

THE ACTIVIST



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KR MECA UPDATE

Since our last formal meeting with KiwiRail on 25 September five work streams have been beavering away. The workstreams are;

- Ferry Terminal Operators Market Relativity
- Infrastructure networks OJT and Flexible Work Provisions
- Leave (incl Stress, Fatigue, Domestic Violence and sick)
- LE Pay Parity
- Hutt Rail Welding and Plant Inspectors

Some progress has been made on all the above and the various positions will be considered at a meeting of KR executives on 3 November.

So we all await the outcome of the 3 November discussion with interest as KR's response to these items when delivered to the Union Team will determine whether we will propose settlement or seek an industrial action mandate from members.

BARGAINING AT NORTH TUGZ

Due to legal issues and Covid-19 this bargaining appears to have gone on forever. There is some light at the end of the Tunnel as the Company came back to the table with a much improved offer. However, there are still significant differences between the parties including clawbacks on Superannuation, Health Insurance, and some allowances. We are going back to discuss the way forward with the members

but we have no inclination to lose conditions for our members.

CLOSURE OF HILLSIDE BASED FOUNDRY BY BRADKEN, A STRATEGIC LOSS TO NZ AND KIWIRAIL

As part of the Hillside closure under the John Key lead Government in December 2012 the foundry was sold to Bradken Engineering. Bradken's announced in earlier this month that the foundry will close. The foundry continues to supply product to KiwiRail and its closure foreshadows the loss of more skilled jobs in Dunedin and also a source of local manufactured product. The RMTU's position is that KiwiRail should take back the foundry as it would be a natural fit with the reopening and rejuvenation of Hillside Workshops under the Labour lead government and current KR management. Watch out for more activity on this in the coming weeks.



TOLL BARGAINING

Just a very quick update which amounts to nothing has changed. Still a 0% offer on the table. It appears the Toll owners, Japan Post, are trying to fatten up the Company for sale. We will have one more session of bargaining before Christmas but we're getting to the point where some kind of action may be necessary to move the Company. Watch this space

This is for the information and guidance of RMTU members only!

NZ SUPER FUND UNDER SCRUTINY AS FRESH SHIPMENT OF BLOOD PHOSPHATE DUE IN NEW ZEALAND

The Polisario Front, representing the people of Moroccan occupied Western Sahara is taking the Guardians of New Zealand Superannuation to court, calling for a judicial review on its investments in businesses in the West African territory. The hearing began in the Auckland High Court on 27 October. Morocco invaded Western Sahara in 1976 when Spain withdrew from its former colony, driving thousands of Western Sahrawi people into refugee camps in neighbouring Algeria where they remain. Morocco has ruthlessly exploited Western Sahara, plundering the territory of its phosphate reserves, hence the term 'blood phosphate'.

The Super Fund has revealed it holds stakes in 10 companies with business interests in Western Sahara, and dairy farms which have shares in Ravensdown and Balance because of their cooperative structure.

Since 2011, the Polisario Front claims, the number of countries importing phosphate from Western Sahara has fallen from 13 to just New Zealand.

The New Zealand Council of Trade Unions passed a resolution at its conference last year condemning the trade and calling on the New Zealand government to stop it. As an affiliate of the CTU the RMTU has supported this resolution by protesting when shipments of have arrived in New Zealand. We have held off exercising our right under international law to refuse to berth or work the ships on the basis they are carrying illegal cargo, pragmatically settling for handing a letter of protest to the captain on arrival in port. In 2018, a South African court ruled that a cargo of Western Saharan phosphate rock bound for New Zealand belonged to the Saharawi government, and not Morocco's state-owned phosphate company OPC. The ship Cherry Blossom was detained in South Africa in 2017 with a

54,000 tonne cargo of phosphate worth \$5m destined for Ballance in Tauranga.

Another shipment of blood phosphate, is due into Tauranga on 5th November aboard the IVS Windsor. At the time of writing the RMTU is coordinating with activist groups to organise protest action.

Aside from supporting the CTU resolution and the Sahrawi people this issue highlights just how restrictive New Zealand's anti-strike legislation is as it is only under international and not New Zealand law that the RMTU could legally refuse to berth or work this ship. Had today's anti-strike laws been in place in the 1980s it would have been illegal for waterfront unions to take action against US nuclear ship visits for example.



