



ACN: 110 263 182

**VICTORIAN BUILDING INDUSTRY DISPUTES PANEL**

CHAIRMAN: Peter Parkinson

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## **CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION and**

### **HANSEN & YUNCKEN PTY LTD**

## **RE: ALLEGED ASBESTOS EXPOSURE ROYAL VICTORIAN EYE AND EAR HOSPITAL REDEVELOPMENT PROJECT**

**006-2016**

### **STATEMENT AND NOTICE OF CONFERENCE**

1. A notification to the VBIDP received from the CFMEU on 4 May 2016 requested a site visit and conference regarding the Royal Victorian Eye and Ear Hospital (the Hospital) site at Victoria Parade East Melbourne. The notification was in relation to concerns over alleged asbestos exposure to construction workers, hospital staff and the public and compliance with the Enterprise Agreement (EA) obligations concerning Occupational Health and Safety. It is noted that the notification was not in the form of a Dispute, rather a request for site visit and conference.
2. The parties to the applicable EA are the CFMEU and Hansen Yuncken Pty Ltd (HY).
3. Following discussions with the parties the Chairperson determined to carry out a site inspection in accordance with the Chairperson's powers set out in the VBIDP Charter at section 3.1 sub paragraph (vii).
4. A site conference was convened by the Chairperson with the relevant parties on 12 May 2016. Representatives from HY, CFMEU and PTEU attended, followed by a site inspection conducted by HY, together with the CFMEU and PTEU site OH and S Representatives/delegates.
5. The Redevelopment Project for which HY is the Construction Manager under a Construction Manager procurement model, is jointly funded by the Victorian Government and the Hospital, with the Department of Health and Human Services (DHHS) being the lead agency. The DHSS has a Project

Director to whom a Project Manager (Johnstaff) is responsible and to whom in turn HY is responsible. HY is responsible for the various trade contractors.

6. The Project commenced in July 2013 with an estimated completion date of late 2017 and Project value of \$165m. The Project includes the redevelopment, demolition, new build and refurbishment of various parts of the existing Hospital within the existing site boundaries. The Hospital is a combination of various old and new buildings. The Project is complex, particularly having regard to the client requirement of maintaining the operation of the Hospital's functions during demolition and construction activities.
7. Prior to the Project commencing the Hospital was known to have asbestos present having been identified from previous construction activities and by an assessment conducted pursuant to Chapter 4, Part 4.3, Division 5 of the Occupational Health and Safety Regulations 2007. Typically a Division 5 assessment or 'audit' is conducted by a 'walk through' risk assessment as distinct from a Division 6 which requires an intrusive inspection of the workspace. It is said a Division 6 assessment should have been effected as part of the planning for the Project in the first instance. After commencement of the Project it became abundantly clear that the assessment and documentation in relation to asbestos presence was seriously deficient, as asbestos was found "unexpectedly" in many other areas of the Hospital. Division 6 is now the method of assessment being undertaken throughout the works programme.
8. Without traversing all the history, suffice to say for current purposes, following 'discovery' of extensive asbestos presence well after commencement of the Project, the works programme and approach was reviewed during 2015 by all relevant agencies, including Worksafe and an external expert analysis, resulting in a significant reappraisal.
9. Whilst observations such as the following are easily made in hindsight, it is very surprising that a more disciplined approach to assessing the likely presence of asbestos in the buildings subject to the Project was not undertaken during the initial planning stage and well prior to contract award. Given the age of the buildings, the purpose of the activities undertaken within them, the energy sources present, together with what has been widely known and understood about similar buildings in Melbourne for many years, greater due diligence should have occurred. It seems clear that the planning for this Project suffered from a lack of adequate due diligence and poor documentation. It is acknowledged that the Project has been seriously impacted adversely as a consequence.
10. As a result of the 2015 review, a range of actions were put in place, new procedures were developed and implemented. This included a comprehensive set of revised technical procedures, an overarching ongoing audit process performed by Greencap NAA (responsible to HY) whom in turn are audited by an Independent Consultant Hygienist, Field Environmental Technologies (responsible to the PM), the purpose of which was designed to ensure the safety of construction workers, hospital staff and the public. These procedures remain in place and are updated to reflect any new learnings during the course of the Project.
11. A highly disciplined approach to compliance is necessary in order to provide confidence as to the safety of personnel on site and also to ensure accurate and adequate identification and removal of asbestos. It is said that complete eradication of asbestos from the Hospital is not possible given that not all areas of the Hospital fall within the Project scope and because decisions have been made to knowingly seal off areas where asbestos will remain in situ. It is said this is necessary because it is either physically not possible

