



# SitRep 28

- **Update Northern Rivers Appeal 7 February 2020**
- **Union Busting Bill defeated**
- **Urunga Station Trial**
- **Technical Support Team**
- **Code Red still in place**

## **Update Northern Rivers Appeal 7 February 2020**

The Northern Rivers Appeal will be heard on 7 February 2020 in the Supreme Court of NSW. This matter is about how intrastate deployments are paid under the Award.

Background:

1. The Union commenced prosecution action against Fire and Rescue NSW in the Local Court for a breach of the Award. We were seeking for firefighters to be paid for the entire period they were deployed in the Northern Rivers in March 2017 during the flooding (and not just the period that they were working). We lost this prosecution action as the Magistrate decided that Fire and Rescue's interpretation of the Award was correct.
2. The Union then appealed this decision to the District Court. We won this appeal. Judge McCallum decided that our interpretation of the Award was correct. The decision was that firefighters should have been paid for the entire period of the deployment, including overtime for the days not on shift. Judge McCallum ordered that the matter go back to the local court and that the correct interpretation of the Award be used to determine the amounts owing.
3. Fire and Rescue NSW have now appealed to the Supreme Court. This appeal will be heard on 7 February 2020. In the meantime there is a stay on the District Court decision. This was decided in a mention on 4 November 2019. This means that payments will not be made to our members until the appeal has been decided.

What does the 'stay' mean and what are the broader implications of this?

While we wait for the Supreme Court to decide on how to interpret the Award for the Northern Rivers deployment, the first interpretation in the Local Court will stand. For current intrastate deployments only "work" performed outside of rostered shifts will attract overtime.

## **Union Busting Bill defeated**

Yesterday we had a fantastic union win to share with comrades across the country with the defeat of the Ensuring Integrity Bill 2019.

The proposed Ensuring Integrity Bill 2019 was designed to give the government power to deregister and fine unions if their conduct did not meet the standards of the current conservative government. This blatant attack on the union movement shows the disdain this current government has for the working people of Australia and we as a union are thrilled to see this piece of legislation fail.



# SitRep 28

Congratulations to the Australian Council of Trade Unions for their strength and solidarity through what has been a very difficult campaign. The fight is not over yet. They will bring back this piece of legislation in the near future and working Australians will be forced to fight for their right to collectively organise once again.

## **Urunga Station Trial**

As members are aware the Urunga trial came about in response to chronic retained shortages in area. The trial commenced in mid 2018 and the agreement at the time was that an analysis and review would take place. Members are advised that the FBEU have received a copy of the review undertaken by FRNSW this week. The next step will be for us to consider the document and talk to the affected members.

There has been no agreement reached on the trial and the FBEU expects to recommence discussions moving forward.

## **Technical Support Team**

Members would have seen an EOI distributed for a SO position located in Eurobodalla in late October. The role relates to the Technical Support Team trial that FRNSW are proposing to commence in February 2020 but have not properly consulted on with the Union.

This EOI was distributed across the internal FRNSW email network rather than the Commissioners Orders which is the agreed practice.

The FBEU demanded that the EOI be retracted immediately and that urgent discussions commence regarding this matter. FRNSW withdrew the EOI and agreed to meet with the FBEU with the first meeting taking place 6 November 2019. At this meeting, the FBEU sought further information from the Department particularly around the proposed functions associated with the SO role. FRNSW undertook to provide the Union with a proposed role description and clarity on whether the transfer list would be drawn from to fill future roles.

The proposal in its current form looks to undermine your Award provisions and has implications for members working in other stations more broadly. The Union along with its membership must consider all aspects of this proposal carefully before forming a position which we intend to do in the coming month.

## **CODE RED STILL IN PLACE**

**There is a code red on permanent stations being TOLed for budgetary purposes.** TOLing a permanent station, that is, moving a permanent station to a retained station because of a retained shortage, is TOLing for budgetary purposes.

This means members are to follow In-Order 2008/22 until the next IRC hearing on 13 December 2019 with the amendment that the 60km rule for the filling of retained shortages does not apply and Duty Commanders can fill those shortages through the most financially and operationally viable method. Permanent and/or retained staff can be used to fill a retained shortage, not one or the other.



# SitRep 28

Thank you to members who are contacting the Union Office and alerting us that retained shortages are not been filled as per In-Order 2008/22 and that instead permanent stations are being TOLed to cover retained shortages.