KIWI RAIL MECHANICAL CHRISTMAS LEAVE

Last week complaints came through that Christmas was cancelled for RSAS depot staff as they wanted to catch up on maintenance over the Christmas period. This came from the Wellington depot but it turns out it was a

nationwide policy.

Understandably members were upset after working hard during the lockdown and trying to keep up with the work with an overtime ban on. The RMTU organiser and members on the Mechanical Council raised the issue with Stuart Harrison the General Manager of Maintenance Delivery, as did General Secretary Wayne Butson with the General Manager of Rolling Stock Asset Services, Adam "The Grinch" Williams.

After these discussions RSAS agreed that they would call for volunteers from those that haven't already got approved leave to see who wanted to work over the Christmas period, which is the usual practice. Thanks to the delegates, a potentially difficult situation for our members was raised and resolved very quickly – Union Power!

COVID19 AND THE MARITIME BORDER: THE VALUE OF CONFERENCE DISCUSSION DEMONSTRATED BY A PRACTICAL EXAMPLE

No sooner had RMTU Conference discussed COVID19 and its impact at the maritime border in a panel discussion involving participants including the Minister of Health and Maritime NZ than we had a reported COVID case on a vessel calling at Lyttleton and Port Otago.

Initial reports were that crew members on the Rio Madeira were tested for COVID-19 as part of the standard request for shore leave. One crew member was found to have had a historical case of COVID-19. The tests for COVID assesses DNA – for some tests, people's DNA shows they have the markers of COVID-19 but are not infectious. The case was confirmed as non-infectious and immediate testing of port staff was therefore not required

By the time the vessel reached Port Chalmers Public Health South completed a full investigation. The

investigation determined the crew member tested positive in August, and had tested negative since then. Public Health South deemed the crew member to be non-infectious and no longer a case.

This incident demonstrated that the systems and procedures discussed at Conference were operational and while, in the words of the Health Minister, there is no such thing as 'zero risk', stringent testing and tracing, together with proper use of PPE and operating procedures, offers our best defense to the virus.

One point to bear in mind however, is that the response to COVID19 is constantly evolving. For example, at the time of writing, Ports of Auckland have just advised they will go beyond Ministry of Health guidelines and not allow foreign seafarers flown into New Zealand to crew vessels

operating out of the port without going into isolation for 14 days.

In light of this members are strongly encouraged to do their best to keep themselves fully informed and not to hesitate to ask questions if in doubt and seek support from their Branch officials and delegates. RMTU National Office is also on hand to offer advice and support.

KIWI RAIL NETWORKS INDUSTRIAL COUNCIL UPDATE

The RMTU-KiwiRail Networks Industrial Council (KNIC) met on Tuesday 20 October. An RMTU delegation also met with KiwiRail on Wednesday 21 October to discuss proceedings that have been filed by the RMTU in the Employment Relations Authority in relation to repeated breaches of clause 29 of the MECA by KiwiRail around contracting out.



At the KNIC meeting, together with the usual business update from management, there were several items raised by the RMTU. These were;

1. Workforce Planning: Prior to the meeting the RMTU had requested a comprehensive report detailing the current

establishment staffing levels in Network Services i.e. the number of people who could be employed in this part of the business should it be operating at full strength. We also asked for actual staffing numbers i.e. how many vacancies currently exist. We were informed these figures were not available at the beginning of the day and consequently demanded them before the meeting was concluded. We did receive some figures but these were subsequently proved to be inaccurate. Nevertheless, the figures we did obtain do offer some confirmation of what your union strongly suspects: that network services are understaffed both in terms of its establishment and actual staffing levels. The information we did receive indicated that 15% of positions in network services are unfilled vacancies. This is extremely serious as we are constantly being told that it is lack of

capacity to do work in-house that is leading KiwiRail to contract work out. In other words, the single biggest issue raised by our members, contracting out, is a symptom of a deeper problem: systemic understaffing.

2. Pay Scale 2 Progression exercise – update. Members will recall that KiwiRail and the RMTU were supposed to conduct a market survey of pay for network services positions, comparing rates with similar roles in the wider economy. This exercise was supposed to be concluded by 30 June 2020 i.e. at the time of the expiry of the MECA. For a number of reasons, COVID19 being the most significant, this work has not been completed. Data has been collected for some jobs but the exercise has stalled. Despite numerous undertakings to restart this project from KiwiRail management this has not happened and it is not the RMTU that is holding things up. Once again we received reassurances that the work will be done with urgency but we remain sceptical in light of past behaviour. This is now an issue in our current MECA talks.

