

## **MOUTEVELIS, Michael**

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**From:** industrial.elections@fwa.gov.au  
**Sent:** Thursday, 3 November 2011 2:53 PM  
**To:** VALE, David  
**Subject:** FW: Post Election Report for ARTBIU Election E2011/2613 [SEC=UNCLASSIFIED]  
**Attachments:** Post Election Report Werris Ck E2613.pdf; Uncontested Declaration - RTBU E2011-2613.pdf

**MARY JO CARNEY**  
Executive Co-ordinator  
Organisations, Research and Advice

**Fair Work Australia**  
Tel: 03 8661 7825  
Fax: 03 9655 0401  
[maryjo.carney@fwa.gov.au](mailto:maryjo.carney@fwa.gov.au)

11 Exhibition Street, Melbourne Victoria 3000  
GPO Box 1994, Melbourne Victoria 3001

[www.fwa.gov.au](http://www.fwa.gov.au)



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**From:** Lee Jones [<mailto:Lee.Jones@aec.gov.au>]  
**Sent:** Thursday, 3 November 2011 2:42 PM  
**To:** 'Allan Barden' ([abarden@rtbu-nat.asn.au](mailto:abarden@rtbu-nat.asn.au))  
**Cc:** [industrial.elections@fwa.gov.au](mailto:industrial.elections@fwa.gov.au); Industrial Elections  
**Subject:** Post Election Report for ARTBIU Election E2011/2613 [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Allan Barden  
Assistant National Secretary  
RTBU

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**Post Election Report For: NSW Branch, Locomotive Division, PN Bulk Services Werris Creek**

**Election E No 2011/2613**

I refer to the above election for your organisation.

Section 197(1) of the Fair Work (Registered Organisations) Act 2009 requires the AEC to provide a written report on the conduct of the election to FWA and to the organisation or branch for whom the election was conducted. A copy of the report in relation to this election is attached.

Section 198 of the Act requires that if an organisation or branch is given a post election report under section 197 that identifies a rule that was difficult to interpret or apply, the organisation or branch must, within 30 days, give a written response to the AEC on that aspect of the report. The response must specify whether the organisation or branch intends to take any action in relation to the rule, and if so, what action it intends to take.

If the attached Report identifies a rule that was difficult to interpret or apply, you should forward your response to the AEC by email to 'industrial.elections@aec.gov.au' within thirty days of the date of the report.

Section 198 and the regulations also require an organisation to make the post election report and the organisation's response to the report (if applicable) available to members.

Further, Regulation 141(4) of the Fair Work (Registered Organisations) Regulations 2009 requires an organisation or branch to publish a notice on its web site advising members that a copy of the post election report is available upon request. If a website is not available, publishing a notice in a journal or newsletter would be considered appropriate.

Please contact me if you wish to clarify any aspect of this report.

**Lee Jones | Senior Returning Officer**  
Industrial & Commercial Elections | NSW State Office  
Australian Electoral Commission  
T: (02) 9375 6361 | M: 0412 268 599 | F: (02) 9375 6336

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**UNCLASSIFIED**

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Fair Work (Registered Organisations) Act 2009

**POST ELECTION REPORT**

**Australian Rail, Tram & Bus Industry Union  
New South Wales Branch, Locomotive Division  
Pacific National Bulk Services, Werris Creek.**

**ELECTION/S COVERED IN THIS REPORT**

Election Decision No/s: E2011/2613

**RULES**

Rules used for the election: Rules - 139V: Incorporating alterations of 12/07/2011 - R2011/120

Rules difficult to apply/interpret: Nil  
Model Rule reference (if any): N/A

**ROLL OF VOTERS**

As there were no contested offices, no Roll of Voters was required.

**IRREGULARITIES**

Details of written allegations of irregularities, and action taken by AEC: Nil

Other irregularities identified, and action taken: Nil

**ATTACHMENTS**

**1. Declaration of Results E2011-2613**

Lee Jones  
Returning Officer

3 November 2011



Our Ref: N11/279

Mr Alex Claassens  
Branch Secretary  
Australian Rail, Tram and Bus Industry Union

Email: [aclaassens@rtbu-nsw.asn.au](mailto:aclaassens@rtbu-nsw.asn.au)  
[dthompson@rtbu-nsw.asn.au](mailto:dthompson@rtbu-nsw.asn.au)



Dear Mr Claassens

**Australian Rail, Tram and Bus Industry Union  
Vacancy Elections – T&B Divn Burwood (E2011/2608) and  
Locomotive Divn PN Bulk Svs Werris Creek (E2011/2613)  
Locomotive Divn PN Bulk Svs Rep on Divn Council (E2011/2617)**

I have accepted all nominations for positions in the above elections. No nominations were received for E2011/2617.

My uncontested declaration for E2011/2613 and E2011/2617 is enclosed. Please notify the successful candidate.

A ballot is required for the Burwood position.

Candidates should check carefully that their details are correct, as the declaration and ballot paper will be prepared on this basis. If there is an error, candidates should advise me in writing as soon as possible.

I will conduct a draw to determine the order in which candidate names will appear on the ballot paper. The draw will take place in my Office at 12 noon on Thursday 20 October 2011. Candidates or their representatives are able to attend the draw.

As soon as possible after the draw I will write to candidates advising of the outcome of the draw and details for the ballot.

Ballots for positions within the T&B Division are conducted as attendance ballots at the workplace between 7am and 4:30pm. The ballot for this election will take place on 10 November 2011 at Burwood depot, if the employer agrees to the ballot being conducted at the depot.

The scrutiny will commence in my office at 10am on Friday 11 November 2011.

Candidates may appoint scrutineers, in accordance with the organisations Rules, to represent them during the course of the election. Any such appointment must be advised to me in writing. Scrutineers should contact me if they wish to be present at any stage of the ballot, including the scrutiny. Scrutineers must produce a letter of authority or suitable identification on their initial introduction to me. Absence of a scrutineer will not delay any step in the election.

A copy of the roll of voters is available to members for inspection or copying. Updated or supplementary listings of members will also be available upon request.

