, excavators and forklifts. Vic worked as first as a forklift then mobile crane operator at CHEP, which was later sold Brambles.

Vic was elected as union delegate after seven years on the job. He took his obligations seriously and ensured that union rules – especially regarding the safe use of equipment – were rigorously adhered to. Some of the equipment in use by Brambles was old Second World War equipment, with no headlights or handbrakes.

The mobile crane industry grew rapidly in the post-war building boom and Vic focused on fostering

solidarity between workers of the companies that had carved up the industry.

Vic found himself in the eye of an industrial storm when his manager at Brambles sent him on a job in the city. He turned up to find a Marris crane on site and discovered Marris workers had been doing the job but were on strike.

On their return to the Brambles yard, Vic along with the riggers' delegate were sacked on the spot for refusing to do the job. Members demanded their reinstatement but the company refused, leading to a 14-week strike. Vic set about fundraising to 'keep the wolves from the door' for his comrades and their families, regularly addressing lunchtime meetings of different groups of workers to raise money.

FEDFA official Jack Cambourn eventually negotiated a return to work, but Vic's future path as a full-time unionist was set.

FEDFA offered Vic a three-month secondment as a temporary organiser, at the end of which he was approached to run as a full-time official. Vic was successfully elected and his new career began. He set about getting to know about the lives and livelihoods of FEDFA members who included operators of cranes and other mechanical equipment on building sites but also boilermakers in factories and power station operators.

Not long after starting out as a full-time organiser, Sydney's Green Bans commenced. While the BLF are widely recognised for leading the Green Bans campaign, Vic Fitzgerald and FEDFA played a major role in protecting many of the areas of dispute in the 1970's including Kelly's Bush - the now heritage-listed bushland at Hunters Hill, which was slated for high-density housing development; and working class housing in Woolloomooloo and Victoria Street Darlinghurst which faced demolition.

After several years in the state branch, Vic was seconded into FEDFA National Office, serving as Assistant Secretary Jack Cambourn.

Jack and Vic worked together to build the resources of the FEDFA National Office and were able to employ several young industrial officers, including Tony Maher, now General President of the Mining and Energy Union.

Vic dedicated much of his energy as a national official to improving workers' position through negotiating improved national Awards and was especially proud of his instrumental role in establishing the Mobile Crane Hiring Award. He was also instrumental in the union campaign to secure superannuation for working people.

On Jack Cambourn's retirement, Vic became National Secretary of the FEDFA. He oversaw the negotiations that saw FEDFA join forces with the Building Workers Industrial Union (BWIU) and then amalgamate with the miners and timber workers to form the CFMEU in the early 1990s.

After amalgamation he served as Federal President of the CFMEU's Building and Construction Division,

then National President of the CFMEU.

Tony Maher described Vic as a close mentor and said that he was "an incredible figure in the union movement who was steadfastly committed to protecting and advancing the rights of working people.

"Vic was a humble man, but he was very significant in my life and many others. His passing leaves a huge hole in our movement and in our hearts, but we carry his legacy with a generous spirit and an outstretched hand in his honour."

We offer Vic's family and loved ones our deepest condolences.

# Rest easy, Arch



We pay our tribute to Arch Tudehope, who passed away this month. Archie was a proud underground coal miner and staunch third-generation unionist from Collinsville; and all-round working-class hero.

After working as an underground coal miner, Archie continued making a difference in retirement, fighting for support for Queensland's black lung victims.

Arch helped blow the lid on black lung disease and was one of the three founding members of the Black Lungs Victim Group.

Arch was also a key campaigner for the delivery of the Heart 5 mobile health unit to aid in the early detection of mine dust lung disease in regional Queensland former and retired mineworkers who are no longer getting regular medicals through their employment.

Arch's legacy is still saving lives.

Arch died aged 75 on May 8 and is survived through his wife Trish, and children Kelly, David, Megan and Bronwyn.

Our thoughts are with Arch's loved ones.

Rest easy, Arch.

# Canberra reforms support women mineworkers

***We look forward to assisting our members to access new rights and benefits designed to remove barriers to women's full participation in the workforce.***

When we look around at the faces at our worksites today, they look different than a few decades ago - and that is a good thing. More women are entering the mining industry, and our Union proudly supports the positive and necessary changes to allow for their full participation in traditionally male-dominated workplaces.

Unfortunately, some mining companies employ women without providing them with safe and supportive workplaces. For example, some operations that are able to move thousands of tonnes of coal and dirt seem unable to provide their workers with accessible and hygienic toilet facilities, which is a disgrace. Sexual harassment is also a blight on the industry.

Now, legislative change underway in Canberra will have positive impacts for the growing numbers of women in our industry.

In recent months, there has been a lot of talk about the 'industrial relations reforms' being introduced by the Albanese Government. Same Job Same Pay has been our Union's key focus, to address misuse of labour hire to drive down wages. These laws are currently being drafted.

Meanwhile, there have been other welcome and important changes designed to remove barriers to women's full participation in the workforce. We look forward to assisting our members to access these new rights and benefits.

## **Sexual harassment**

Recent changes put more onus on employers to prevent sexual harassment from occurring and make it easier for affected workers to take legal action.

The Sex Discrimination Act now includes a positive duty on employers to eliminate sexual harassment. It means that mining companies must now take all reasonable steps to prevent workplace sexual harassment, sex discrimination and victimisation from occurring, not just wait until it happens.

Also, sexual harassment of workers and prospective workers is now prohibited in the Fair Work Act, meaning the Fair Work Commission can handle sexual harassment disputes and grant remedies.