There was a useful business update provided by management for the South Island and Lower North Island. The absence of the Regional Manager for Auckland the Upper North Island meant we did not receive the same quality of information regarding this area. This was particularly disappointing as members will be aware that urgent remedial work on the Auckland Rail Network is absorbing a great deal of KiwiRail's resources which is having a flow on effect elsewhere.

The meeting on Wednesday 21 October to discuss the contracting out dispute was attended by the RMTU General Secretary and our legal counsel, together with KNIC representatives and our South Island and Northern Regional organisers. The meetings was facilitated by an independent facilitator

whom the parties have worked with in the past on HPHE related issues.

Further details regarding the results of discussions will be provided in due course. At this stage we can confirm that the focus was on the need to improve workforce planning to build in-house capacity in network services as rail grows for the foreseeable future. There was also a great deal of discussion on how to ensure that the Capital Projects and Asset Development (CPAD) and Project Management Office (PMO) arms of KiwiRail meet their MECA obligations as well as what should be more routine consultation around contracting out.

Discussions are continuing and members are strongly encouraged to report any concerns they may have around the contracting out of work to their KNIC representatives or RMTU National Office staff.



SPIKE IN POSITIVE DRUG TESTS AT LITTLETON PORT

There has been an increase in positive drug tests at Lyttleton Port. Normally LPC carries out around 20 random tests per month and one or two are returned positive. Last month is it our understanding there were 8 positives. Fortunately not all were RMTU members but our Branch Secretary has had to

represent three members in the last fortnight, all of whom tested positive for THC.

LPC's policy is similar to most employers we deal with and members get a second chance. They have to sign up for counselling sessions and can only return to work once they are under the prescribed threshold for the identified substance. There is also a requirement to agree submit to regular testing over a 12 or 24 month period. If a member fails a test for a second time, they are liable to be dismissed. It's that simple.

Any discussion about how it's unfair that THC stays in your system longer than other substances or arguments about whether or not you were "under the influence", simply don't help. These just aren't arguments that

we can run. The case law is clear: employers can test members in safety critical roles and can implement their policy as described above. Also, it will make no difference if the referendum to legalise Cannabis is successful. Alcohol is a legal substance, but if a member fail a test on that, they will be treated in the same way. The Policy is unlikely to change anytime soon and, given what has happened in the last month, LPC may well up the frequency of random testing.

The message is that it simply is not worth it to run the gauntlet of random testing. One day your luck will run out. If you have a genuine problem, then our experience is that you are better advised to front up to the Employer, with union support, and seek help. And if you are thinking of having a casual smoke of weed or hash cookie at a party over the summer, DON'T! That moment of fun could cost you your job.

HYUNDAI ROTEM PAYSCALE CHANGE SIGNED

Yesterday saw the signing of the updated progression for mechanical Engineers employed by Wellington train maintainer Hyundai Rotem. The new progression is:

- Level 1 to be paid after 2 years' service with Hyundai Rotem Wellington
- Level 2 to be paid after 3 years' service with Hyundai Rotem Wellington
- Level 3 to be paid upon obtaining NZQA Level 3 Mechanical Engineering and obtained required HRW competency skills set
- Level 4 must have NZQA Level 4 Mechanical Engineering, or equivalent, as a minimum

- Level 5 must have either NZQA Level 5, or is NZQA Level 4 and have passed HRW Internal Level 5 competency requirements
- Progression to Level 6 is by appointment only.

CAF ORDERED TO IMPROVE RMTU CONSULTATION

The NZTA have required CAF to establish formal Union consultation arrangements as part of their findings from the recent Ordinary Safety Assessment. Section 30(1) of the Railways Act requires the license holder (CAF) to consult with rail staff and their Union. The Union told the NZTA that the company had not met with them since November 2019.

