



Form 65 (version 2)
Work Health and Safety Act 2011 – Pt 5, Div 7A

NOTIFICATION OF A WHS DISPUTE

Pursuant to Division 7A of Part 5 of the *Work Health and Safety Act 2011*

COURT DETAILS

Court	Industrial Relations Commission of NSW
Jurisdiction	Commission
Registry	
Case number	2026/00413628

TITLE OF PROCEEDINGS

Notifier	Rail Tram and Bus Union NSW
Respondent	Sydney Trains

FILING DETAILS

Filed for	Notifier
Representative	Jemimah Cooper Rail Tram and Bus Union NSW
Contact number	(02) 9264 2511
Contact email address	jcooper@rtbu-nsw.asn.au
Respondent contact name, telephone and email	Robert Hutchinson ROBERT.HUTCHINSON@transport.nsw.gov.au

DETAILS OF DISPUTE

Workplace where dispute exists

Sydney Trains

WHS matter the subject of the dispute

- ☐ Work group determination matter.
- ☐ Work group variation matter.
- ☐ Access to information by a health and safety representative under s 70(1)(c).
- ☐ A request by a health and safety representative for a person assisting the representative to have access to the workplace under s 70(1)(g).
- ☐ A matter mentioned in s 72(2)(a) or (b) or (4) relating to training for a health and safety representative.
- ☐ A health and safety committee matter.
- ☒ A matter about work health and safety that is an issue to which Division 5 applies.
- ☐ An issue about cessation of work under Division 6.

Has an inspector been appointed to assist the parties to reach an agreement or resolve a dispute?

- ☐ Yes
- ☒ No

#If yes – has there been a decision made by the inspector to exercise, or not exercise, compliance powers under Part 10, which is subject to review under Part 12?

- ☐ Yes
- ☐ No

DESCRIPTION OF DISPUTE AND RELIEF SOUGHT

Note: Set out below a summary of the dispute and the relief sought. Please **be brief** – you will have the opportunity to provide more details to the Commission at the conciliation and during any arbitration.

Pursuant to s 102C(3) of the *Work Health and Safety Act 2011* (NSW) this notice is required to be published on the Commission's website as filed. Accordingly, do not attach documents or include material that is inappropriate to be published on the Commission's website, including personal information of individuals such as email addresses or phone numbers. Relevant documents that you wish the Commission to have available to it to assist to resolve the dispute should be filed separately after the application is filed in accordance with Practice Note No. 37.

- 1 A **Work Health and Safety Dispute** has arisen between parties. In short, the WHS Dispute relates to:
- a) the proposed removal of the standalone internal Protection Officer at the Blacktown Depot;
 - b) the insufficient resourcing of contracted Protection Officers at the Lawson Depot; and
 - c) the redirection of protection duties to from Protection Officers to Signal Electricians at the Blacktown and Lawson Depots.
- Together, **the WHS Risks**
- 2 The Notifier is a registered organisation, representing members affected by the WHS Dispute.
- 3 The Respondent is a person conducting a business or undertaking pursuant to s.5 of the *Work Health and Safety Act 2011* (NSW) (**the WHS Act**).
- 4 The WHS Dispute is a matter about work health and safety which has arisen at the workplace and has not resolved following discussions between parties. These discussions have occurred following the notification of the WHS Dispute pursuant to Clause 8.4 of the Sydney Trains and NSW TrainLink Enterprise Agreement 2025 on 13 March 2026, which did not resolve following the Dispute Settlement Procedure process. As such, it is a dispute to which Division 5 of the WHS Act applies.

Background

- 5 In or around March 2026, a number of safety incidents (**the Incidents**) occurred within the Respondent's Blacktown and Lawson Signal Electrician teams (**the Teams**). The Incidents involved:
- a. two safety-critical "near misses" involving externally contracted Protection Officers, occurring at the worksite; and
 - b. the passing of a member of the Teams, which did not occur at the worksite.
- 6 In response to the Incidents, workers raised serious and urgent safety concerns with the Respondent, relating to the Respondent's allocation and deployment of protection officer functions. These concerns were raised, in part, by way of the dispute notification. The occurrence of a death and two "near misses" in such a short period significantly heightened the Teams' safety concerns.

- 7 In response to the WHS Dispute, the Respondent agreed to allocate a standalone internal Protection Officer to the Blacktown Depot on a 24/7 basis (**the Control Measure**), as an interim **Control Measure**. The Respondent has, to date, maintained the Control Measure.
- 8 On 31 August 2026, the Respondent advised that, over a three-month transition period, it seeks to:
- (a) progressively reduce and remove the Control Measure; and
 - (b) redirect protection duties to Signal Electricians at the Blacktown and Lawson Depots.
- (together, **the Reforms**).
- 9 The Reforms are changes that may affect the health or safety of workers, requiring consultation under ss 47–49 of the WHS Act (in particular s 49(b) and (d)), including with health and safety representatives (s 48(2)). To the Notifier’s knowledge, this consultation has not occurred to date.

