



Dear Fair Work Commission,

We write in response to the public claims about the Protected Action Ballot Order B2025/1694 made by Australian Resources and Energy Employer Association (AREEA). These claims have been made without a factual basis, and we have outlined how the claims are baseless and incorrect below. We require AREEA to withdraw these baseless claims and reserve our legal right to pursue AREEA in relation to these claims. If these claims are not withdrawn or corrected by AREEA we will seek to pursue legal action on the basis that these claims are defamatory.

- **In relation to AREEA's first claim that Fair Vote requested personal information from employees including employee ID, full name, work and private email addresses, mobile phone number and postal address details, beyond what is reasonably necessary for conducting a vote.**

This request was never made. It can be seen as evidenced in the Fair Work Commission's Protected Action Ballot Order B2025/1694 where only "*Employee ID, Surname, First Name, Private Email Address, Mobile Phone*" are ordered to be supplied. In our communications to the employer (UGL Operations and Maintenance) and applicant (AMWU), Fair Vote did not request any employee data beyond what the Fair Work Commission ordered to be supplied to Fair Vote.

Fair Vote only requests the information required by the order as made by the Fair Work Commission, and only makes this request upon receiving the orders as made by the Fair Work Commission.

We also note that when the application for a Protected Action Ballot was made by the applicant, UGL Operations and Maintenance made an objection about the employee details/information they were required to supply. The changes requested by UGL Operations and Maintenance were accepted and made part of the final order.

Hence, the issues related to the details required to be supplied for employees were addressed by the employer at the time that the order was made following the Fair Work Commission's processes. AREEA's claim is wrong in its entirety.

- **In relation to AREEA's second claim that the applicant union (AMWU) required that personal information be transmitted by email to the ballot agency without additional safeguards, such as password-protected documents or secure file transfer mechanisms.**

This is incorrect and baseless. The original draft order sent by the applicant to the Fair Work Commission in the cited states (under section 6.4) that the list of employees be sent

"by way of encrypted or password protected email that is accessible by the Agent".

The Fair Work Commission's final order B2025/1694, under section 6.4 and 6.5, orders that



“the Employer will provide the list of employees to the Agent by way of encrypted or password protected email that is accessible by the Agent”
and
“the password will be provided by a medium other than by email”.

Fair Vote follows these orders to the letter and in this case explicitly asked the employer and applicant in writing with clear instructions to provide their respective lists supplied with password protection that should be via another communications method. We do this for all Protected Action Ballots as a matter of our own internal privacy and IT security protocols.

- **In relation to AREEA’s third claim that it is not appropriate that unions have any direct or indirect involvement with Ballot Agents and that they are aware that this is not the case for all Ballot Agents and leads to the concerns over the privacy issues raised.**

Unions must have direct contact with Ballot Agents in order to perform their functions. It is our understanding all Fair Work Commission accredited Protected Action Ballot Agents have working relationships with unions as part of their Protected Action Ballot work. It is also our understanding that all Protected Action Ballot Agents have similar working relationships with employers and employer representative bodies.

Personal and private information is protected by numerous legislations on a state and federal level, such as the *Privacy and Data Protection Act 2014 (Vic)* & *Privacy Act (Cth) 1988*. As such Ballot Agents must work within these laws.

We would like to additionally note that the phrasing by AREEA that the applicant *“required”* the employee information or it to be sent in a particular way is incorrect. Outlining the data (such as employee details) to be provided to the Ballot Agent by each respective party in a draft order and F34 form is necessary to submit a Protected Action Ballot application to the Fair Work Commission. This does not stipulate that the applicant requires this information, but that this information simply needs to be included for the Ballot Agent to conduct the ballot in line with the requirements of the ballot as per Fair Work legislation and regulation.

Further to this the applicant never receives an employer’s data. In line with the Fair Work Commission’s legislation Fair Vote never supplies the applicant with any information from the employer including employee data. Conversely Fair Vote never supplies the employer with any information provided from the applicant.

Kind regards,
Gavin Ryan
Fair Work Commission accredited Ballot Agent
Fair Vote Services

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