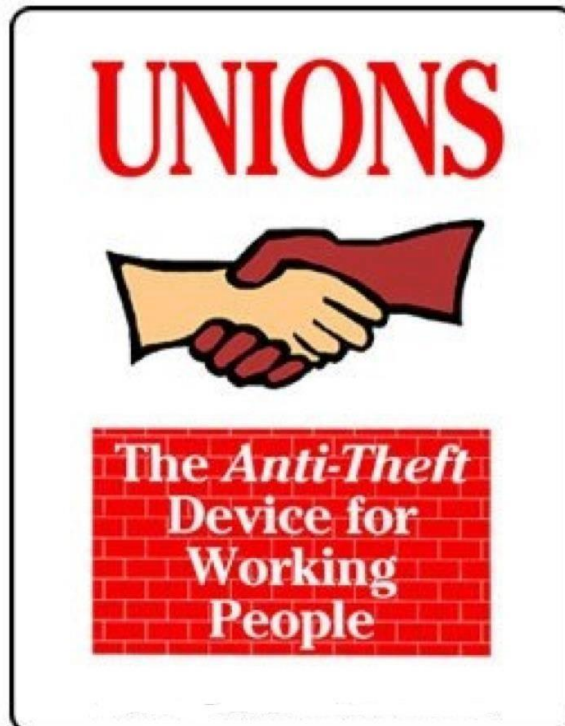
JAW JAW NOT WAR WAR AT LYTTLETON PORT

Regular readers of the Activist will be well aware that industrial relations at Lyttleton Port have not always run smoothly in recent years. Of late however, with

changes at board and senior management level, matters have improved.

All three collective agreements that the RMTU has with LPC are settled and were negotiated and ratified relatively quickly and smoothly. These cover Logistics Officers, Inland Ports and the main 'Waterfront' agreement that covers the bulk of our membership. Since then dialogue with management has occurred on a number of items of common interest. This is a marked departure from previous practice at the port where once bargaining was concluded the parties simply retreated into their respective camps for the term of the agreement and little constructive engagement occurred.

Discussions are underway with the RMTU on fatigue management across the company and



a 'High Performance High Engagement' process has started in the plant maintenance workshop, an RMTU stronghold. As well as this, preparations are underway for an LPC - Combined Unions 'Delegate Day', an initiative prompted by the new CEO. This is planned to occur before the end of the year and both the company and unions will have the opportunity to set the agenda. In order to make this happen the unions will have an opportunity to caucus early next month.

As is common with new ways of working it takes time and effort to adapt. This does mark a departure from our previous relationship with this particular employer however and the Branch is prepared to make the effort.

KIWI RAIL (FREIGHT OPERATIONS) INDUSTRIAL COUNCIL

KIC will meet in Wellington on the 16th and 17th November.

There is plenty on the agenda which includes Arataki 2 remote control shunt locomotive conversions, ergonomic issues for the Rail Operators on mainline remotes, gradients in terminals to amend the hand brake ratios, speed warning lights for shunt locomotive and feedback on Hoodies for terminal workers. The last meeting was in July and was combined with consultation with the LE reps on the safety improvement fitted to the Hamilton to Auckland services.

CENTREPORT BARGAINING

The three union, Etu, MUNZ and RMTU, Collective Agreement is due to be negotiated and renewed. Claims meetings have been held and now it is time to set dates with CPL. The last CEA was a three year term with significant gains for many which included making all Cargo Handlers fulltime and lifting the Empty depot rates to the Cargo section rates but this year a significant number off Cargo handlers have had their guarantees drop to P32 from P40 and there

were 6 voluntary redundancies due to the drop off of trade across the port and no cruise ships.

KIWI RAIL WESTFIELD SERVICING ROSTERING ISSUE

This ongoing concern is about to come to a head at mediation. The nub of the issue is that KiwiRail want to change the rostered hours of the servicing team from 12-hour non-rotational shifts, to 8-hour rotational shifts. The members here have built their lives around the current shift patterns and, having gone the extra yards throughout the Covid lockdowns, are now being asked to turn their lives upside down.

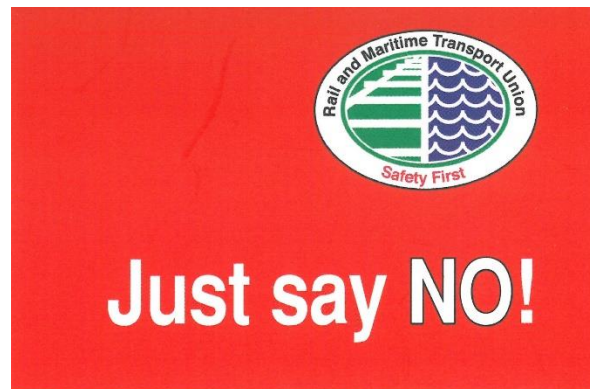
The RMTU has engaged legal counsel and we are heading to mediation on 10 November. Our members have stood tall and together all through this issue and that has given us the impetus to keep fighting. This is an important issue because, if we don't stop this here it will be rolled out right

across the country.

