

## FAIR WORK COMMISSION

Australian Rail, Tram and Bus Industry Union  
(Applicant)

### **Urgent Application for Exemption under s 144(2)**

This is an application under s 144(2) of the Fair Work (Registered Organisations) Act 2009 (**the Act**) for an exemption to a postal ballot for certain Australian Rail, Tram and Bus Industry Union (**RTBU**) positions which are to be voted on in the 2022 General Election and in future elections (**Application**)

This Application is made for all positions which are representatives of the Tram and Bus Divisions whether they are National Offices or Branch Offices. For the avoidance of doubt, the latter includes Branch Divisional positions where they exist under the Rules of the Australian Rail, Tram and Bus Industry Union (**RTBU Rules**).

In support of this Application, I have attached a Witness Statement which addresses the legislative considerations the General Manager must consider in granting an exemption of the type sought. For ease, and in summary, the Witness Statement provides:

- that the RTBU Rules require the Tram and Bus representatives at a National and Branch (including Divisional) level to be elected by attendance ballot;
- that these positions have always been elected by attendance ballot;
- evidence that the attendance ballot for these positions results in fuller participation;
- that Tram and Bus members have developed an expectation that the vote will be by attendance and that I have received numerous communications from them stating that anything but an attendance ballot pursuant to the RTBU Rules is unacceptable to them
- That this application and a notice has been published on the RTBU website as required under the legislation
- That an attendance ballot would afford members entitled to vote an adequate opportunity of voting without intimidation and that I am unaware of any reason why this would not be so.

Notably, insofar as Rule 144(2) and (3) contemplate rule changes as part of the Application for this exemption, those considerations fall away as the RTBU Rules already include the provisions requiring an attendance ballot for these positions.

For these reasons, the General Manager should be satisfied that the application meets the requirements of reg 115 and ss. 144(2) and (3) of the Act, and an exemption under s. 144(2) should be granted.



Mark Diamond  
National Secretary  
14 July 2022