Protection Duties and Safe Work

- 10 Protection duties are duties undertaken by qualified workers, who implement safe-working worksite protection for activities in the rail corridor. Such protection ensures the maintenance of safe working systems.
- 11 **The Competencies** required to undertake protection duties are:
- a) TP001AUTH Track Protection Officer Level 1 Authorisation
 - b) TP002AUTH Track Protection Officer Level 2 Authorisation
 - c) TP003AUTH Track Protection Officer Level 3 Authorisation
 - d) TP004AUTH Track Protection Officer Level 4 Authorisation
- 12 Generally, Signal Electricians do not typically perform protection duties. The Competencies do not appear in the Signal Electrician Competency Framework.
- 13 The Teams do not believe they can safely perform protection work as:
- a) combining technical and protection functions risks role overload;
 - b) the Teams have recently experienced serious safety incidents, arising from the implementation of protection work;
 - c) protection work falls outside the scope of the Signal Electrician role; and
 - d) the Respondent proposes to remove the Control Measure.

- 14 The Incidents show that the risks associated with protection work at the Blacktown and Lawson Depots are real and not hypothetical. The Control Measure was introduced by the Respondent itself in response to those risks. The Notifier is not aware of any change in circumstances since the Incidents that would reduce those risks.

WHS Concerns

- 15 Combining the protection and Signal Electrician functions would require Signal Electricians to carry both technical and protection responsibilities, risking role overload. The separation of technical and protection functions is an established safety principle.
- 16 The Competencies sit outside the Signal Electrician Competency Framework. As such, the Reforms displace protection duties onto workers who do not ordinarily hold or exercise them. The displacement of such duties in a work environment where safety-critical near misses involving protection work have recently occurred raises serious safety concerns.
- 17 The Reforms also give rise to significant psychosocial hazards, namely:
- a) Psychological stress*
Workers who have recently experienced safety-critical near misses would be required to take on the very function those incidents involved, with the stress and anxiety associated with high-consequence protection decisions.
 - b) Role overload*
Signal Electricians would be required to carry out both technical and protection duties, creating a foreseeable risk of cognitive overload and human error
 - c) Low job control*
The Reforms would be imposed on the Teams despite their stated concerns that they cannot perform protection work safely.
 - d) Cumulative strain*
These Reforms are proposed at a time when the Teams are deeply affected by the trauma of the Incidents.

Outcome Sought

- 18 The Notifier says that implementing the Reforms and failing to address the WHS Risks would breach the Respondent's primary duty of care under s 19 of the WHS Act, including its duty to provide and maintain safe systems of work (s 19(3)(c)).
- 19 The Control Measure is an existing, available and suitable control, implemented by the Respondent itself in response to the Incidents. Under ss 17 and 18 of the WHS

Act, the Respondent must eliminate or minimise risk so far as is reasonably practicable. Removing an established control is not consistent with that duty unless its cost is grossly disproportionate to the risk, and the Respondent has not shown that it is.

- 20 The Notifier seeks the assistance of the Industrial Relations Commission to resolve the WHS Dispute. If the WHS Dispute does not resolve at conciliation, the Notifier seeks an interim order under s 102E(3) of the WHS Act that the Respondent refrain from implementing the Reforms for the duration of the WHS Dispute.
- 21 If the WHS Dispute is arbitrated, the Notifier seeks orders that the Respondent:
- a) maintain the Control Measure at the Blacktown Depot;
 - b) provide 24/7 standalone Protection Officers for the Teams at the Lawson Depot;
 - c) not direct Signal Electricians in the Teams to perform protection duties in place of standalone Protection Officers;
 - d) undertake a risk assessment of the Reforms, including psychosocial risks, in consultation with affected workers and their health and safety representatives; and
 - e) such further or other orders as the Commission considers appropriate for the prompt settlement of the WHS Dispute.

LISTING DETAILS

The parties will be advised of the date, time and place when the Commission will list this matter for directions. Any enquiries should be made to the Industrial Relations Commission Registry on 02 8688 3516.

SIGNATURE

Signature of Prosecutor



Capacity

Authorised Officer of Industrial Organisation

Date of signature

7 October 2026

COMPLIANCE WITH PRACTICE NOTES

Parties must comply with the Practice Notes of the Commission. The Practice Notes may be found at the following website:

<https://www.irc.nsw.gov.au/irc/practice-and-procedures/practice-notes.html>

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