DRUG AND ALCOHOL TESTING BY OTHER EMPLOYERS – ALERT

One of the main reasons for going to random D&A testing at KiwiRail back in 2010 was to avoid the requirement of members being tested by other employers, like KiwiRail's customers. Our members were saying back then - 'we don't mind being tested by our employer, KiwiRail, but do not want to be tested by KiwiRail's customers'. There are good reasons for this. We have not input into the testing regimes by other employers. Kiwirail workers have no employment relationship with KiwiRail's customers. The other employer owns the test results. A worker could be tested at every siding or site.

This issue has recently come up in the Bay of Plenty with a logging company requiring KiwiRail workers to be part of their random testing regime if they are on their site. We have raised strong concerns with KiwiRail



management, they are checking with the Zero Harm team.

In our view the solution is simple, KiwiRail advises its customers that there is an active and thorough D&A testing regime within KiwiRail that goes back to 2003 with random introduced in 2010. If there are issues or incidents on the customers site, KiwiRail will test KiwiRail people.

Our advice is to not be tested by KiwiRail customers and to contact a delegate or your local RMTU Organiser if requested to be tested by another employer. There is an exception to this, that being when KiwiRail is the contractor for another company on large capital works, this has a separate protocol which includes no surprises and the opportunity for members to be briefed prior.

ISO FINED AFTER NEAR FATAL INCIDENT OF STEVEDORE

ISO at the Port of Tauranga has been fined \$24,000 and ordered to pay \$30,000 in reparations to a Stevedore who survived a fall of 8 metres onto the concrete wharf whilst trying to get down from logs stacked above a ship's deck. Maritime NZ

investigated and prosecuted ISO Ltd under the Health and Safety at Work Act. ISO has agreed to spend \$425,000 on safety initiatives as part of the Regulators 'enforceable undertaking'

NORTHLAND TRACK TEAM RETURN FROM AUCKLAND

The ongoing issues with the Auckland Metro Track has left KiwiRail with a mountain to climb to get the work done. Years of understaffing and relying on contracting out has left the company scabbling for staff. It was against this background that Northland track workers were sent to Auckland, without consultation. The members have since baulked at being sent to Auckland during the Level 3 lockdown and initially

refused to return. There is, of course, plenty of work for them to do on the Northland Rail Upgrade and the members met with KiwiRail management to resolve the stand-off. Aply lead by Branch Secretary Alby Barr, the members asserted their right to work in the North close to their families. The outcome was an excellent one. The Northland track gangs return home and, the cherry on the top is, the 9 fixed terms workers will be made permanent.

KR HPHE – LOWER NORTH

This month a representative group of KiwiRail workers and managers will meet over 2 days to be trained in HPHE and review the terms of reference for the Local Industrial Committee (LIC) to make sure it is still fit for purpose. This meeting will take place in Palmerston North on the 9th & 10th November. Over time the LIC meetings in Palmerston North had morphed into a regional focus as opposed to the original focus on local industrial issues

and the LIC reference on the KiwiRail Industrial Council terms of reference does not align with how the LIC meeting were currently held.

C3 NELSON

The first Collective Agreement (CEA) for our C3 members based in

Nelson has now been ratified by members. This CEA has a short 6 month term from November 2020 to April 2021. While there were not a lot of gains, the pay scale progressions are clearly laid out and there are gains for the workers to travel to other ports. With more recruitment and a higher membership density in C3 during the term of this CEA it will see us in a better position for more gains in bargaining next year.

TRANSDEV WELLINGTON AND HYUNDAI ROTEM ORDINARY SAFETY ASSESSMENT

The NZTA auditor is meeting with RMTU Delegates and H&S reps from Transdev Wellington and Hyundai Rotem on 4th November from 9am-12pm at the RMTU

- If it doesn't feel right, step back.
- What is the hazard or risk?
- If you continue, could you or someone else, be seriously harmed?
- If the answer is YES, then STOP, inform your manager, H&S rep and/or your RMTU delegate.
- Or call the RMTU on 04-499-2066



National Office to discuss any safety issues or concerns.