(apparently some areas are extremely difficult if not unsafe to access) and/or it would be economically prohibitive to attempt to remove some of the asbestos, particularly given the requirement to maintain the Hospital's operations during construction and demolition activities.

12. It is clear that the requirement to maintain operations of the Hospital, together with the scope of works, has severely limited the capacity to undertake a more thorough and complete asbestos removal process. Consequently an asbestos legacy will be left for which well understood and enduring policies and procedures will need to be administered by the Hospital. The errors of the previous inadequate assessments during previous construction activities cannot be allowed to be repeated.
13. In a further endeavour to improve the works programme by reducing the interface between the construction activity and Hospital operations, decisions have been taken to amend the original works schedule and to now relocate all Clinics and Day Surgery services of the Hospital to another site altogether (Peter MacCallum). This will allow dedicated construction activity to proceed unhindered in some, but not all areas of the remaining works programme of the Redevelopment. This relocation is planned to occur in August 2016. The amended works programme and the asbestos removal/containment process, has required a further \$30m to be allocated to the Project, with the anticipated completion now estimated to be end of 2018.
14. The Chairperson was appraised in detail of the works during the inspection. The need for vigilance is clearly apparent given the extent of asbestos presence, the complexity of the works programme, and the high levels of interface between construction work and the continued performance of Hospital functions involving hospital staff, patients and the public. It is also apparent that there is a significant level of revisiting of workspaces by construction personnel to perform partial scopes of work rather than complete all works in an area, apparently necessitated by the requirement to maintain an operating hospital and because decisions have been taken not to remove asbestos from all areas. This gives rise to increased opportunities for risk of exposure and duplication of effort, and cost.
15. It is noted that the form of commercial contracts in place for the Redevelopment, with a number of different responsible parties, can have a tendency to complicate the processes and slow down responses as well as allow for deflection of accountability, some aspects of which were apparent from the inspection.
16. It is important to note that at the time of inspection there was no allegation of any specific outstanding asbestos exposure incident, save for reference to an incident the previous week concerning the dry cutting of asphalt, which it was noted was the subject of continuing investigation and resolution in accordance with the requisite processes. It is also significant that based upon the reports of air monitoring conducted throughout the site during the Project construction activity, the relevant exposure standard has not been breached.
17. The Chairperson has been provided by HY with copies of the GreencapNAA Technical Specifications and procedures, Worksafe entry reports, Traffic Light Permit System, Agenda for Monthly RVEEH consultative meetings, Site Safety Minutes and Tool box meeting Minutes which have all been reviewed. In addition the Chairperson has informed himself in relation to this matter by way of separate conferences with representatives each of IRV, DHHS, the Hospital, Hospital Facilities OH and S representative, Worksafe, Johnstaff, GreencapNAA and the Independent Consultant Hygienist.

18. The Chairperson considers that the principal issues that have been raised by the CFMEU and from the Chairperson's own observations arising from the inspection and subsequently, are best summarised as follows, for which various recommendations are made:

