

THE ACTIVIST



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DUNEDIN RAILWAYS CUTS 'THE THIN END OF THE WEDGE' SAYS RMTU OTAGO RAIL BRANCH SECRETARY.

Last year Dunedin Railways triggered a community revolt when it announced it would no longer run trains to the Strath-Taieri town of Middlemarch. The company rapidly back pedalled and has started to engage in 'consultation' with the community. At a public meeting last week Dunedin Railways Chair Kevin Winders tried to frame any cessation of services as short term, saying they were not looking to pull the track up. Members will know this is hardly the point, as an unused piece of track quickly deteriorates and becomes unfit for use, requiring major investment to reopen. Just look at Napier to Wairoa for example. We cannot, and must not, allow this iconic piece of track to wither and die. A public survey is being run until the end of March and members are encouraged to have their say

here:
<https://www.dunedinrailways.co.nz/middlemarch-consultation>

RMTU Branch Secretary Dave Kearns attended the meeting with an RMTU delegation and rightly pointed out that the cessation of services was 'the thin end of the wedge'.

https://www.odt.co.nz/news/dunedin/middlemarch-rail-excursions-face-financial-threat?fbclid=IwAR1rK_0b6fajJV3eFx3GOTW5ZguLoyJs9vCUy3QgzExXLcPcy30xvBnahTc

KR MECA WAGE ROUND REMIT CALL

The KiwiRail MECA expires 30 June 2020. The renewal of the MECA will see both the

Union and the employer arrive at the table with "claims". The RMTU claims come from members who are covered by the MECA and **have to have been moved and seconded by current financial members of the Union and have been voted on and the remit carried by majority vote of members at a bona fide and properly constituted meeting of an RMTU branch.**

The RMTU negotiation team composition will be determined by and will operate under the oversight of the members of the elected KiwiRail Industrial Council's with the lead negotiator being Wayne Butson our General Secretary.

The remits will be prioritised by the negotiation team. Regular updates will be disseminated to members once bargaining commences.

All remits for the KiwiRail Wage round must be submitted by branches to the Unions National Office by Tuesday 31 March 2020. No late remits will be accepted.

BLOOD PHOSPHATE PROTEST IN CHRISTCHURCH

The stand taken by the RMTU in support of Saharawi activists protesting against the importing of Blood Phosphate from Moroccan occupied Western Sahara is clearly starting to have an impact. The Moroccan Government has been sufficiently rattled to have commissioned a local public relations firm and has sent a delegation to New Zealand to try and lobby New Zealand politicians. When the lobbyists turned up in Christchurch to meet Regional Councillors members from our Lyttelton Port Branch joined protestors outside ECan where the Saharawi flag was run up the flag pole. The Kiwi companies importing the Blood Phosphate, Agri-Balance and Ravensdown, have asked to meet the

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

RMTU General Secretary – further evidence the campaign is having an impact. Readers will remember the RMTU is pursuing this campaign in support of a NZ Council of Trade Unions resolution calling upon our government to stop imports of Blood Phosphate from occupied Western Sahara.

On Thursday 27th February pro-Saharawi activists presented Christchurch Central Labour MP Duncan Webb with a Saharawi Flag on the what is the occupied country's national day.

WORKING FOR RESOLUTION OF CENTRE BOARDS ISSUE USING HPHE PRINCIPLES

A project has been kicked off in Christchurch looking at the use of centre-boards over points. There are differences between Operations and Networks members about the value of these and representatives from both groups are working to try and resolve these using High Performance High Engagement (HPHE) principles. The project has started with all participants doing some training in HPHE and the next step is to consider whether this is a national issue or purely a local one.

COLLECTIVE CONSIDERATION

All of the RMTU - KiwiRail Industrial Councils will be meeting in Wellington on 28 and 29 April so as to enable the RMTU reps to meet on 30 April. The Union Council delegates shall form the wider MECA bargaining team and they will be debating, collating and prioritizing the Branch Remits received and also National Office recommended alterations. A Bargaining steering Committee will also be elected from the Industrial Council Reps on the day.

HILLSIDE JOBS CONFIRMED AS PERMANENT

The good news from Hillside continues apace with several of our members who were on fixed term agreements being made up as permanent workers. The original reason for the roles being fixed term was that they were taken on to do specific project work but with the continued revitalisation of Hillside

as a result of investment by the Labour led government the case for these positions being made permanent became compelling. The number of staff employed at Hillside is now approaching thirty – and we look forward to more coming on board in the future.