Rostering and staffing issue at KiwiRail Stanley Street

This is another example of KiwiRail failing to follow both a proper process and a meaningful consultation. With the onset of Covid, KiwiRail train builders agreed to different roster due to the significant drop in work. This entailed fewer staff on during the weekend. At the end of the first lockdown, having helped the Company out, they were told that this change would be permanent until peak kicked in around the beginning of November.

The Company did a cursory consultation, without talking to the RMTU. When the Union was informed of this we initially agreed to extend the consultation process so it could be completed in a meaningful way. However, given this opportunity the Company decided to plough ahead with an unsatisfactory audit of the current workload. This audit, carried out by managers, unsurprisingly showed that the roster they were proposing worked fine. The RMTU has pushed for an outside audit and the members believe they have not been listened to.

The rosters have returned to normal, have since gone into an HPHE process to resolve the ongoing issue.

CALL FOR NOMINATIONS – NATIONAL WOMEN’S COUNCIL – 2020/2022 TERM OF OFFICE.

Nominations are called for following National Women’s Council Representatives:

- North Island Port, and;

- South Island Port, and;
- Transdev Auckland (including Caf), and;
- Transdev Wellington (including Hyundai Rotem), and;
- North Island Rail, and
- South Island Rail.

The National Women’s Council was formed at National Conference in October 2020. The National Women’s council shall meet face to face at least once a year to organize the programme for the Biennial Women’s Workshop at Conference and the Women’s Forum and any other matters which may arise from time to time. The Council shall be chaired by the National Management Committee women’s representative – The incumbent in this role is Rebecca Hauck.

The term of office is 2 years and shall be in alternate years to the

elections for the National Management Committee.

Eligibility Description:

North Island Port

If you identify as a woman and are employed by any company involved with port operations in the North Island of New Zealand and a current financial member of the RMTU then you are eligible for nomination to this position.

South Island Port

If you identify as a woman and are employed by any company involved with port operations in the South Island of New Zealand and a current financial member of the RMTU then you are eligible for nomination to this position.

Transdev Auckland

If you identify as a woman and are employed by either Transdev Auckland or CaF and a current financial member of the RMTU then



you are eligible for nomination for this position.

Transdev Wellington

If you identify as a woman and are employed by either Transdev Wellington or Hyundai Rotem and a current financial member of the RMTU then you are eligible for nomination for this position.

North Island Rail

If you identify as a woman and are a current financial member of a North Island rail Branch of the RMTU and NOT employed by Transdev Auckland, Transdev Wellington, Caf or Hyundai Rotem then you are eligible for nomination to this position.

South Island Rail

If you identify as a woman and are a current financial member of a South Island rail Branch of the RMTU then you are eligible for nomination to this position.

Nominations MUST be in writing on the official Nomination Form and contain the signed consent of the candidate, be proposed and seconded by current financial members (Rule 1) of the Union.

Official Nomination Forms are available on the RMTU Website www.rmtunion.org.nz or from the National Office by calling on 04-499-2066, or emailing admin@rmtunion.org.nz or office@rmtunion.org.nz

Correctly completed nomination forms must be received by the National Returning Officer at the National Office of the Rail & Maritime Transport Union, PO Box 1103 Wellington 6140 or fax it to 04 4710896 or alternatively scan or photograph it and email to admin@rmtunion.org.nz or office@rmtunion.org.nz no later than 1700 hrs. on 20 November 2020. Please ensure you get a receipt of acknowledgement please when you send the nomination.

Members and Branch Returning Officers are advised that in the event that there is more than one nomination for any position, a postal ballot shall be run out of the National Office by the National Returning Officer.

Nominees must have their photo and a short promotional statement of up to 250 words to the National Office no later than 1700 hrs on 20 November 2020. Electronic receipt of this information is preferred. Please ensure you get a receipt acknowledgement.

Please ensure you advise National Office if you have changed addresses. If we can't get a ballot paper to you because we do not have the correct mailing address then we cannot get you a voting form. Call RMTU 04-4992066 or alternatively update your details online www.rmtunion.org.nz or email admin@rmtunion.org.nz



CANDIDATES ARE REMINDED THAT NOMINATIONS CLOSE 1700 hrs on Friday 20 November 2020.

In unity

Howard Phillips

National Returning Officer

**BE SAFE, BE
HEALTHY, BE KIND
AND ABOVE ALL
ELSE**

BE RMTU!