If you have any queries or concerns regarding the above please contact me on 02 9375 6361. Please note that I will be absent from my office next week. If you have any queries before I return on Monday 10 October, please contact Noopur Madan on 9375 6321.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lee Jones', with a large, stylized loop at the end of the signature.

**Lee Jones**

Returning Officer  
30 September 2011

# Australian Rail, Tram and Bus Industry Union

## Vacancy Election

### NSW Branch Locomotive Division Pacific National Bulk Services Group Werris Creek

#### DECLARATION OF RESULTS FOR UNCONTESTED OFFICES

Results of the election for the following offices conducted in accordance with the provisions of the Fair Work (Registered Organisations) Act 2009 and the rules of the organisation.

E2011/2613

#### Werris Creek Sub Division Locomotive Division

##### Depot Organiser

##### Candidate

SMART, Christopher

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidate elected.



Lee Jones  
Returning Officer

30 September 2011



FAIR WORK  
AUSTRALIA

15 July 2011

Mr Allan Barden  
Assistant National Secretary  
Australian Rail, Tram and Bus Industry Union  
83 - 89 Renwick Street  
REDFERN NSW 2016

Dear Mr Barden

**Re: Arrangements for the conduct of an Election  
(E2011/2613)**

A copy of the decision in relation to the above matter is enclosed.

Fair Work Australia is making arrangements, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, with the Electoral Commissioner for the conduct of the subject election by a member of staff of the Australian Electoral Commission, who will contact you in the near future about the election.

Yours sincerely

Carolyn Moloney  
Fair Work Australia



FAIR WORK  
AUSTRALIA

## DECISION

*Fair Work (Registered Organisations) Act 2009*  
s.189 – Arrangement for conduct of an election

**Australian Rail, Tram and Bus Industry Union**  
(E2011/2613)

T. NASSIOS

MELBOURNE, 14 JULY 2011

*Arrangement for conduct of election.*

[1] On 11 and 13 July 2011 the Australian Rail, Tram and Bus Industry Union lodged prescribed information with Fair Work Australia and made a request for the Australian Electoral Commission to conduct an election, for the remainder of the term, for the following non-office position:

**New South Wales Branch**

Locomotive Division

Pacific National Group (Bulk Services) Sub-Division

Sub-Divisional Representative (Depot Organiser)

Werris Creek (1)

[2] I am satisfied that an election for the abovenamed non-office position is required to be held under the rules of the organisation and the organisation has made a request under section 187 of the *Fair Work (Registered Organisations) Act 2009*. Accordingly, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



**ACTING GENERAL MANAGER**  
**FAIR WORK AUSTRALIA**



## **MOLONEY, Carolyn**

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**From:** MOLONEY, Carolyn  
**Sent:** Thursday, 14 July 2011 3:12 PM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** E2011/2613  
**Attachments:** E2011\_2613\_Signed Position decision\_FWAG\_14072011.pdf; E2011\_2613 ARTBIU letter to AEC\_14072011.pdf

Dear AEC

Please find attached a copy of the Decision for the upcoming election of the Australian Rail, Tram and Bus Industry Union - New South Wales Branch - Locomotive Division (E2011/2613).

Kind regards,

**CAROLYN MOLONEY**  
RIA Team Administrative Officer

**Fair Work Australia**  
Tel: 02 8374 6637  
Fax: 02 9380 6990  
[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)



FAIR WORK  
AUSTRALIA

15 July 2011

Electoral Commissioner Through  
Australian Electoral Officer (industrial.elections@aec.gov.au)

Under subsection 189 of the Fair Work (Registered Organisations) Act 2009, please arrange for the conduct of the following election by the Australian Electoral Commission:

**E No 2011/2613**

**RE: AUSTRALIAN RAIL, TRAM & BUS INDUSTRY UNION**

Positions:

See Decision

Relevant Information: Casual vacancy. Request made for election under ss.187 & 189 of the Fair Work (Registered Organisations) Act 2009.

Contact: Australian Rail, Tram & Bus Industry Union  
Allan Barden, Assistant National Secretary.

Phone: (02) 9310 3966

A copy of the decision is enclosed.

I further request that you arrange for this office to be notified that arrangements for the conduct of this election have been made, by email transmission at [industrial.elections@fwa.gov.au](mailto:industrial.elections@fwa.gov.au)

David Vale  
Fair Work Australia

**MOLONEY, Carolyn**

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**From:** MOLONEY, Carolyn  
**Sent:** Wednesday, 13 July 2011 2:36 PM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** E2011/2613  
**Attachments:** 139V ARTBIU R2011\_21\_28032011.pdf; ARTBIU E2011\_2613 Amended PI position lodged\_casual vacancy\_13072011.pdf

Dear AEC

Please find attached the amended prescribed information under ss187 and 189 of the *Fair Work (Registered Organisations) Act 2009*, and a copy of the current rulebook for the New South Wales Branch of the Locomotive Division of the Australian Rail, Tram & Bus Industry Union, for an upcoming election for a casual vacant position (E2011/2613).

Kind regards,

**CAROLYN MOLONEY**  
RIA Team Administrative Officer

**Fair Work Australia**  
Tel: 02 8374 6637  
Fax: 02 9380 6990  
[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)

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**From:** MOLONEY, Carolyn  
**Sent:** Monday, 11 July 2011 11:36 AM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** E2011/2613

Dear AEC

Please find attached prescribed information under ss187 and 189 of the *Fair Work (Registered Organisations) Act 2009*, and a copy of the current rulebook for the New South Wales Branch of the Locomotive Division of the Australian Rail, Tram & Bus Industry Union, for an upcoming election for a casual vacant position (E2011/2613).

