



ACN: 110 263 182

VICTORIAN BUILDING INDUSTRY DISPUTES PANEL  
CHAIRMAN

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**RE: RAVENHALL PRISON PROJECT**

**(AREA BOUND BY BOUNDARY RD, MIDDLE RD, AND DEER PARK BY-PASS, RAVENHALL, VICTORIA)**

**1 March 2017**

**023-2016**

**Statement**

[1] This is a further Statement by the Panel in this matter and is to be read in conjunction with Statements issued by the Panel on 15 November 2016 and 7 December 2016.

[2] A further Conference of the parties was held with the Panel on 1 March 2017. The CFMEU was represented. No employer attended.

[3] A reason for the delay in these proceedings arose from an application to the Fair Work Commission (FWC) for review of a separate decision of the Panel in matter number 015-2016, a decision which was previously distributed to all parties in this matter.

[4] The applicant in the FWC proceedings has discontinued their application and as a consequence the decision of the Panel in matter number 015-2016 stands.

[5] The CFMEU has requested that this matter and its claim now proceed to hearing and determination by the Panel.

[6] The CFMEU reaffirmed that it relies upon the submissions of the PTEU and the evidence before the Panel in matter number 015-2016, such that the employees of the employers named in this matter, who remained on the Ravenhall Prison Project site on any of the relevant days (namely 4, 5, 9, 10, 11 and 12 August 2016), should be paid their ordinary hours pay without deduction for each such day, whilst on site.

[7] The following named employers are parties to this matter:

- ABLE Industrial Floors Pty Ltd
- Accuracy Interiors Pty Ltd
- Ascoat Contracting Pty Ltd
- Australian Precast Pty Ltd
- Aust Truestyle Trust t/as Aus Truestyle Pty Ltd
- Cassello Pty Ltd
- Civilex Victoria Pty Ltd
- DECA Constructions Pty Ltd t/as DECA Constructions
- Exar (Vic) Pty Ltd
- Fitzgerald Constructions Australia Pty Ltd
- Higgins Coatings Pty Ltd
- Hollow Core Concrete Pty Ltd
- Marco Polo Trust t.-as Marco Polo Painting & Decorating
- MC Labour Services Pty Ltd
- MGR Industries Pty Ltd
- Michael Schiavello Office Furniture
- MBBC Trust No 2. T-as Mulgrave Bricklaying and Building Contractors P/L
- Nu Tech Tiling Trust (The Trustee for) t/as Nu Tech Tiling Pty Ltd
- Tate Access Floors Pty Limited
- Toppi Group t/as Omni Seal Pty Ltd
- Peter McCaffrey Constructions Pty Ltd
- Premier Cranes & Rigging Pty Ltd
- Q3 Unit Trust (The Trustee for ) t/as Q3 Group
- Speedro Industries Pty Ltd
- Steelvision Pty Ltd
- Stuart Dent Pty Ltd
- Summit Formwork
- V & A Loprevite Family Trust T/As V & A Loprevite Construction & Solid Plast P/L
- Westpot Consolidated (Vic) Pty Ltd


[8] Of these the following Employers have claimed that they did not have any employees on the Ravenhall Prison Project site on any of the days in question. The CFMEU claims that they did. Both parties will be required to provide evidence to the Panel in order for it to settle this matter.

- Hollow Core Concrete Pty Ltd
- Stuart Dent Pty Ltd
- Steelvision Pty Ltd
- Toppi Group t/-as Omniseal Pty Ltd

[9] Have regard to the matters before it the Panel has determined the following directions to the parties.

**Directions:**

1. The CFMEU is to make any further submissions to the Panel and copy to all other parties, in writing, including an outline of what further evidence, if any, it intends to place before the Panel, no later than 5.00 pm on Wednesday 15 March 2017.
2. The Employers are to provide any submissions to the Panel and copy to the CFMEU, in writing, and any response to the CFMEU's submission, including an outline of any evidence, if any, which any Employer intends to place before the Panel, no later than Wednesday 22 March 2017.
3. The Panel will convene to hear any of the evidence outlined in the foregoing and to receive any final submissions on Friday 31 March at 9.00 am in order to determine the matter.



***Peter Parkinson***  
***Chairman***



***Tony Cordier***  
***Panel Member***



***Daniel Hodges***  
***Panel Member***



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***RE: RAVENHALL PRISON PROJECT  
(AREA BOUND BY BOUNDARY RD, MIDDLE RD, AND DEER PARK BY-PASS, RAVENHALL, VICTORIA***

**7 December, 2016**

**023-2016**

**Statement**

[[1] The Panel issued a statement to the parties on 15 November 2016 which amongst other actions scheduled a further Conference for 7 December 2016.

[2] Of the named employer parties, only two (2) attended the Conference on 7 December 2016, namely Aus Truestyle Pty Ltd and Exar Pty Ltd. All parties are reminded that any decisions or directions issued by the Panel are binding on the parties and their attendance at Panel proceedings is urged.

