

FAIR WORK COMMISSION

AM26/2016 – Submissions on Level 9 C.A.P

1. These submissions by the Australian Rail, Tram and Bus Industry Union (RTBU) are in response to the submissions by Aurizon and others dated 6 December 2016 in regards to amending the Level 9 CAP classification in the Rail Industry Award 2010.

2. The level 9 CAP classification currently provides:

The employee will provide guidance and direction to staff supervising others. The employee will have high level specialised skills.

3. The Rail Employers propose it be replaced with the following:

Employees at this level will have the skill levels of a Level 8 employee and:

- Provide guidance and direction to staff supervising others • Have high level specialised skills
- May contribute to policy development
- May develop training materials and directs training activities
- Are involved in short-term planning and make independent operational decisions
- Example: Managing a suburban station, payroll team leader, infrastructure team leader

Excludes persons with functional responsibility for a regional, organisational or functional area eg. group of stations, work teams.
Example: Payroll Manager, Depot Manager

4. Despite the Rail Employer's assertion that this provides "greater guidance" to employers and employees, their proposal is nothing more than an attempt to limit coverage of the Award.

5. Specifically, the proposed changes impact coverage as follows:

- a. The inclusion of "May contribute to policy development" and "May develop training materials and directs training activities" water down the seniority of Level 9 and align to Level 8. Despite the seniority of the current Level 9.
- b. The reference to being involved in "short-term" planning infers that long-term decision makers are not included at level 9 and may thereby limit the scope of the classification to exclude the intended second level managers (eg Shift Managers) who make long term decisions and supervise others and who, are currently covered.
- c. The insertion of the requirement that level 9 applies to "operational decisions" immediately eliminates all support and specialist functions that are not in operations almost encouraging Employer's to reclassify staff as outside 'operations' in order to make them award free.
- d. The inclusion of these example roles should not be permitted as the roles specified are no different to other roles when performed except in title (eg managing a suburban station vs managing multiple rural

stations). The Rail Employers are simply drawing non-existent lines between position titles instead of looking at the reality of the work they perform.

- e. The Rail Employers' attempt to exclude positions with functional responsibility for regional, organisation or functional areas should not be granted under any circumstance and should be viewed for what it is, an attempt to remove an operational layer from the classifications contrary to the intention of the Award.

6. The Commission should reject the Rail Employer's proposed changes and the status quo should be maintained.

A handwritten signature in black ink, appearing to read 'Mark Diamond', with a stylized, flowing script.

Mark Diamond
National Lawyer
28 December 2016

**WITNESS STATEMENT OF
GREG CAMERON**

I, Greg Cameron of 33 Gordon Avenue Hamilton NSW 2023 will say as follows:

1. I am a Project Officer / Relief Organiser, for the Australian Rail Tram and Bus Industry Union, NSW Branch, Administrative Supervisory Technical and Professional Division
2. I have seen the submissions of Aurizon and others dated 6 December seeking to amend the Level 9 CAP classification in the Modern Rail Award.
3. The proposed amendment is set out below:

Level 9

Employees at this level will have the skill levels of a Level 8 employee and:

- Provide guidance and direction to staff supervising others
- Have high level specialised skills
- May contribute to policy development
- May develop training materials and directs training activities
- Are involved in short-term planning and make operational decisions
- Example: Managing a suburban station, payroll team leader, infrastructure team leader

Excludes persons with functional responsibility for a regional, organisational or functional area e.g. group of stations, work teams. Example Payroll Manager, Depot Manager

4. I have concerns with the proposed amendment to Level 9 CAP in the Rail Award for the following reasons:
 - 4.1. This amendment is a deliberate attempt to remove positions from the Award, and therefore from potential future Agreements.
 - 4.2. The inclusion of "May contribute to policy development" and "May develop training materials and directs training activities" only serves as a deliberate attempt to water down the seniority of a Level 9 role.
 - 4.3. The reference to being involved in "short-term" planning infers that long-term decision makers are not included at level 9 thereby limiting the scope of the classification to exclude

- the intended second level managers (eg Shift Managers) who make long term decisions and supervise others and who, are currently covered.
- 4.4. The insertion of the requirement that level 9 applies to "operational decisions" immediately eliminates all support and specialist functions that are not in operations. Creating such a category would allow the Rail Employer's to re-categorize many employees outside operations thereby removing them from coverage.
 - 4.5. The inclusion of example roles simply reinforces this watering down and should not be permitted. In particular, when the roles specified are no different to other roles when performed except in title (eg managing a suburban station vs managing multiple rural stations).
 - 4.6. Strangely, the Rail Employer's go on to attempt to exclude persons with functional responsibility for regional, organisation or functional areas, all of which are operational functions. It seems that they want operational staff included at the lower level but at the higher levels they want them excluded without any logical basis.
5. The proposed changes if approved, remove persons currently covered by the Award and this should not be allowed



Greg Cameron
28 December 2016