Kind regards,

**CAROLYN MOLONEY**  
RIA Team Administrative Officer

**Fair Work Australia**  
Tel: 02 8374 6637  
Fax: 02 9380 6990  
[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)



# RAIL, TRAM & BUS UNION

AUSTRALIAN RAIL, TRAM & BUS INDUSTRY UNION

ABN 28 921 128 419

NATIONAL OFFICE: 83-89 Renwick Street, REDFERN NSW 2016

Phone: (02) 9310 3966

Fax: (02) 9319 2096

Email: [rtbu@rtbu-nat.asn.au](mailto:rtbu@rtbu-nat.asn.au)

web: [www.rtbu-nat.asn.au](http://www.rtbu-nat.asn.au)

13 July 2011  
Mr David Vale  
Fair Work Australia  
Terrace Tower  
80 William St.  
East Sydney,  
NSW 2011



Subject:- Election for Vacant Position

Dear Sir,

I have received correspondence from Mr. Alex Claassens, NSW Branch Secretary, informing me that Mr Peter White, a successful candidate in our recent Elections (E 2010/2643 & E2010/2653) for the position of **NSW Branch, Locomotive Division, Pacific National Bulk Services Group, Werris Creek Sub Divisional Representative (Depot Organiser)**, confirming his resignation of the aforementioned position.

I refer to Rule 78(2) of the ARTBIU Rules; *Where a casual vacancy occurs in relation to any Office within the Union and where the unexpired portion of a four year term of Office is more than twenty four months or where the unexpired portion of a two year term of Office is more than 12 months, a ballot shall be held to fill the Office in accordance with the provisions of this Part and the person or persons duly elected shall take office on and from the date of the declaration of the ballot.*

Therefore in accordance with Section 187 and 189 of the *Fair Work (Registered Organisations) Act 2009*, I am requesting that you arrange for the conduct of the election of office-holder for the Australian Rail, Tram and Bus Industry Union (RTBU) for the position of **NSW Branch, Locomotive Division, Pacific National Bulk Services Group, Werris Creek Sub Divisional Representative**.

Further, I have also advised the AEC of this request.

I can be contacted on (02) 9310 3966 or by email [abarden@rtbu-nat.asn.au](mailto:abarden@rtbu-nat.asn.au) if you have any further queries

Yours Sincerely,

Allan Barden  
Assistant National Secretary  
Australian Rail, Tram and Bus Industry Union.

## STATEMENT/ APPLICATION FOR ELECTION UNDER s187 AND s189

I, Allan Barden, Assistant National Secretary of the Australian Rail, Tram and Bus Industry Union, request the General Manager, FWA, to arrange for the conduct of an election by the AEC. The prescribed information in accordance with regulation 138 is lodged under subsection 187 and 189 of the Fair Work (Registered Organisations) Act 2009 and is set out below.

1. The position for which an election is required is for 1 New South Wales Branch, Locomotive Division, Pacific National Bulk Services Group, Werris Creek Sub Divisional Representative (Depot Organiser)

2. The reason for the election is that an incumbent to the aforementioned position has transferred to another depot (see attached documentation) , and in accordance with Rule 78 (2) - Casual Vacancy of the Australian Rail, Tram and Bus Industry Union Federally registered Rules, an election is required for this now vacant position. Rule 78(2) states:-

***“ Where a casual vacancy occurs in relation to any Office within the Union and where the unexpired portion of a four year term of Office is more than twenty four months or where the unexpired portion of a two year term of Office is more than 12 months, a ballot shall be held to fill the Office in accordance with the provisions of this Part and the person or persons duly elected shall take office on and from the date of the declaration of the ballot”***

4. Eligibility and Electorate

Whole of the membership of the New South Wales Branch, Locomotive Division, Pacific National Bulk Service Group, Werris Creek Sub Division..

5. The date and time of the beginning and end of the period in which nominations of candidates may be made for a casual vacancy is not defined in Rule 78(2) – Casual Vacancies, however the criteria for General Elections is set out in Rule 70 ( see attached rule 70.)

6. The kind of voting system to be used is an optional preferential as outlined in the following rule 105.

**105 - METHOD OF VOTING**

(1) **Except as provided in Sub-Rule 105(2), the method of voting for Branch Offices in New South Wales shall be optional preferential.**

**Accordingly, voters shall express their preference by placing numbers against the names of the candidates on the ballot paper with the number one indicating the highest preference, the number two indicating the second highest preference and so on.**

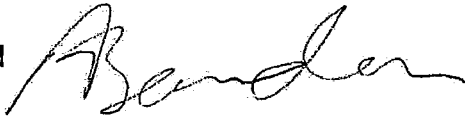
**A voter has the option of whether to place a number against the name of each candidate or whether to place a number against the name or names of only some of them.**

**A mark other than a number shall be regarded as a valid vote provided that the Returning Officer is of the view that the ballot paper clearly indicates the voter's preference.**

(2) **The method of voting for Branch Offices which represent members within the Branch Tram and Bus Division only shall be first past the post**

I am an officer of the organisation authorised to make and sign the above statement.

Signed



Dated

13 - July - 2011



AC:DT

8<sup>th</sup> July 2011

Mr A Barden  
Assistant National Secretary  
Rail, Tram and Bus Union  
83-89 Renwick Street  
**REDFERN NSW 2016**


Dear Allan,

**Re: Depot Organiser Vacancy – Pacific National – Werris Creek**

Please find attached copy of correspondence from Bob Hayden regarding the resignation of the Depot Organiser from Pacific National – Werris Creek.

It would be appreciated if you would arrange for another election to be called for this position at this location.