C3 MOUNT COLLECTIVE AGREEMENT.

On Monday 2nd of March, the RMTU bargaining team will decide whether to ratify the current C3 offer. There have been a number of managerial changes within C3 which may improve the relationship between C3 and the RMTU, only time will tell! Some of those who have moved on are Walter Naera, Steve Harris and Chris Sutherland. And Gavin Hudson from Pedersons is the new CEO.

WEST COAST RETIREMENTS

February saw two of our long serving members in KiwiRail Network Services retire. John Bannerman was RMTU Branch Secretary, Industrial Council Rep and on National Management Committee at various times in his career in rail. John finished up as a Field Production Manager based in Greymouth but never forgot his union roots and remained a loyal member. Frank O'Donnell retired from the Westport Track gang in February and is looking forward to pursuing his many hobbies including fishing, at which he excels. We wish them both a long, happy and healthy retirement.

KAWERAU UPDATE.

In Mechanical Steve Wilson after 50 years plus has retired as the depot manager. All the best Steve. The issue of stopping on log wagons whilst on ASL in the Kawerau yard has resurfaced, with a vote by the members to refuse to stop whilst on ASL. There will be a meeting with Kiwirail on Thursday 5th to address the issue.

NEW LYTTELTON PORT CEO MEETS RMTU GENERAL SECRETARY

On Monday 2nd March RMTU General Secretary Wayne Butson met the new CEO of



Lyttelton Port, Roger Gray. Mr Gray has been in his new job only a few weeks and already the atmosphere at LPC has changed for the better, with the successful resolution of RMTU Logistics Officers' negotiations. Our union looks forward to working cooperatively with Mr Gray and his team as we have some important issues to tackle, not least of which is the management of fatigue.

Another, and related, key piece of work is the renewal of the RMTU-LPC main, 'waterfront' collective agreement, which covers the bulk of RMTU members at Lyttelton port and which is due to expire in September.

TOLL HAMILTON.

We are working thru a number of problems in Hamilton such as altering time sheets by management, biased investigations by management and changing the rules as management see fit without consultation let alone acting in Good Faith and these actions are endorsed by senior management in Toll Head Office!!

We are currently requesting mediation to work thru the above issues.

PORT OTAGO HALF YEAR PROFIT DROPS BY 16%

Port Otago management persists in running a property speculation operation rather than a port, if reports in the Otago Daily Times are to be believed:

https://www.odt.co.nz/business/port-otago-half-year-profits-down-16?fbclid=IwAR0fB6hZW3PCnkMfOrK_3xE4XnqMyQjrZgmgThWw3egg8KvK5oWwH9Z451o

Rather than engaging in meaningful discussions to increase productivity with its workforce, management are busily engaging in buying and selling property and to offset a downturn in profits that the CEO attributes to 'bad weather'!

During collective bargaining last year our members repeatedly tried to get management to agree to real and meaningful engagement on fatigue and other safety issues, as well as productivity

improvements. All of these overtures were rebuffed, and management appears determined to persist in an approach more akin to that of the 19th century rather than a progressive 21st century employer.

RMTU LYTTTELTON PORT LOGISTICS OFFICERS RATIFY COLLECTIVE AGREEMENT

In what was the smoothest bargaining round for years the RMTU Logistics Officer employed at Lyttelton Port agreed on a renewal of their collective agreement for three years with annualised 3% pay increases backdated to expiry and a formalisation of the on the job training allowance and incorporation into the terms of the document. Members are rightly pleased with this result as it delivers real wage growth over the term of the agreement and matches pay increases that the RMTU has achieved elsewhere in the port industry.

TAURANGA KR FREIGHT.

We currently have an LE that has been stood down on full pay since before Xmas which gives him ample time to work on his orchard. The issue is that we cannot agree to an outcome thru the Just and Fair Culture policy, we contend that the outcome is Human Error and Kiwirail are insistent that the outcome should be Reckless Choice.

KIWI RAIL RMTU FREIGHT OPERATIONS INDUSTRIAL COUNCIL (KIC) UPDATE.