As a reminder this is the process outlined in In-Order 2008/22:

## **Stations always requiring crew supplementation**

*Retained brigades that are not listed in Section 4 must maintain a safe and effective minimum crew of four firefighters for the station pumper at all times. Ancillary appliances such as water tankers (other than rescue or hazmat tankers, which must have a minimum crew of two available at all times) and additional pumpers at the station may be staffed if sufficient firefighters are available. However it is not necessary to staff such retained ancillary appliances at all times, subject to a risk assessment being undertaken.*

*Where insufficient staff are available, the following actions will be taken provided that the use of firefighters from other stations does not compromise safe and effective minimum staffing at those other stations:*

- (a) The officer in charge will immediately advise the ComCen, Duty Commander and Zone Commander, so that alternative response arrangements can be made while steps (b) to (g) below are taken to restore safe and effective minimum crewing levels at the station.*
- (b) The officer in charge will notify all retained firefighters attached to the station to advise of the staffing deficiency in an attempt to manage the situation locally.*
- (c) In the event that sufficient retained staff cannot be raised through step (b), the Duty Commander or Zone Commander will identify whether surplus retained firefighters from an adjoining station, or retained firefighters from other Brigades working in the station area, are able and willing to respond with that station.*
- (d) In the event that sufficient retained staff cannot be raised through step (c), the Duty Commander or Zone Commander will direct any surplus on-duty permanent staff at nearby stations to work at the station on out-duty or stand by.*
- (e) In the event that sufficient permanent staff cannot be raised through step (d), the Duty Commander or Zone Commander will identify the potential to move-up a retained Bravo appliance and crew from another fire station.*
- (f) In the event that a risk assessment precludes the use of a move-up through step (e), the Duty Commander or Zone Commander will arrange for the recall of off-duty permanent staff attached to base stations within 60 kilometres of the station in question.*
- (g) In the event that sufficient permanent staff cannot be raised through step (f), the Duty Commander or Zone Commander will arrange for surplus retained firefighters from another station or stations to stand-by at that station.*



# SitRep 28

*Retained firefighters who agree to respond with another brigade at step (c) will not be disadvantaged for doing so. In the event that a firefighter's own brigade attends more calls than the alternative brigade, then the firefighter will be recognised (both in terms of pay and attendances) as having responded with their own brigade.*

## **Stations not requiring crew supplementation (subject to risk assessment)**

*Retained brigades in the identified locations where unavailability will not affect response times in the fire district (refer to list) will not automatically require crew supplementation except when a Total Fire Ban has been declared, there is a major incident in progress at which their station may be required, or other operational reasons determined by the Area Commander.*

*Should retained firefighter availability drop below four at stations listed in the schedule below, the ComCen is to be notified and, while appliances will be taken off-line temporarily until full crewing from within the station complement is again available, pagers will continue to be activated. Retained firefighters who respond to the station in response to a call when insufficient crew is available must not take the appliance, but may attend the incident to assist other attending brigades in their private vehicles.*

## **Statewide**

### **All Bravo pumpers**

#### **Sydney**

48 Mortdale  
79 Ingleburn  
66 Rhodes  
72 Merrylands  
83 Riverstone

#### **Newcastle/Central Coast**

231 Boolaroo  
252 Carrington  
357 Lambton  
376 Merewether  
404 New Lambton  
484 Wallsend  
460 The Entrance

#### **Illawarra**

210 Balgownie  
258 Coledale  
269 Corrimal  
461 Thirroul

#### **Lower Hunter**

202 Abermain \*  
220 Bellbird  
344 Kearsley  
349 Kurri Kurri \*  
382 Morpeth  
455 Telarah  
497 Weston \*

**Note:** *A safe and effective minimum crew of four firefighters must be maintained at no less than one of the three stations marked with an Asterix (\*) at all times.*



# SitRep 28

## **Other areas**

361 Leura  
514 Tweed River  
284 Delroy  
206 Albury North  
209 Albury Civic  
480 Wagga Wagga  
239 Broken Hill South  
508 West Tamworth  
105 Kelso  
307 South Grafton  
364 Lithgow West

**Note:** *Adjoining fire stations, or a Bravo pumper and fire station in the same fire district, must not be taken off line at the same time.*

If you are asked to operate outside this (with the exception of (f)), please contact the Union immediately.

**Leighton Drury**  
**State Secretary**