Yours fraternally

  
**ALEX CLAASSENS**  
**BRANCH SECRETARY**

Level 4, 321 Pitt Street  
Sydney NSW 2000

Tel (02) 9264 2511

Fax (02) 9264 1342

E-mail:  
nswho@rtbu-nsw.asn.au

Website:

www.rtbu-nsw.asn.au

**NEWCASTLE OFFICE**

33 Gordon Avenue

Hamilton NSW 2303

Tel (02) 4969 4311

Fax (02) 4961 4779

Email:  
newcastle@rtbu-nsw.asn.au

**WOLLONGONG OFFICE**

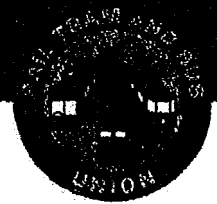
Level 1, 306A Crown Street

Wollongong NSW 2500

Tel (02) 4227 5798

Fax (02) 4226 5262

Email:  
wollongong@rtbu-nsw.asn.au



Reference: 11/15995/Elections/RH:DT

1<sup>st</sup> July 2011

Mr A Claassens  
Branch Secretary  
Rail, Tram and Bus Union  
New South Wales Branch  
Level 4, 321 Pitt Street  
**SYDNEY NSW 2000**

Dear Alex,

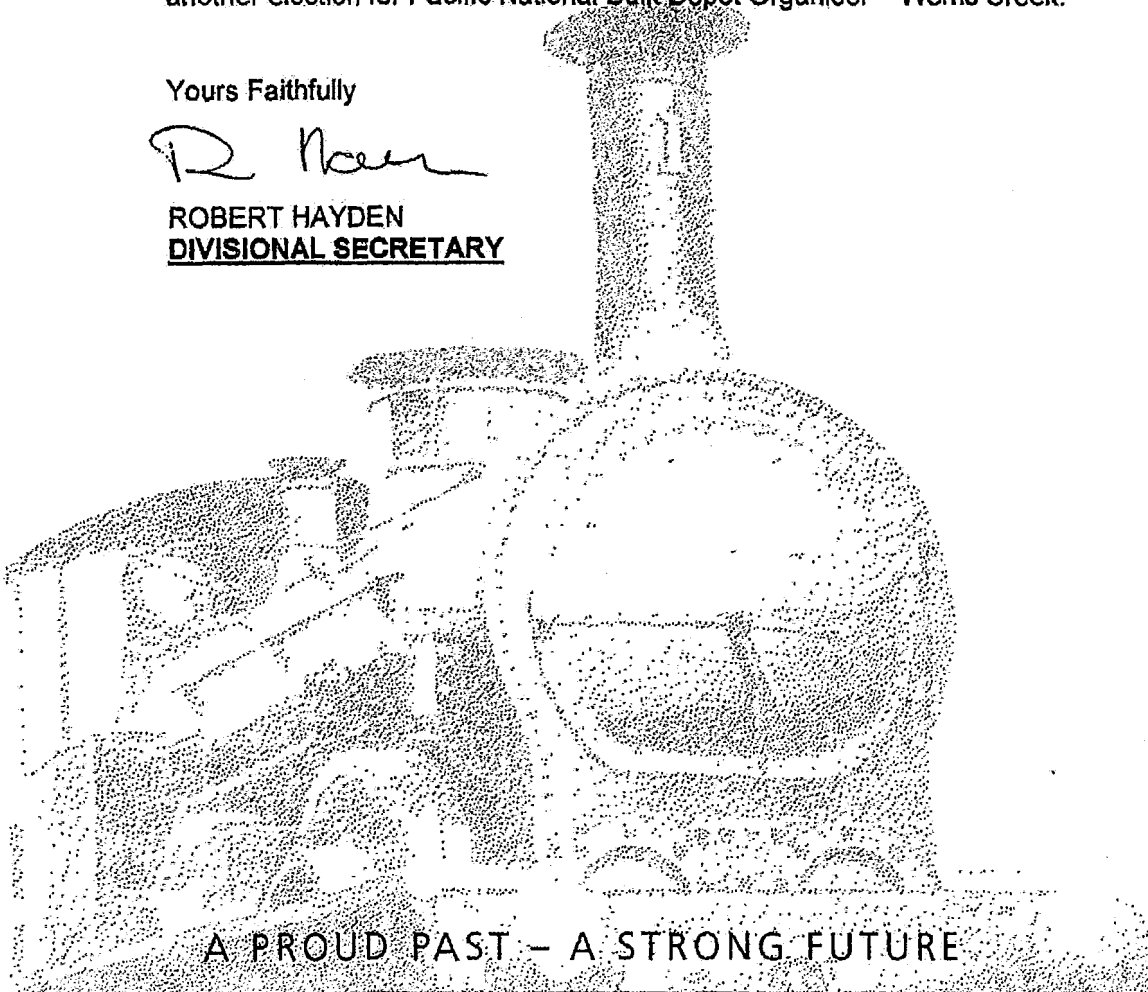
**Re: Depot Organiser Vacancy – Pacific National – Werris Creek**

Please find attached a copy of an email received from Peter White – Depot Organiser Werris Creek advising of his intention to resign from the position effective the 3<sup>rd</sup> July 2011 as he will be transferring to Gunnedah Coal Depot.

Could you please commence the necessary process for the conducting of another election for Pacific National Bulk Depot Organiser – Werris Creek.

Yours Faithfully

**ROBERT HAYDEN**  
**DIVISIONAL SECRETARY**



**A PROUD PAST – A STRONG FUTURE**

Level 4, 321 Pitt Street  
Sydney NSW 2000  
Tel (02) 9264 3400  
Fax (02) 9264 7679

E-mail  
nsw/loc@rtbu-nsw.asn.au

Toll Free 1800 672 022

Newcastle Office  
33 Gordon Avenue  
Hamilton NSW 2303  
Tel (02) 4969 4665  
Fax (02) 4961 4779



#### 71 - ELECTION TIMETABLE AND ASSUMPTION OF OFFICE

- (14) An appeal right shall be exercised within fourteen days of receipt of written advice of the decision of the Executive by notice in writing to the National Secretary or the Branch Secretary, as the case may be, or, where the National Secretary or the Branch Secretary is the person charged, to the National President or the Branch President, as the case may be. In hearing such appeal, the Council shall follow the same proceedings and accord the Office Bearer the same rights as are provided for in this Rule in relation to the hearing of the matter by the Executive.
- (15) A Branch Office Bearer shall have a further right of appeal from the Branch Council to the National Executive, whose decision shall be final.

#### PART VIII - ELECTIONS

#### **70 - ELECTIONS FOR OFFICES**

Elections for all Offices within the Union shall take place in accordance with the provisions of this Part.