- (i) **The timely close out by the responsible party of incidents identified and evidence of closeout.** This was acknowledged by HY as requiring greater attention by some contractors and steps had already been initiated to seek prompt compliance and confirmation of closeout. **It is recommended that steps be taken by all relevant responsible parties to do so and that the OH and S Committee escalate any non-compliance for immediate correction.**
- (ii) **Revisiting workplaces to conduct further works requiring duplication of effort concerning safe asbestos procedures resulting in increased opportunity for exposure.** This was acknowledged by HY as a consequence of the requirement by the Hospital that it maintain operations. **It is recommended that every effort be made to plan the work in a way that limits if not removes the requirement to revisit workplaces during construction - the responsible parties are urged to review the relevant works programme accordingly.** It is acknowledged that this has indeed been the purpose of the planned relocation of some operations to Peter Mac but any additional opportunities to do so should be utilised if at all possible.
- (iii) **Leaving known asbestos in situ rather than complete eradication.** This is a policy decision that is said to have been taken knowing all the risks and ensuring appropriate consequential actions. Procedures for work in and around such areas are covered by the procedures in place and it is said that exhaustive consideration has been given to removal wherever possible. **It is recommended that any opportunity to remove known asbestos rather than leave it in situ be a preferred solution and that the opportunity to do so be strongly tested in each workplace as planning and execution of further works on the Project proceeds.**
- (iv) **Compliance with procedures.** In this regard the Chairperson has been appraised of detailed procedures and technical specifications which have been developed and implemented and updated through any new learnings, together with a Permit to work process. These have been acknowledged by the OH and S representatives and others as comprehensive and in some ways leading best practice. It is also noted that regular safety walks and observations are conducted, weekly OH and S Committee meetings are held, Tool Box meetings conducted, a Monthly RVEEH meeting held, and a number of Roundtable Forums convened by DHHS (the last one being March 2016). **All parties are urged to maintain appropriate representation and attendance at the respective forums and to ensure high levels of vigilance and compliance at all times with the procedures. It is recommended that Worksafe regularly attend site for thorough inspection to ensure appropriate compliance as well as having regard to the recommendations contained herein, and that the Roundtable Forum convened by DHHS continue to meet and formally record actions arising.**
- (v) **Emergency Procedures.** It was noted that successful emergency evacuation drills have been conducted during the Project however concern was expressed during the inspection of an alleged absence of smoke detectors operating in at least "a third of some areas" due to an 'inability' to identify existing cabling. HY actioned an investigation to rectify. **It is recommended that the relevant emergency services, including the MFB, should be well appraised of the activities currently underway by way of inspection to ensure adequate readiness and awareness of asbestos presence in the building.**
- (vi) **Processes for permanent identification of asbestos location and procedures for future maintenance, access and construction activities post Project completion. This becomes a**

**direct responsibility of both DHHS and the Hospital.** It is said that adequate comprehensive actions have now been adopted (including a comprehensive asbestos location register) and will continue to be in place. **It is recommended that this be re-affirmed during the course of the Project on a regular basis (including effective permanent labelling) and at its completion, with ongoing monitoring of compliance and critically, clear Induction processes for all relevant personnel. These procedures must be enduring.**

#### 19. Further Conference

As flagged with the parties and various stakeholders a further Conference with the Chairperson will be conducted on **Monday 30 May 2016 at 10.00am** at the Panel Offices. The purpose of the Conference is to review the recommendations above and to provide the parties an opportunity to raise any other matters of relevance. It is intended that the following stakeholders are represented at the Conference and an invitation will be extended. (Approval by the relevant principal is requested to facilitate this as necessary):

- HY
- CFMEU
- PTEU
- Project OH and S representatives
- RVEEH
- RVEEH Facilities OH and S representative
- DHHS
- Johnstaff
- Worksafe
- Greencap
- Field Environmental Technologies

It is important that this opportunity is taken to ensure that there are no unresolved issues and that the best possible practices are understood and followed to ensure the safety and well being of personnel, as well as lessons learnt, together with any other agreed actions as determined.



**Chairperson**  
**24 May 2016**



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**STATEMENT 30 MAY 2016**

1. Further to the Chairperson's Statement issued 24 May 2016, a Conference of various stakeholders was held under the auspices of the VBIDP on Monday 30 May 2016. This further Statement should be read in conjunction with the former Statement.
2. The purpose of the Conference was to consider the six recommendations made by the Chairman on 24 May 2016 (reproduced below) and any further actions as determined.
3. In attendance at the Conference were representatives from the following:
  - Hansen Yuncken Pty Ltd (HY)
  - MBAV
  - CFMEU
  - PTEU
  - Worksafe

- DHHS
- Johnstaff
- Greencap
- Field Environmental Technologies

It was noted that the RVEEH was not represented, the Director of the Redevelopment apologising in advance of the Conference, but wishing to be kept involved. An apology was also noted from the RVEEH Facilities OH and S Rep.