The first KIC meeting for 2020 was held in Wellington 25 & 26 February. As previously reported there have been changes on the managements side and new KIC reps elected last year. While the agenda and action items list are long there hasn't been a lot of progress on many issues.

The agenda and action items include – PPE, the Reefer Cable trail, Hand Held Devices in Terminal, CRN Vehicles, Shunt radio recording, Tard Camera protocols, Arataki 2 installs, React device, Ballast Steepling, Range of Vision Toolbox briefings, Heat runs before passenger services, Loco 54d improvements, Rule book v bulletin issues,



Business Updates, DAS, Steam LE training, new Train End Monitors, HPHE / MECA project updates, Cab Cleanliness, ISRI seats, Rubber mats in shunt refuges, Speed indications for RCO's, Forward facing camera trail on Mainline locomotives, Radio testing procedures, auto coupler installations programme – wagons and shunt locomotives, Whole Body Vibration, ROM S9 review, Gumboots and hoodies for yard staff, Torches, Project Hark, Stabilised approach and Interceptor, UCG wagon incident report, Train and Terminal Optimisation, SonaSafe CT sites, RCO/RP refresher courses, Excessive hours – busts and leave management. Of particular concern is the lack of progress on replacing Cattron remote control systems on the shunt locomotives with Arataki 2. We were told back in 2016 that the A2 installs were urgent, now four years later there doesn't seem to be a plan.

The minutes and actions items for this meeting are being finalised and will be out later this week. The next KIC meeting is 28 & 29 April in Wellington.

ANNUAL SAFEGUARD H&S SURVEY

Each year Safeguard run a "State of the Nation" survey to take the pulse of how things are going. This is the fifth time they have run it. They seek input from three groups:

- health & safety practitioners,
- health & safety representatives,
- and business owners/senior managers.

The Union requests all H&S reps and Union Delegates to complete the survey!!!

All questions are multi-choice except for one optional question at the end. The survey takes less than two minutes to complete and is anonymous. The results of the survey – which looks at trends in perceptions of health & safety over time – will be published in the March/April edition of Safeguard magazine. You also have the option to ask for the survey results to be emailed to you.

If you fall into one of the three categories above then please do the survey [here](#).

The survey closes 15 March.

SICK LEAVE

Recently, RMTU members at Transdev Auckland (TDAK) have started to be called into meetings by management to discuss sick leave balance. It is worth repeating that you do not have to go into any meetings with management about your sick leave without support, and you can call a halt to any meeting that starts to turn into this discussion, until you can get support. It is your legal right to have the person you want at these meetings. You also do not have to say anything at these meetings, unless it is a genuine return to work situation, of there is a legitimate abuse of sick leave, for example, lying about why you are off, or showing obvious patterns of sick leave use. If any of these situations is the case, there should be a letter inviting you to a meeting and explaining your right to bring a support person with you.

The irony here is that we bargained for an extra 5 days sick leave and won it, giving members 10 days and now the company is trying to pressure people into taking less sick leave. This is not only unreasonable but, given the possible onset of coronavirus, highly irresponsible as people may go to work sick. TDAK are not the only ones pulling this kind of stunt, some managers at KiwiRail have been approaching members and quizzing them about why they have been taking sick or domestic leave. The only appropriate response to this is to tell the manager you are not speaking to them about this matter in the politest way possible.

WOMEN'S REPRESENTATIVE ON THE MECHANICAL INDUSTRIAL COUNCIL

There is now a place on the Mechanical Industrial Council for a women's representative. This is a position will represent women working in RSAS at KiwiRail, nationwide. This position was available at the last round of elections but no one put forward a nomination. It is an important position as KiwiRail look to employ a more diverse workforce and provide women with a voice within this group of workers. The RMTU has been approached by members who



now want to represent their fellow workers and, therefore, we are going to run an election for this. Nomination forms can be downloaded from the RMTU website and need to be sent to head office by 1700hrs 3 April 2020. If more than one nomination is received then postal ballots will be sent out shortly after the closing date and we will look to have the position filled by April if no ballot and mid May if there is a contest for the position.

HEALTH AND SAFETY REP TRAINING-HOW TO REGISTER FOR A COURSE

Following the Union AGM's, new Health and Safety Reps who've recently been elected to Health and Safety Committees are required to register for H&S Rep training. H&S Reps attend 2-days paid training per year paid for by the employer.