#### **71 - ELECTION TIMETABLE AND ASSUMPTION OF OFFICE**

- (1) Except as provided in Sub-Rule 71(3), the timetable for elections within the Union, other than elections to fill a casual vacancy, shall be as follows:-
  - (i) nominations shall open at 9.00am on the first Monday in September of an election year and shall close at 5.00pm on the fourth Monday in September in that year.
  - (ii) where a ballot is necessary, the ballot shall commence at 9.00am on the first Monday in November of an election year and shall conclude at 5.00pm on the fourth Monday in November of that year.

Provided that the National Executive may, in the case of elections for National Offices, and a Branch Council may, in the case of elections for Branch Offices, vary this timetable in exceptional circumstances.

- (2) The ballot shall be declared as soon as practicable after the counting of the votes. Successful candidates shall take office on and from the declaration of the ballot.
- (3) Where an Office is to be filled through a collegiate election under these Rules, the election shall take place at the first meeting of the electoral college following elections for the members of the college. The ballot shall be declared at that meeting and the successful candidate shall take office forthwith.
- (4) For the election of the President, Vice President and Junior Vice President of the Tram and Bus Division of the Queensland Branch, the nominations will be called one week from the declaration of the poll for Sub Divisional Representatives. Nominations will close one week after they are called. One week will be allowed for withdrawal of nominations and a ballot will occur within fourteen (14) days after withdrawal of nominations closing.

## **73 - ELECTION PROCEDURES**

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### **72 - RETURNING OFFICERS**

- (1) The National Council shall appoint a National Returning Officer who shall, subject to any statutory provision regarding the conduct of elections, conduct all National elections and ballots.
- (2) The National Council may appoint an Assistant Returning Officer or Officers to assist the National Returning Officer.
- (3) A Branch Council shall appoint a Branch Returning Officer who shall, subject to any statutory provision regarding the conduct of elections, conduct all Branch elections and ballots.
- (4) A Branch Council shall appoint an Assistant Branch Returning Officer or Officers to assist the Branch Returning Officer.
- (5) The National and the Branch Returning Officers and Assistant Returning Officers shall not be Office Bearers within or employees of the Union.

### **73 - ELECTION PROCEDURES**

Except where otherwise provided in these Rules, elections within the Union shall be conducted in accordance with the following procedures:-

- (i) The Returning Officer shall call for nominations at least three weeks before the date on which nominations open by a notice published in a union journal or by circulars addressed to members or by the insertion of an advertisement in a newspaper or newspapers circulating throughout the electorate. Such notices shall specify the date on which nominations will open and will close, the dates upon which the ballot will open and will close, the manner in which nominations can be made and the eligibility requirements for nomination. Where the office or offices for which elections are held are paid positions, the notice shall specify the location, duties and responsibilities of the Office.
- (ii) Nominations shall be in writing and shall be signed by the nominee.
- (iii) If the Returning Officer finds that a nomination is defective, he/she shall, before rejecting the nomination, notify the person concerned of the defect and where it is practicable to do so, give him or her the opportunity of remedying the defect within not less than seven days but not more than ten days after he or she has been notified.
- (iv) A member nominating for any office may withdraw his/her nomination by advising the Returning Officer in writing at any time after the opening date for receipt of nominations but not later than ten days after the closing date for the receipt of nominations.
- (v) A candidate in any election shall be entitled to appoint, by notice in writing to the Returning Officer, another person to act at his/her own expense as a scrutineer on his/her behalf. Such scrutineer shall be entitled to be present at all stages of the ballot and may draw the attention of the Returning Officer to any complaint which he/she has regarding the ballot, but he/she shall not interfere in the counting of the ballot or handle any ballot paper or ballot envelope without the permission of the Returning Officer. The Returning Officer shall, if requested by any scrutineer, inform the scrutineer of the times and places at which the various stages of the ballot will be conducted.

## 73 - ELECTION PROCEDURES

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- (vi) Except in the case of Offices which represent members in the Tram and Bus Division only, a candidate in an election shall be entitled to support his/her candidature in National and Branch Journals and may submit articles for this purpose.
- (vii) If the number of nominations does not exceed the number of vacancies, the Returning Officer shall declare the nominee(s) duly elected. Nominees declared duly elected shall not, however, take Office until the day following the date on which a ballot would have concluded pursuant to the provisions of Rule 71.
- (viii) If the number of nominations exceeds the number of vacancies, a secret postal ballot of all financial members within the relevant electorate, shall be held.
- (ix) Where a ballot is necessary, the Returning Officer shall cause to be printed ballot papers which are oblong in shape and show the name, classification and work location of each candidate. All ballot papers shall be printed bearing the signature of the Returning Officer imposed on a facsimile of the Union's Seal. No vote shall be valid unless the ballot paper bears the signature of the Returning Officer imposed upon a facsimile of the Union's Seal. The names of the candidates shall appear on the ballot paper as decided by lot. One ballot paper may contain provision for voting in respect of more than one election.
- (x) The Returning Officer shall also cause to be printed declaration envelopes marked "Ballot Paper" and other prepaid envelopes bearing the address of the Returning Officer. Both the declaration envelopes and the prepaid envelopes shall comply with the forms prescribed by the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003. In addition, the removable flap or label shall also have printed on it a number corresponding to a number appearing opposite the financial member's name on the list of voters.
- (xi) The Returning Officer shall prepare or cause to be prepared a voters' roll containing the name and last known postal address including postcode of each and every member within the electorate, who is a financial member on the day the roll of voters closes. The voters' roll shall close seven (7) days before the date the nominations open. The closing of the roll of voters is not to be taken to prevent the correction of errors in the roll after that day up to but not extending beyond a date seven days prior to the commencing date for the conduct of the ballot.
- (xii) The Returning Officer shall keep a record of the number of ballot papers printed, the number issued by him/her and the number used and unused and, in his/her written declaration of the poll, shall account for every ballot paper printed.
- (xiii) The Returning Officer shall issue by pre-paid post to each financial member within the electorate, a Ballot Paper as specified, together with a declaration envelope marked "Ballot Paper" suitable for containing the Ballot Paper and supply therewith to each voter a pre-paid envelope addressed to the Returning Officer.
- (xiv) The Returning Officer shall arrange for a post office box to which ballot papers may be forwarded and shall arrange, so far as is possible, that such post office box is not able to be accessed by persons other than himself/herself (post office staff excepted).
- (xv) The Returning Officer shall instruct each voter in the manner in which a vote is to be recorded on the ballot paper.