Applications can be made to the Fair Work Commission for a Stop Sexual Harassment Order to prevent future harassment or to grant compensation to remedy past harm.

Many workers suffer sexual harassment without making a complaint because they don't trust existing processes. These legal changes make it easier and for union members, our team is available to assist you through the process.

## **Pay transparency**

The Government has banned pay secrecy clauses, meaning employers cannot prevent staff from discussing salaries. While workers employed on Enterprise Agreements have a level of transparency over their pay, the changes mean people can't be prevented from talking about bonuses, terms of individual contracts or other pay measures. Pay secrecy clauses contribute to the gender pay gap.

## **Family and domestic violence leave**

All workers are now entitled to ten days of paid family and domestic violence leave per year as part of the National Employment Standards. This paid leave can be taken by those experiencing domestic violence including coercive control. It is paid at the full rate of pay and available to casuals. The employee does not need to be leaving the relationship and the leave can be used for medical appointments, counselling, court dates, or time off to make safety arrangements including relocation. Employers are prohibited from putting information about FDV leave on their payslips. While this can be a sensitive topic, the union is here to support members who wish to access this potentially life-saving entitlement.

## **Flexibility**

Workers now have more rights to request flexible working to accommodate caring or other responsibilities and there is now more onus on employers to genuinely consider each request. Employers must prove they have reasonable business grounds to refuse a request for flexibility and discuss alternative arrangements. The Fair Work Commission has the power to make orders granting flexibility arrangements.

As more women enter the mining industry, more women are also joining our union. We cover permanent employees and contractors, and we encourage all women to consider joining, to receive expert legal and workplace support and work together for safer, fairer workplaces.



# Proud to be union – 430 million reasons why

## General Secretary, Grahame Kelly



BHP has been left red-faced after admitting they underpaid mineworkers \$430 million since 2010 due to wrongly deducting leave on public holidays.

This revelation would not have come to light if it wasn't for a landmark legal win by our Union in the Federal Court clarifying employee rights around public holidays under the National Employment Standards.

The March Full Court decision in a matter brought by our Union against BHP's labour hire subsidiary Operations Services found that companies could not automatically treat public holidays as work days without first asking employees to work the days, and employees having the opportunity to refuse that request.

BHP has admitted that since the National Employment Standards were introduced in 2010, almost 30,000 workers have been affected by having annual and/or sick leave incorrectly deducted. BHP say they owed each affected worker an average of six days' leave due to incorrect poor payroll practices.

This revelation goes to show that we need to keep up the pressure on big companies like BHP to do the right thing.

Our Union will make sure affected members receive

the entitlements they are owed. We are seeking further information from BHP about the detail of the underpayments and BHP's approach to addressing them, including what information BHP intends to provide to employees. Most mineworkers know how challenging an offshore payroll system can be.

If you are a current or former BHP employee and have been affected by this underpayment, BHP will contact you in the first instance.

If you have been informed by BHP that you are affected and have concerns about how they've handled your matter, please review your pay records to identify the issues of concern and contact your District office.

This revelation reinforces importance of Unions holding our major corporations to account. It is only through legal challenges funded by Union members that we are able to expose substandard and unlawful employment practices and ensure workers get the entitlements they deserve.

We need to keep building our Union so we have a greater capacity to protect workers' interests. This underpayment gives us another 430 million reasons to be proud to be Union.

## BHP admits it underpaid staff by \$430m

## BHP PAY STUFF-UP

Nick Evans

Global mining giant has underpaid 28,500 Aussie workers \$430m

BHP has underpaid about 28,500 Australian workers hundreds of millions of dollars since 2010, in one of the biggest underpayment cases in Australian corporate history.

The company announced it might have to find \$15.285m (\$430m) to make good to its Australian workforce, after incorrectly stripping annual leave days since 2010 for those employees who were on annual leave when public holidays fell.

It is understood the issue arose due to BHP's failure to include 2000 changes to the national employment standards in its offshore payroll system.

The company said it was

BHP president Australia Geraldine Stoney apologised for the error on Thursday, saying the company's failure was "not good enough".

The underpayment is a major embarrassment to the global mining giant as it pushes back against proposed federal changes that would force the company to pay its contract workers at the same rates as included in union-negotiated enterprise agreements.

Employment and Workplace Relations Minister Tony Burke said on Thursday

Mr Burke said "That's clearly not true: Australia can do better to make sure workers are properly paid. That'll be the focus of our legislation in the coming months."

In an email to BHP staff on Thursday, Mr Stoney said the issue affected about 10,000 current BHP workers and 3000 former employees, and current staff affected by the issue should be contacted within two weeks to update their entitlements.

"We are sorry to all current and former employees impacted by these errors. This is an

average 6 days of leave due to the error. BHP said it had reported the failure to the Fair Work Ombudsman.

The Fair Work Ombudsman said it would conduct an investigation into the underpayments. "As a regulator we will hold the organisations to account for any breaches of workplace laws," it said.

Mining and Energy Union general president Grahame Kelly said BHP had been "spraying money over workers off by hundreds of millions of dollars". (The revelation comes

The issue was uncovered through a Full Federal Court decision in March that sought to clarify what a "request" to work on a public holiday must constitute. That case was brought by the Mining and Energy union against a captive BHP labour hire unit OS MCAP that had sought to secure penalty rates for around 85 mining workers in Queensland working a 12-hour shift on Christmas Day and Boxing Day. But the findings have a major implication that is still being worked through.