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**CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION**  
**(CFMEU)**

**and**

**ISOAQUA PTY LTD**  
**(ISOAQUA)**

**PROJECT - 22 HOPKINS STREET FOOTSCRAY**

**RE: ALLEGED BREACH OF THE ENTERPRISE AGREEMENT**

**30 January 2020**

**001-2020**

**DECISION**

[1] Isoaqua Pty Ltd notified a dispute on 14 January 2020 alleging a breach of the Enterprise Agreement, *Isoaqua Pty Ltd and the CFMEU (Victorian Construction and General Division) Enterprise Agreement 2016-2018*.

[2] The Panel, in a related matter, 029-2019, had been appraised of some of the circumstances concerning another alleged dispute that had been notified by the CFMEU on 5 December 2019 between it and Isoaqua on the same site. The Panel issued a Statement in that matter on 16 December 2019, with a recommendation, that was accepted by Isoaqua and Cenvic, that they meet.

[3] The CFMEU subsequently withdrew the Notification in Matter No. 029-2019 and the Panel closed that file on 15 January 2020.

[4] The Panel had also been notified on 14 January 2020 by the Principal Contractor on the Project, Cenvic Pty Ltd (Cenvic), that “...*all work had ceased and the subcontracts are at an end...*”

[5] The Notification of Dispute in Matter No. 001-2020 in particular raised allegations about the processes of the Disputes Procedure pursuant to the Enterprise Agreement. By way of various email correspondence, the CFMEU rejected the allegations and Isoaqua set out further reasons as to its allegations.

[6] The Panel held a Conference of the parties on 30 January 2020.

[7] Isoaqua confirmed that its contract with Cenvic was at an end and that there was no prospect of it resuming work on the Project. It sought to press its allegation that the CFMEU had breached the Dispute Settlement Procedure pursuant to Clause 10 of the Enterprise Agreement in December 2019. It sought and seeks no remedy other than a desire that the CFMEU might make concessions as to the allegations. The CFMEU denies the allegations. Isoaqua seeks no remedy from the Panel. Isoaqua also confirmed its correspondence of 29 January 2020 that it intended to bring proceedings against the CFMEU in the Federal Circuit Court in relation to these same matters.

[8] The Panel notes that during the course of events in December 2019 Isoaqua chose not to avail itself of the opportunity to Notify a Dispute to the Panel and on two occasions confirmed in absence of resolution of its then written demands upon the CFMEU that it would notify the Fair Work Commission. It did not do so.

[9] The circumstances are such that the Panel must now consider the purpose and value, if there is any, of it conducting formal Hearings and the taking of evidence in relation to

the allegations made in the Notification of the matter by Isoaqua and the counter allegations made by the CFMEU. This would inevitably require significant resources and time and costs to the parties.

**[10] The Panel has given all the matters raised serious consideration and has decided, having regard to all the circumstances, that there is no utility in proceeding with the matter.**

**[11] The Panel has decided to close the file on the matter.**



**Peter Parkinson**  
**Chairman**



**Sheena Hoey**  
**Alternate Panel Member**



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