#### 74 - METHOD OF VOTING

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- (xvi) The voter shall, on receipt of the ballot paper, record his/her vote, enclose the ballot paper in the envelope marked "Ballot Paper", seal the envelope, sign the declaration on the removable flap or label in the place provided and insert it in the prepaid envelope bearing the address of the Returning Officer and thereafter forward it by post to the Returning Officer.
- (xvii) The Returning Officer shall, after the closing date for the ballot, collect the envelopes containing the ballot papers from the post office box. He/she shall check the details and declaration on the removable flap or label with the voters' roll to ensure that no votes are cast except by those entitled to do so and that no voter has cast more votes than he/she is entitled to. He/she shall then remove the declaration envelopes marked "Ballot Paper" from the outside envelopes.
- (xviii) The Returning Officer shall remove the removable flap or label from the declaration envelope marked "Ballot Paper" before removing the ballot papers. He/she shall admit the ballot papers properly marked and count those ballot papers.
- (xix) Where more than one candidate receive the same number of votes, the Returning Officer shall determine the successful candidate by lot provided that the candidates agree. In the event that the candidates do not agree then a further ballot shall be held in accordance with these Rules.
- (xx) When the counting of the ballot is completed, the Returning Officer shall cause all envelopes, ballot papers, lists and other documents relating to the election to be filed and preserved at the registered office of the Union or the office of the Branch, as the case may be, for a period of one year after completion of the election.
- (xxi) The Returning Officer shall declare the result of the ballot as soon as practicable following the completion of the count.
- (xxii) The Returning Officer shall have the power to call fresh elections in the event of irregularities being discovered in relation to the ballot or for any other reason which affects the legality of the election result.
- (xxiii) Where no nominations are received for any position the Returning Officer shall by notice in writing to the members call for nominations for that position within 7 days of the declaration of the ballot. A further election shall be held for that position and as far as is practicable the provisions of this Rule shall apply.

#### 74 - METHOD OF VOTING

Except as provided Parts X to XV of these Rules, the method of voting for National and Branch Offices shall be first past the post. Accordingly, voters shall place a cross in each square of the ballot paper opposite the name(s) of the candidate(s) of his/her choice up to but not exceeding the number of candidates required to be elected. A mark other than a cross shall be regarded as a valid vote provided that the Returning Officer is of the view that the ballot paper clearly indicates the voter's intention. Where the number of candidates to be elected exceeds one, a vote shall be valid notwithstanding that the voter does not exercise his/her right to cast his/her vote for the total number of candidates to be elected.

75 - ELECTION PROCEDURES: TRAM AND BUS DIVISION

- (1) All voting for National or Branch Offices which represent members within the Tram and Bus Division only, shall be by attendance ballot.
- (2) Elections for National or Branch Offices which represent members within the Tram and Bus Division only, shall be conducted in accordance with the timetable specified in Rule 71 with the necessary changes being made and be conducted by the National or Branch Returning Officers appointed pursuant to Rule 72. In addition, the provisions of Rule 73, with the exception of paragraphs (viii), (x), (xiii), (xiv), (xvi), (xvii) and (xviii), shall apply to such elections.

Members shall be notified by printed circulars setting out all positions for which an election is to be conducted by the Returning Officer. Such circulars to be posted in all work centres e.g. Depots, Sheds, Offices, Departments etc. where the Division members are employed. These circulars shall be displayed for at least three weeks prior to the closing of nominations.

- (3) If the number of nominations exceeds the number of vacancies, the Returning Officer shall arrange for a secret ballot to be held of all financial members within the relevant electorate. Such ballot shall be conducted by the Returning Officer over two days within the State of Victoria and over one day within other States within the ballot period specified in Rule 71 and the Returning Officer shall ensure that all members are advised of the time and place at which they may cast their votes.

The ballot of financial members of the Division shall be held on the same day/days. Where the ballot is held on one day the ballot must be held on the Thursday of the third full week in November. Where the ballot is held over two days the ballot must be held on the Wednesday and Thursday of the third full week of November. The time(s) for polling shall be 7.00 a.m. to 4.30 p.m. on the day(s) of the ballot. Members shall be notified by printed circular of the time and date(s) of polling, circulars to be posted in all work centres.

- (4) Any member who satisfies the Returning Officer that he/she will be unable to vote personally on the day fixed for the ballot, shall be provided with a postal ballot and the provision and processing of such postal ballot shall be in accordance with paragraphs (x), (xiii), (xiv), (xv), (xvi), (xvii) and (xviii) of Rule 73.
- (5) Except in the case of absent voting pursuant to the provisions of Sub-Rule 75(5), ballots covered by this Rule shall be in accordance with the following provisions:-
  - (i) Ballots shall be conducted in a room or marquee or other suitable place that will ensure suitable voter privacy;
  - (ii) An Assistant Returning Officer appointed pursuant to Rule 72 shall be in attendance at such polling place and shall ensure that members entitled to vote are afforded an adequate opportunity of voting without intimidation;
  - (iii) A voter's roll shall be provided at each polling place and the Assistant Returning Officer shall ensure that a record of each member voting is duly made on the roll.

As soon as practicable after the date determined for the commencement of issuing ballot papers in respect of an election, the Returning Officer shall deliver to each

#### 76 - COLLEGIATE ELECTIONS

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Assistant Returning Officer sufficient ballot papers for each person whose name appears on the roll of voters for the relevant work centre.