4. The recommendations made by the Chairperson were reviewed by the Conference participants and were agreed and adopted by all, including some additional actions as incorporated herein:

(i) **The timely close out by the responsible party of incidents identified and evidence of closeout. It is recommended that steps be taken by all relevant responsible parties to do so and that the OH and S Committee escalate any non-compliance for immediate correction.** It was noted that some actions are on foot in this regard. The OH and S representative and CFMEU registered concern over the failure to close out an incident in February 2016 concerning alleged asbestos exposure in the ‘undercroft and that a number of items on the OH and S representatives ‘lists’ were not registered by HY. In this regard HY undertook to immediately investigate the February matter, to discuss it with the OH and S representatives and to inform the Chairperson of the outcome and any actions. In addition the relevant parties would arrange to meet to ensure alignment of all ‘lists’ such that no incident is left unresolved or attended to. *Action: HY, OH and S Reps*

(ii) **Revisiting workplaces to conduct further works requiring duplication of effort concerning safe asbestos procedures resulting in increased opportunity for exposure. It is recommended that every effort be made to plan the work in a way that limits if not removes the requirement to revisit workplaces during construction - the responsible parties are urged to review the relevant works programme accordingly.** It is acknowledged that this has indeed been the purpose of the planned relocation of some operations to Peter Mac but any additional opportunities to do so should be utilised if at all possible. The forward works programme should be discussed with the OH and S representatives and relevant parties to assist in identifying any such opportunities. *Action: HY, OH and S Reps, RVEEH, DHHS, Greencap, Field Environmental Technologies*

(iii) **Leaving known asbestos in situ rather than complete eradication. It is recommended that any opportunity to remove known asbestos rather than leave it in situ be a preferred solution and that the opportunity to do so be strongly tested in each workplace as planning and execution of further works on the Project proceeds.** *Action: HY, OH and S Reps, RVEEH, DHHS, Greencap, Field Environmental Technologies*

(iv) **Compliance with procedures. All parties are urged to maintain appropriate representation and attendance at the respective forums and to ensure high levels of vigilance and compliance at all times with the procedures. It is recommended that Worksafe regularly attend site for thorough inspection to ensure appropriate compliance as well as having regard to the recommendations contained herein, and that the Roundtable Forum convened by DHHS continue to meet and formally record actions arising - next Forum to be scheduled late September, post relocation to Peter Mac in late August.** *Action: All* The CFMEU also expressed concern that there has been some recent instances where the Worksafe inspector had not attended site following a request to do so (the Worksafe representative agreed to follow this up).

- (v) **Emergency Procedures. It is recommended that the relevant emergency services, including the MFB, should be well appraised of the activities currently underway by way of inspection to ensure adequate readiness and awareness of asbestos presence in the building.** It was noted that the MFB had approved a Fire Engineering Brief and Report. *Action: DHHS*
- (vi) **Processes for permanent identification of asbestos location and procedures for future maintenance, access and construction activities post Project completion. This becomes a direct responsibility of both DHHS and the Hospital.** It is said that adequate comprehensive actions have now been adopted (including a comprehensive asbestos location register) and will continue to be in place. **It is recommended that this be re-affirmed during the course of the Project on a regular basis (including considering more effective permanent labeling, clear maps and signage) and at its completion, with ongoing monitoring of compliance and critically, clear Induction processes for all relevant personnel. These procedures must be enduring.** *Action: DHSS and RVEEH*

5. The Chairperson thanks the parties for their participation and urges compliance with the recommendations as have been agreed by all the parties in attendance at the Conference. The Chairperson urges the RVEEH to also confirm its agreement to the recommendations given a number directly require action by the Hospital. On this basis the Chairperson considers no further action is required by the VBIDP, other than the Chairperson will monitor developments and adoption of the recommendations accordingly.



**Peter Parkinson**  
**Chairperson**





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