To register on a course, go to www.worksafereps.co.nz

DELEGATE TRAINING PICTON

A delegate training day will be held in Picton for delegates from KiwiRail, Port Marlborough, Port Nelson and C3 Nelson on the Tuesday 17th March at the Picton Fire Station.

TRANSDEV – HYUNDAI ROTEM WGTN BACKPAY

On 6 December 2019 we reached a settlement for the renewal of the TDW-HR-RMTU MECA which has been widely reported elsewhere at the time. The settlement was overwhelmingly ratified by members and was celebrated as a good deal and a turning point in the relationship with the Company Union relationship. Imagine our surprise when members began complaining that they were being short paid in their backpay. We questioned the employer and they assured all was fine. Sadly, the math did not stack up and so we initiated a dispute with the employers.

The terms of Settlement were very clear as by stating "The calculation method of said backpay shall be the agreed percentage

increase applied to total gross earnings between 3 Juny 2019 and the date on which the pay rate increase is made". We instructed counsel and they wrote formally to the employers. On 19 February 2020 the employers legal advisors wrote to us stating;

"... Upon careful consideration of this matter, our client has revised its position and agrees with the Union's interpretation of the calculation method in the Terms of Settlement, dated 6 December 2019.

Transdev will now arrange to pay any shortfall for any back-payments that have not been paid in accordance with the Terms of Settlement to the affected employees (shortfall payments). To ensure that Transdev captures all relevant employees, and that their backpay calculation is correct, Transdev is carefully reviewing all back-payments made pursuant to the Terms of Settlement. Therefore, Transdev commits to making any shortfall payments no later than in the pay run on 11 March 2020.

Transdev will also provide the RMTU with a list of the RMTU member employees whose backpay excluded certain annual leave payments. This list will also include the additional gross amounts that will be paid to each of these employees where a shortfall payment exists. As soon as Transdev completes the necessary calculations, this information will be provided to you.

For completeness, our client confirms that this backpay issue and the shortfall payments are limited to annual leave payments that were paid at a higher rate at the time the leave was taken. Save for these particular annual leave payments, the 3% calculation has been applied to each member's total gross earnings. Therefore, no members have had their backpay reduced by reason of any other payment for any other form of leave (i.e. sick leave)."

We await members being paid the shortfall in backpay payments next week. Union Power!

KIWI RAIL PROCURING ESV'S

KiwiRail is looking to procure Electric Shunt Vehicles for many of its depots. The RMTU was recently part of developing a risk assessment plan for introducing these vehicles into the workplace. The company has yet to decide what type of ESVs they are

buying so this was very much a generic risk assessment. A more comprehensive risk assessment will follow once the procurement decision has been made. Moreover, a separate risk assessment will have to be done for each depot the company is looking to introduce these vehicles into. Shane Mcnae, Dave Barclay, Justin Anderson, Mat Cordell-Bain, Rudd Hughes and Karen Fletcher have all been part of this initial process.

KNIC MEETING IN DUNEDIN

The RMTU-KiwiRail Networks Industrial Council met in Dunedin on 28th February. Key items included review of a KiwiRail proposal to resolve the Flexi Worker issue; a discussion document on a possible formal (and paid) stand by/on call arrangement for Network Services; and a review of MECA projects' progress, including pay and progression in Network Services.

The proposed solution to the Flexi-worker issue would see some members who are currently receiving the payment ceasing to do so. Accordingly this was rejected by your representatives. Discussions will continue on this issue.

Stand by/on call was a fruitful discussion. There is broad agreement that the current informal 'catch as can catch' and associated informal de facto rostering system is no longer appropriate for a growing railway operating 25/7. The real question will be how much can KiwiRail afford to pay to move to a formal paid system, and can they afford not to? Your representatives encourage all members to discuss this and support remits for the forthcoming MECA talks that back the move to a paid, formal system.

We are making progress towards completion of the pay progression review that will assess the pay of jobs in Network Services against similar jobs in the market. Whether we will successfully complete this exercise in time for the beginning of MECA talks is unknown but the deadline is fast approaching. Once again, this is an issue members should consider when thinking about remits for the forthcoming MECA talks.

Labour Selection in Dunedin South

Dunedin South Labour MP Clare Curran, a staunch friend of the RMTU who supported our campaign to save Hillside Workshops and who has seen the current Labour led government inject hope as well as investment into Hillside in recent months, is standing down at the next election.