At the end of each day's voting the Returning Officer shall check with the Assistant Returning Officer the number of ballot papers issued with the voters roll to ensure that no votes are cast except by those entitled to do so and that no voter has cast more votes than he/she is entitled to;

- (iv) Sealed and locked ballot boxes must be used at the conclusion of the ballot and all boxes must be transported personally by the Assistant Returning Officer in charge of the particular booth to the custody of the Returning Officer;
- (v) Once a voter has marked his/her ballot paper, he/she shall deposit such ballot paper in the ballot box in the presence of the Assistant Returning Officer;
- (vi) The Returning Officer shall after the closing of the ballot, collect the envelopes containing the absentee ballot papers from the post office box in time for them to be counted together with the votes cast at the various work centres. Each Assistant Returning Officer shall provide the Returning Officer with a Declaration which will show:-
  - (a) the number of ballot papers received;
  - (b) the number of ballot papers issued (other than duplicate ballot papers); and
  - (c) the number of duplicate ballot papers issued.

Upon return of the ballot boxes to the Returning Officer, the Returning Officer shall supervise and monitor the removal of the ballot papers from the ballot box, the admission of those ballot papers which are properly marked and the counting of those ballot papers by the Assistant Returning Officers;

- (vii) The Returning Officer shall declare the result of the ballot as soon as practicable following the completion of the count.

#### 76 - COLLEGIATE ELECTIONS

- (1) Collegiate elections shall be conducted by the National or Branch Returning Officer and shall be by secret ballot undertaken at a meeting of the relevant Governing Body which constitutes the electoral college.
- (2) The following provisions shall apply to collegiate elections:-
  - (i) Nominations shall be called by notice sent by the Returning Officer to the postal address of each member of the Governing Body eligible to nominate, at least thirty days prior to the meeting at which the ballot is to occur;
  - (ii) Nominations shall close at 12.00 noon on the first day of the scheduled meeting of the Governing Body;
  - (iii) The provisions of paragraphs (ii) and (iii) of Rule 73 shall apply to nominations for collegiate elections;

#### 78 - CASUAL VACANCIES

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- (iv) Any member nominating may withdraw his/her nomination by advising the Returning Officer in writing at any time up to the close of nominations;
- (v) Any member of the Governing Body entitled to vote who satisfies the Returning Officer that he/she will be unable to vote personally on the day fixed for the ballot, shall be provided with a postal ballot and the provision and processing of such postal ballot shall be in accordance with paragraphs (x), (xiii), (xiv), (xv), (xvi), (xvii) and (xviii) of Rule 73;
- (vi) If the number of nominations does not exceed the number of vacancies, the Returning Officer shall declare the nominees duly elected;
- (vii) If the number of nominations exceeds the number of vacancies, a secret ballot of the members of the Governing Body entitled to vote shall be held during the course of the afternoon on the first day of the meeting of such Governing Body;
- (viii) The method of voting shall be as prescribed in Rule 74;
- (ix) In addition to the provisions specified elsewhere in this Rule, the provisions of paragraphs (v), (xix), (xx), (xxi) and (xxii) of Rule 73 shall apply to collegiate elections.

#### 77 - NOMINATION FOR MORE THAN ONE OFFICE

Where two Offices cannot be held simultaneously under these Rules then a person may not nominate for both Offices. Where a person does so nominate, he/she shall be required by the Returning Officer to elect which of the Offices he/she wishes to nominate for. Where a person declines or otherwise fails to so elect, then he/she shall be deemed to have nominated for that Office having the highest ranking in the order of preference shown in Sub-Rule 31(1) and in the Rules specifying Branch Offices in Parts X to XV of these Rules, with National Offices ranking ahead of Branch Offices.

#### 78 - CASUAL VACANCIES

- (1) A casual vacancy occurs when an Office Bearer dies, resigns or is removed from office or ceases to hold office in accordance with these Rules.
- (2) Where a casual vacancy occurs in relation to any Office within the Union and where the unexpired portion of a four year term of Office is more than twenty four months or where the unexpired portion of a two year term of Office is more than 12 months, a ballot shall be held to fill the Office in accordance with the provisions of this Part and the person or persons duly elected shall take office on and from the date of the declaration of the ballot.
- (3) Where an election is to be held pursuant to the provisions of Sub-Rule 78(2), the National Council in the case of a National Office or the Branch Council in the case of a Branch Office, may appoint a person to fill the vacant Office pending the declaration of the ballot.
- (4) Except as provided in sub-rule (2), the National Council, in the case of National Office Bearers and the Branch Council in the case of Branch Office Bearers may appoint a person to fill a casual vacancy.
- (5) Where a person is elected under Sub-Rule 78(2) or appointed under Sub-Rule 78(4) to fill a casual vacancy, then he/she shall hold office for the unexpired portion of the term.

## 80 - IRREGULARITIES

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- (6) Notwithstanding anything elsewhere contained in this Rule, where an appointment is made pursuant to the provisions of Sub-Rules 78(3) or (4) in relation to an Office which, under these Rules, is to be filled on the basis of an order of seniority, then any appointment to a casual vacancy shall be in accordance with that order of seniority.

### 79 - TEMPORARY APPOINTMENTS

- (1) Subject to Sub-Rule 79(2) and (3), where by reason of illness, absence on leave or any other reason, an Office Bearer is unable to fulfil the duties of his/her Office for a period exceeding six weeks, then the National Executive in the case of National Office Bearers and the Branch Executive in the case of Branch Office Bearers, may appoint an Office Bearer to act in the Office for the duration of the absence with such appointee having all the rights and duties of the particular Office.
- (2) In the case of the National President and the National Secretary, a National Vice-President and the Assistant National Secretary or an Assistant National Secretary (Divisional) respectively shall act in the Office pursuant to the provisions of Rules 37 and 38A. In the case of the Branch President and the Branch Secretary, a Branch Vice-President and the Assistant Branch Secretary respectively, shall act in the Office pursuant to the provisions of Rule 53 and 55.
- (3) In the case of the Assistant National Secretary, an Assistant National Secretary (Divisional) shall act in the office pursuant to the provisions of Rule 38A.

