

Fact Sheet



Association of
Professional
Engineers, Scientists,
Managers of Australia.

Appin Mine and BHP

- Appin Mine is an underground coal mine located in the Illawarra, near Wollongong.
- Appin Mine is run and owned by Endeavour Coal, a subsidiary of BHP.

Timeline of Appin Staff negotiations with BHP

- 2010** Appin Staff worked under individual contracts where conditions were being reduced when a new person started on a new contract.
- Staff decide that they wanted to bargain with BHP, toward a single, collective, enterprise agreement to ensure all staff, new or old, are working under the same set of consistent and transparent conditions.
- July 2010** Fair Work Australia issues a Majority Support Determination (MSD) declaring that a majority of employees want to bargain towards a single-enterprise agreement. Under the Fair Work Act, once a MSD is made, the employer is required to bargain in good faith.
- Appin Staff commence bargaining with BHP to reach an enterprise agreement.
- Jan 2012** Fair Work Australia Commissioner Michael Roberts finds that Endeavour/BHP Endeavour was "bargaining" with no real intention to negotiate an enterprise deal.
- Mar 2012** Full Bench of Fair Work Australia makes landmark ruling finding BHP was still not bargaining in good faith and that good-faith bargaining required "genuine consideration" to be given to proposals.
- The ruling was the first time a tribunal full bench had addressed at length what it meant for employers and unions to bargain in good faith under the Fair Work Act.
- Jul 2012** Federal Court upholds Fair Work Australia's ruling that BHP is not bargaining in good faith.
- Citing Monty Python's Life of Brian, Federal Court Judge Geoffrey Flick ruled that employers cannot sit mute during enterprise bargaining, but need to negotiate genuinely and not adopt the role of "a disinterested suitor".
- Judge Flick said good-faith bargaining requirements would be meaningless if a party to the bargaining "did not participate with the objective of ultimately reaching agreement, if possible; and did not participate in the bargaining process in good faith and in a genuine process of give and take".
- "Illustrative of the process of bargaining or haggling is the exchange between Brian and the street merchant in Monty Python's Life of Brian," he said.
- This ruling obliged employers to enter enterprise bargaining talks in good faith.
- Justice Flick said that once a majority-support determination was made, the company was obliged to approach negotiations with a genuine objective of concluding a deal if possible, including keeping an open mind and making a proposal or counter-proposal, to which it would not be irrevocably committed.
- Dec 2012** The full bench of Fair Work Australia encourages the parties to enter conciliation.
- 4 Feb 2013** Commissioner Spencer at Fair Work Australia conciliates intense negotiations between APESMA and Endeavour Coal. Over the next six months, with the help of the Fair Work Commission the parties work to conciliate and finally, reach an Agreement that staff endorse with a ballot in September.

What has been secured in the Agreement?

A foundation Agreement.

Appin Staff now have an Agreement where there has never been an Agreement before – important conditions are now enshrined and will provide a base for all future negotiations. This is a hard-won and significant step forward that will deliver long term benefits for all Appin Staff.

A common set of employment terms and conditions for everyone.

There is now a consistent and known set of employment terms and conditions for all Appin Staff. New starters will no longer be treated any differently to existing Staff. This will also protect Staff from being under pressure to move to different conditions when other Staff leave or roles change.

Current Award and minimum conditions protected.

This Agreement sets out the minimum conditions for all Appin Staff. Staff can still maintain or negotiate better conditions or remuneration, but importantly, this means no-one will get left behind and there can be no dilution of current terms and conditions.

Redundancy entitlements.

This Agreement locks in the Coal Mining Industry standard of three weeks per year of service, providing Staff with protection when they need it most. This condition is currently under attack in other settings.

The right to go to the Fair Work Commission for conciliation.

In the case of dispute with the company, Appin Staff will have access to conciliation processes available at the Fair Work Commission. This provides Staff with access to an independent umpire and a fair process for resolving industrial relations disputes.

Recognition of the role of workplace representatives.

This Agreement enshrines the role of workplace representatives and will allow them to represent members and attend meetings.

Overtime will be paid if Staff work more than 45 hours a week.

In this Agreement, standard working hours will consist of 45 hours a week, or 180 hours a month. Beyond these hours Staff will be paid for overtime. This condition, which is unique to Staff at Endeavour Coal is now secured.

Accident pay to apply to all and secured.

Accident pay provides Staff with protection if they cannot work due to an injury caused at work. Securing it in the agreement means you are protected even if the Award or legislation changes.

30 September 2013.

- Ends -

Media Enquires

For further enquires or to interview Catherine Bolger, contact Fiona Simpson APESMA – 0408 567 581.