

FAIR WORK COMMISSION


Australian Rail, Tram and Bus Industry Union
(Applicant)

WITNESS STATEMENT OF MARK GREGORY DIAMOND

I, Mark Gregory Diamond, National Secretary of 5.01, Level 5 377 Sussex Street Sydney, NSW, 2000, say as follows:

1. I am the National Secretary of the Australian Rail, Tram and Bus Industry Union (RTBU)
2. I provide this Statement in support of the RTBU's Application for an exemption under s 144(2)
3. I am currently in the process of finalising the election timetable with the AEC for the 2022 RTBU General Elections.
4. The proposed timetable that I have been provided does not include attendance ballots for all Tram and Bus Division representatives for National Offices or Branch Offices.
5. Pursuant to the Rules of the Australian Rail, Tram and Bus Industry Union (RTBU Rules), Rule 75(1) provides:
All voting for National or Branch Offices which represent members within the Tram and Bus Division only, shall be by attendance ballot.
6. Historically, at each General Election, this rule has been adhered to by the AEC and the election of those positions to which the above-mentioned rule pertains have been held as an attendance ballot in accordance with the requirements of Rule 75.
7. I am not aware of an exemption having been previously granted under s 144(2) despite previous elections having been treated as if it had.
8. The attendance ballot for these positions has always and will always result in a fuller participation which is evidence by:
 - a. QLD Branch comparator for attendance vs postal ballot in 2018 elections provided by the RTBU QLD Branch as a summary + QLD Branch Declaration of Results for 2018 to verify the numbers in the comparator (Attachment A)
 - b. VIC Branch AEC Declaration of Results for 2018 showing branch participation rate which being 55% but the VIC Tram and Bus Division which was by attendance ballot being 100% (Attachment B)
 - c. NSW Branch Declaration of Results for the 2018 election with the branch participation rate being 20% and the NSW Tram and Bus Division which was by attendance ballot being 97% (Attachment C)
9. As shown in the above-mentioned evidence, the participation rate for attendance ballots far exceeds the participation that results from postal ballots.

10. Over recent weeks I have been contacted by many Tram and Bus members who are aware of the proposed AEC timetable and its omission as to an attendance ballot. All such members are demanding an attendance ballot pursuant to the RTBU Rules which is what they have become accustomed to. Without an attendance ballot I have a genuine concern that they will view their democratic right as being undermined.
11. This Application has been uploaded to the RTBU Website as required under the legislation - https://www.rtbu.org.au/rtbu_notices
12. I have no reason to believe that an attendance ballot would draw any intimidating behaviour from potential candidates or others and therefore am of the view that an attendance ballot would provide an adequate opportunity of voting without intimidation.

A handwritten signature in black ink, appearing to be 'Mark Diamond', with a long horizontal stroke extending to the right.

Mark Diamond
National Secretary
14 July 2022