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CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION (CFMEU)

and

CORPLEX UNIT TRUST T/AS CORPLEX PTY LTD

THOMPSONS GATEWAY PROJECT
1060 THOMPSONS ROAD, CRANBOURNE

RE ALLEGED NON PAYMENT OF SITE ALLOWANCE

THURSDAY 9 AUGUST 2018

017-2018

STATEMENT

[1] The CFMEU notified a dispute to the VBIDP on 27 July 2018 concerning the alleged nonpayment of Site Allowance by the employer, Corplex Pty Ltd (Corplex) in relation to the Thompsons Gateway Project pursuant to Clause 25 and Appendix C of the Enterprise Agreement, (The Corplex Unit Trust t/as Corplex Pty Ltd and the CFMEU Building and Construction Industry Enterprise 2011-2015).

[2] The Panel conducted a Conference with the parties on 9 August 2018. All parties attended including the MBAV, representing Corplex.

[3] The Project known as “Thompsons Gateway Project” (the Project) is a new multi-use development in Cranbourne West being constructed in 2 stages by Corplex in partnership with McLaren Developments. The project consists of a United Petroleum service station, food tenancies, industrial warehouse units and a 3 storey commercial building and is estimated to be completed in 2019. The Panel understands that the total project value could be in the range \$10-15 million.

[4] The MBAV submitted that the employer entity “Corplex Unit Trust t/a Corplex Pty Ltd” no longer operated and that the employees on the Project were employed by “Corplex Construction Unit Management Trust”. Corplex Construction Unit Management Trust, it said, currently employs eight employees performing construction work. The MBAV further submitted that no employee that had been engaged by Corplex Unit Trust had subsequently been employed by Corplex Construction Unit Management Trust. On this basis the MBAV submitted that the Enterprise Agreement upon which the CFMEU relies has no application.

[5] The Chairman indicated that based upon the material before the Panel it appeared, at least to him, as if a transfer of business in accordance with the provisions of the Fair Work Act may have occurred, which could mean that the referenced Enterprise Agreement did apply. The MBAV submitted that as there were no transferring employees, the Enterprise Agreement was not a transferring instrument for the purposes of the Act. The Chairman indicated that the Panel would need to be convinced about that one way or the other.

[6] In this regard it was determined that the parties would obtain further details as to the application of the Agreement and in particular Corplex is required to prepare the necessary evidence in support of its case that there was not a transfer of business and there was not a transferable instrument. It was determined that this will be dealt with by way of a further Conference before the Panel.

[7] The Panel notes that at least 2 other Agreements applicable to Corplex Pty Ltd and the CFMEU exist, which may or may not be relevant here, to which the parties should also be prepared to address the Panel on at the Conference as to whether or not they have any

application to this matter. [*Corplex Pty Ltd and the CFMEU Building and Construction Industry Enterprise Agreement 2005-2008 and Union Collective Agreement 2008-2011 between Corplex Pty Ltd and the Construction, Forestry, Mining and Energy Union*].

[8] The Panel will also require it to be addressed by Corplex on the specific details of the employing entities related to Corplex Pty Ltd, that have engaged employees and conducted work in the construction industry in Victoria over the last 10 years. The Panel will also need to be addressed by the parties in order to understand the circumstances that led to the approval by Fair Work Australia, as it then was, to the 2011-2015 Enterprise Agreement, including the employment arrangements attaching to the then employees of Corplex who voted upon the agreement.

[9] Reference was also made to previous proceedings before the Panel involving the parties, which the Panel has identified for the information of the parties as matter no. 015-2014.

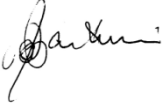
[10] The CFMEU advised that there were other sub contractors on the Project with Enterprise Agreements to which the CFMEU is a party. The Chairman indicated it was a matter for the CFMEU as to whether or not it sought to file dispute notifications in relation to other employers.

[11] The CFMEU also alleged that within hours of it filing the dispute notification in this matter, one of its members employed by Corplex had his employment terminated, and that this matter was the subject of separate proceedings pursuant to the Fair Work Act.

Nevertheless the Panel, in accordance with its Charter, encouraged the parties to enter dialogue with a view to resolving that matter, independently of the issues presently before the Panel.

[12] The Panel also required that the parties prepare submissions in relation to the total project value of the Project in order that this can also be dealt with at the next Conference, should it become necessary.

[13] A further Conference before the Panel will be held on Thursday 16 August 2018 at 10.00am at the Panel's premises.



Peter Parkinson
Chairman



Daniel Hodges
Panel Member



Tony Cordier
Panel Member