### PART IX - GENERAL

## 80 - IRREGULARITIES

- (1) Any Governing Body within the Union may continue to function notwithstanding any vacancy thereon provided that the requisite quorum is present.
- (2) No failure to give notice or other defect in the calling of any meeting of any Governing Body within the Union shall invalidate the proceedings thereof unless such failure or defect results in the non-attendance of some member or members otherwise able and willing to attend. Provided that any such failure or defect may be waived by such member or members.
- (3) All communications sent to members or Office Bearers pursuant to the provisions of any of these Rules, may be sent to such member or Office Bearer at the last address notified by him/her to the Union.
- (4) Except where the Rules provide for a specific form of communication, all communications to members or Office Bearers may be sent by post, telegraph, telex, facsimile transmission or other like means and shall be deemed to have been received by such member or Office Bearer in the ordinary course of post, telegraph, telex, facsimile transmission or like means, as the case may be.
- (5) Except in the case of disciplinary proceedings under Rule 69, no decision or proceeding of any Governing Body provided for under these Rules shall be invalidated by the presence at or participation of any person not entitled to be present or to participate therein if, apart from such person, the requisite quorum was present and the vote of such a person did not determine the decision or the result of the proceedings.



## **MOLONEY, Carolyn**

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**From:** MOLONEY, Carolyn  
**Sent:** Monday, 11 July 2011 11:36 AM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** E2011/2613  
**Attachments:** ARTBIU E2011\_2613 PI lodged\_casual vacancy\_11072011.pdf; 139V ARTBIU R2011\_21\_28032011.pdf

Dear AEC

Please find attached prescribed information under ss187 and 189 of the *Fair Work (Registered Organisations) Act 2009*, and a copy of the current rulebook for the New South Wales Branch of the Locomotive Division of the Australian Rail, Tram & Bus Industry Union, for an upcoming election for a casual vacant position (E2011/2613).

Kind regards,

**CAROLYN MOLONEY**  
RIA Team Administrative Officer

**Fair Work Australia**  
Tel: 02 8374 6637  
Fax: 02 9380 6990  
[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)

## VALE, David

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**From:** Allan Barden [abarden@rtbu-nat.asn.au]  
**Sent:** Monday, 11 July 2011 10:30 AM  
**To:** VALE, David  
**Cc:** Bob Nanva; Katheryn Presdee  
**Subject:** RE: Request for an election of a position  
**Attachments:** FWA re NSW PN WC DOO July 2011 2.pdf

Hi David,

Please find attached, the amended letter as requested

Regards,

*Allan Barden*

Assistant National Secretary  
Australian Rail, Tram and Bus Industry Union (RTBU)

**Tel:** +61 2 9310 3966  
**Fax:** +61 2 9319 2096

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---

**From:** VALE, David [mailto:david.vale@fwa.gov.au]  
**Sent:** Monday, 11 July 2011 10:16 AM  
**To:** Allan Barden  
**Cc:** Bob Nanva; Katheryn Presdee  
**Subject:** RE: Request for an election of a position

Hi Allan

Thank you for that. Could you please make one minor amendment before we lodge the application.

In the third paragraph could you please state "in accordance with section 187 and 189" instead of only "in accordance with section 187".

Then email it back and we will prepare the Decision.

Thank you

**DAVID VALE**  
Manager, Organisations - NSW

**Fair Work Australia**  
Tel: 02 8374 6509  
Fax: 02 9380 6990

[david.vale@fwa.gov.au](mailto:david.vale@fwa.gov.au)

Level 8, Terrace Tower  
80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)

---

**From:** Allan Barden [mailto:abarden@rtbu-nat.asn.au]  
**Sent:** Monday, 11 July 2011 10:02 AM  
**To:** VALE, David  
**Cc:** Bob Nanva; Katheryn Presdee  
**Subject:** Request for an election of a position

David,

I have attached all the necessary correspondence requesting an election for the position of RTBU NSW Branch, Locomotive Division, Pacific National Bulk Services Group, Werris Creek Sub Divisional Representative (Depot Organiser), due to the resignation of the incumbent. This created a casual vacancy in accordance with our Rules.

If there is anything that I have inadvertently omitted please do not hesitate in contacting me,

Thank You

Regards,

*Allan Barden*

Assistant National Secretary  
Australian Rail, Tram and Bus Industry Union (RTBU)

**Tel:** +61 2 9310 3966  
**Fax:** +61 2 9319 2096

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# RAIL, TRAM & BUS UNION

AUSTRALIAN RAIL, TRAM & BUS INDUSTRY UNION

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web: [www.rtbu-nat.asn.au](http://www.rtbu-nat.asn.au)

11 July 2011  
Mr David Vale  
Fair Work Australia  
Terrace Tower  
80 William St.  
East Sydney,  
NSW 2011



Subject:- **Election for Vacant Position**

Dear Sir,

I have received correspondence from Mr. Alex Claassens, NSW Branch Secretary, informing me that Mr Peter White, a successful candidate in our recent Elections (E 2010/2643 & E2010/2653) for the position of **NSW Branch, Locomotive Division, Pacific National Bulk Services Group, Werris Creek Sub Divisional Representative (Depot Organiser)**, confirming his resignation of the aforementioned position.

I refer to Rule 78(2) of the ARTBIU Rules; ***Where a casual vacancy occurs in relation to any Office within the Union and where the unexpired portion of a four year term of Office is more than twenty four months or where the unexpired portion of a two year term of Office is more than 12 months, a ballot shall be held to fill the Office in accordance with the provisions of this Part and the person or persons duly elected shall take office on and from the date of the declaration of the ballot.***

Therefore in accordance with Section 187 and 189 of the *Fair Work (Registered Organisations) Act 2009*, I am requesting that you arrange for the conduct of the election of office-holder for the Australian Rail, Tram and Bus Industry Union (RTBU) for the position of **NSW Branch, Locomotive Division, Pacific National Bulk Services Group, Werris Creek Sub Divisional Representative**.

Further, I have also advised the AEC of this request.

I can be contacted on (02) 9310 3966 or by email [abarden@rtbu-nat.asn.au](mailto:abarden@rtbu-nat.asn.au) if you have any further queries

Yours Sincerely,

Allan Barden  
Assistant National Secretary  
Australian Rail, Tram and Bus Industry Union.