A contested candidate selection process saw RMTU activists, including life member and former National President Jim Kelly, mobilise members. As an affiliate to the Party, RMTU members get to have a say in the selection process.

The selection meeting was held on Saturday 29 February and saw Ingrid Leary selected as the Labour candidate for the next election. The RMTU encourages all members in South Dunedin to get behind Ingrid and campaign for the return of a pro-rail Labour led government in 2019!

REFERENCES – IT PAYS TO CHECK

Whether you are asked to provide or are seeking a reference, a recent Human Rights Review Tribunal decision confirms that care is needed.

Director of Human Rights Proceedings v Katui Early Childhood Learning Centre Limited [2019] NZHRRT involved an employee (Ms A) who thought she had secured a job at Waatea Early Childhood Centre, and so resigned from Katui Early Childhood Centre. However, on arrival at Waatea she discovered that her references, from Katui personnel, had not been satisfactory and so her employment at Waatea was terminated. Ms A made a complaint to the Office of the Privacy Commissioner about Katui's interference with her privacy, and the Director of Human Rights Proceedings then took her case to the Human Rights Review Tribunal.

The issue was whether Katui had breached Privacy Principle 11 and if so had interfered with Ms A's privacy. For the purposes of this case, Principle 11 states that:

"An agency that holds personal information shall not disclose the information to a person or body or agency unless the agency believes, on reasonable grounds ... that the disclosure is authorised by the individual concerned".



In other words, when Katui provided references to Waatea, was this unlawful?

The answer was yes. To start with, the Tribunal found that the references provided did contain personal information about Ms A because they were about her, despite involving the referees' opinions.

Next, the Tribunal found that Ms A had not authorised anyone from Katui except Ms T (her former direct manager) to disclose her personal information, i.e. to be a referee for Ms A. However, Ms T was not (twice) the person who answered the telephone when Waatea called.

Finally, the Tribunal found that what the (unofficial referees) said about Ms A, which was not complimentary, did cause Ms A harm. In this regard, she was not able to provide the referee she had desired for a job that was clearly important to her, and lost that job.

Fortunately for Katui, damages were a fairly modest \$3,000. As part of that, the Tribunal considered that Ms A was unlikely to have secured the new job in any event. It also found Ms A should have told Waatea expressly that it could only to speak with Ms T.

The takeaway from this case is that whether you are the prospective employer or the employer being approached to give a reference, it is critical to ensure that any individual who provides comment (and not simply the organisation) has the requesting employee's express consent to be their referee. And that the organisation knows who is able to speak, and contact is directed accordingly. Also keep in mind that 'opinion' can still be 'personal information'.

UNION SAYS PROVINCIAL GROWTH FUND COULD BOOST MIDDLEMARCH RAIL FORTUNES

The union representing rail workers says an injection of capital from the Provincial Growth Fund (PGF) could ensure the future of rail excursions to Middlemarch.

Dunedin Railways Limited announced in late 2019 that it was ending Taieri Gorge rail

excursions to Middlemarch, with future services terminating at Pukerangi.

Rail and Maritime Transport Union General Secretary Wayne Butson says lateral thinking is needed to get the service back on track.

It is a mistake to view the decision as purely a bottom line issue for the company, he says.

Dunedin Railways notes in its corporate statement of intent that it has 'social and environmental responsibilities to take account of in meeting its long-term commercial objectives'.

Mr Butson says the change was a downgrade of the service and had negatively affected communities.

The Dunedin City Council (DCC) must raise the issue with the Government, and promote the service as a candidate for PGF investment to upgrade and maintain infrastructure for an iconic regional attraction, he says.

"There needs to be a joined up approach, involving not just management but rail workers, local communities, the Council and stakeholders such as the Excursion Train Trust and tourism providers."

Mr Butson says it is concerning how the initial proposal was made public without consultation.

Dunedin Railways Limited has a majority shareholding by Dunedin City Holdings, the business arm of the Dunedin City Council.

BITS AND BOB'S

- Port of Tauranga - We are working thru the new Collective Agreement and hope to have ready by the middle of March.
- Port of Napier - The RMTU members ratified the Terms of Settlement for the Port of Napier Collective Agreement on Tuesday 18th February by way of a unanimous vote.

**Remember -
Lets be Safe at
all times!**

