



Chairman: Peter Parkinson  
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**CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION (CFMEU)**

**and**

**CLIFTON FORMWORK (VIC) PTY LTD (CLIFTON)**  
**WEST GATE TUNNEL PROJECT**

**RE: ALLEGED INCORRECT APPLICATION OF SITE ALLOWANCE CLAUSE**

**6 JUNE 2019**

**010-2019**

**DETERMINATION**

**By Majority**

**(Chairperson Parkinson and Panel Member Cordier; Panel Member Hodges dissenting)**

[1] The CFMEU notified a dispute on 30 May 2019 alleging the incorrect payment of Site Allowance as per the “*Clifton Formwork (Vic) Pty Ltd and the CFMEU (Victorian Construction and General Division) Enterprise Agreement 2016-2018*” (**the Agreement**).

[2] The Panel convened a Conference of the parties on 6 June 2019 and by consent the parties requested that the Panel issue a Determination in the matter.

[3] The parties acknowledged the Panel’s Majority Determinations in Matters No. 008-2018 and 023-2018 that dealt with the same Project.

[4] There is no dispute that the Agreement applies to the matter in Dispute.

[5] The Enterprise Agreement at Appendix C sets out the Panel's functions in determining disputes over site allowances.

[6] The substantive issues in dispute in this matter are no different to the matters in dispute in Matter No. 008-2018 which was determined by the Panel.

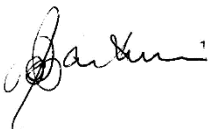
[7] Neither party sought to make any further submissions.

[8] The Panel finds that no party has made any submissions that in any way has identified anything that is different to the findings made by the Panel in 008-2018 such that it alters the Panel's findings in that matter in respect to the relevant considerations for site allowance in this matter. The Panel finds that the same issues arise for Clifton in so far as the application of the applicable Enterprise Agreement, the scope of the Project, the value of the Project and the quantum of the site allowance and its operative date, as found and determined by the Panel by majority in 008-2018.

[9] Accordingly the Panel determines that the Project scope, site allowance quantum and operative dates determined by majority in Matter No. 008-2018 will apply to the parties in this matter. The Panel requires that Clifton implement the terms of this Determination expeditiously, including the making of retrospective payments where applicable. It is noted that Clifton commenced work on the Project in December 2018.

[10] To be clear, the Panel has determined that a site allowance of \$8.90 per hour shall be applicable with effect from 1 January 2018 for any works undertaken on the Project on or after this date. The indexation of the site allowance is to be effected on 1 October each year by the CPI (All groups, Melbourne) movement for the preceding period July to June in each year. Accordingly Clifton is required to make the necessary payment adjustments retrospectively to the

relevant employees from their commencement of works on the Project. The site allowance quantum of \$8.90 shall be indexed with effect from 1 October 2018.



**Peter Parkinson**  
**Chairman**



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