[3] This matter concerns a claim for payment of employees regarding a cessation of work due to alleged safety issues during five days in August 2016.

[4] The parties had been encouraged to appraise themselves of a relevant Decision by the Panel in matter 015-2016. A copy of that Decision is attached for the parties to ensure they have done so.

[5] As noted in the previous Statement the Panel's Decision in matter 015-2016 has been the subject of an application to the Fair Work Commission (FWC) for review. Proceedings in the FWC in that matter are continuing.

[6] The parties were asked to confirm their position in relation to the dispute.

[7] The CFMU reaffirmed that it relies upon the submissions of the PTEU and the evidence before the Panel in 015-2016, such that employees of the employers in this matter, who remained on the Ravenhall Prison Project site on any of the relevant days, should be paid their ordinary hours pay without deduction for each such day, whilst on site.

[8] The employers stated that at this time they did not consider that payment for the said days was warranted.

[9] Noting that the proceedings in the FWC were still on foot and likely to continue for some time, in the interests of efficiency, the Panel determines that this matter is adjourned to a future date pending either,

1) Clarity arising from the FWC as to the PTEU review matter, such that the Panel considers it productive to proceed with Hearings or otherwise. Should the Panel determine that a Hearing is to proceed, it is intended to direct that written submissions are made by the parties prior to a Hearing by or on dates to be advised.

or

2) Upon further application by the CFMEU should circumstances exist that might persuade the Panel to proceed with earlier directions and Hearings.


[10] Further, the Panel directs as follows:

(i) Employers party to the dispute are required to ensure that adequate records are kept as to their employees who were on the Ravenhall Prison Project site on the days in question and to confirm with the Panel no later than 4.00pm on Wednesday 14 December 2016 that it is has done so.

and

(ii) Any employer party to the dispute that has claimed or claims it did not have any employees on the Ravenhall Prison Project site for any of the times in dispute, are to confer with the CFMEU prior to 4.00pm on Wednesday 14 December 2016 and the CFMEU is to immediately advise the Panel if any employer has been agreed to be removed from the list of parties. Should a dispute arise about the facts, this can be dealt with as part of any future hearing.

[11] Accordingly the matter is adjourned until further notification.



Peter Parkinson  
Chairman



Tony Cordier  
Panel Member



Daniel Hodges  
Panel Member



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**WETSPOT CONSOLIDATED (VIC) PTY LTD**

**RE: RAVENHALL PRISON PROJECT**

**(AREA BOUND BY BOUNDARY RD, MIDDLE RD, AND DEER PARK BY-PASS, RAVENHALL, VICTORIA)**

**15 November, 2016**

**023-2016**

**Statement**

[1] The CFMEU notified a dispute with the above named employers on 7 November 2016 concerning payment for a cessation of work due to safety issues in August 2016.

[2] The Panel convened a Directions Conference on 15 November 2016 at which none of the named employer respondents attended despite notification to all.

[3] Of the named employers, the CFMEU had agreed to remove Australian Precast Pty Ltd and Higgins Coatings Pty Ltd from the list of respondents.

[4] All remaining named employers are bound by a relevant Enterprise Agreement which provides for this matter to be dealt with by the VBIDP.

[4] The CFMEU submitted that the dispute with all the remaining named employers was over the same matters that were dealt with by the Panel in its decision in matter number 015-2016, *Ravenhall Prison Project, Ravenhall Victoria*.

[5] The CFMEU confirmed that this matter concerned a dispute over the payment for employees attending for work at the Ravenhall Prison Project on each of the work days 4, 5, 9, 10, 11 and 12 August 2016.

[6] The Panel noted that an application to the Fair Work Commission (FWC) had been made for a review of its decision in matter number 015-2016 and that various directions had been made by the FWC, with an oral hearing set down for 30 November 2016.

[7] Noting the proceedings in the FWC, in the interests of efficiency, the Panel determines that this matter is now adjourned for Conference on Wednesday 7 December 2016 at 10.00am at the Panel offices.

[8] The purpose of the Conference will be to review any relevant developments that emerge from the FWC, to enable the parties to express their position in relation to this matter and for the Panel to issue any directions as to hearing of remaining matters.

[9] In the meantime all named employers are encouraged to do the following:

- (i) Appraise themselves of the Panel's decision in matter number 015-2016 (copies can be obtained upon request by emailing the Panel office)
- (ii) Enter discussions as soon as possible with the CFMEU to clarify the employer's involvement in these proceedings. If agreement is reached as to the removal of an employer from the list of respondents, the Panel is to be formally notified by the CFMEU.
- (iii) Attend the VBIDP Conference set down for Wednesday 7 December 2016, unless otherwise formally excused by the Panel.



*Peter Parkinson*  
Chairman



*Tony Cordier*  
Panel Member



*Daniel Hodges*  
Panel Member