



Chairman: Peter Parkinson  
UNIT 1, 233 CARDIGAN STREET  
CARLTON SOUTH VIC 3053  
A.C.N. 110 263 182  
TEL: 03 9348 2613 FAX: 03 9348 2714  
[dboard@vbidb.org.au](mailto:dboard@vbidb.org.au)  
[www.vbidb.org.au](http://www.vbidb.org.au)

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

**and**

**CONNOR CONCRETE AND FORMWORK PTY LTD (CONNOR)**  
**COCONUT GROUP T/AS COCONUT STEEL FIXING (COCONUT)**  
**STRAIGHTLINE EXCAVATION (STRAIGHTLINE)**  
**KELLER FOUNDATIONS PTY LTD (KELLER)**  
**VSL AUSTRALIA PTY LTD (VSL)**

**MELBOURNE METRO TUNNEL PROJECT**

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

**20 SEPTEMBER 2018**

**021-2018**

**STATEMENT**

[1] The CFMEU notified a dispute on 13 September 2018 alleging the payment of the incorrect Site Allowance by the above named Employers in relation to works on the Melbourne Metro Tunnel Project (the Project).

[2] The Panel Conducted a Conference with the parties on 20 September 2018. Straightline and Coconut did not attend. All other parties were in attendance.

[3] The parties had been provided with all relevant Statements and Determinations in Matter No. 014-2017 together with notification of the Conference.

[4] It was accepted that the following applicable Enterprise Agreements applied to the matters in dispute:

*Connor Concrete & Formwork Pty Ltd and the CFMEU (Victorian Construction and General Division) Enterprise Agreement 2016-2018.*

*Coconut Group Pty Ltd T/As Coconut Steel Fixing and the CFMEU (Victorian Construction and General Division) Enterprise Agreement 2016-2018.*

*Straightline Contractors Pty Ltd and the CFMEU (Victorian Construction and General Division) Enterprise Agreement 2016-2018.*

*Keller Foundations Pty Ltd and the CFMEU (Victorian Construction and General Division) Piling Greenfields Agreement 2016-2018.*

[5] With regard to VSL, the CFMEU had notified in relation to *VSL Australia Pty Ltd and the CFMEU Building and Construction Industry Enterprise Agreement 2011-2015* however, VSL advised that the works it was performing on the Project were covered by *VSL Australia Pty Ltd General Civil Construction Works Enterprise Agreement 2014 – 2018* . The Panel accepted this was the applicable agreement. VSL advised that it had made arrangements that it would apply the terms of Keller’s Enterprise Agreement to its employees on the Project. The Panel understood that this arrangement would not offend the application of the applicable agreement. The Panel noted that it did not have jurisdictional power to make Determinations with the respect to the applicable Agreement, but nevertheless VSL stated it was prepared to accept any advice arising from the Panel’s deliberations in this matter. On this basis VSL are to be regarded as an interested party, but not bound by any Determinations that the Panel might make in relation to the specific works. The CFMEU accepted this course.

[6] Each of the relevant Enterprise Agreements provide for similar provisions with respect to the Panel’s powers in determining disputes over site allowances, save for some variations in the Keller Enterprise Agreement which makes provision for a Piling Allowance to be paid in lieu of a Site Allowance at Appendix K, except in circumstances where Appendix C has


application.

[7] The issues in dispute here are no different to the matters in dispute in Matter No. 014-2017 which was finally determined by the Panel. In that matter the presently named employers in this matter were not party to the dispute notification.

[8] During the Conference it was apparent that Connor had not reviewed the material the Panel had provided in Matter No. 014-2017 and that Keller had not entirely understood the application of Appendix C as it related to Appendix K of its agreement in this matter.

[9] The Chairman provided a summary of the proceedings and outcomes in Matter No. 014-2017 and indicated that in absence of anything of substance arising it was expected that should this matter proceed to Determination the Panel would find by majority that the findings in 014-2017 would apply here.

[10] The Panel determined that it would allow a further period for the employers to review the relevant materials and to consider their position and that final submissions from the parties would be taken by the Panel at a Hearing on **Wednesday 26 September 2018 at 10.00am at the Panel's premises**. This also provides a further opportunity for Coconut and Straightline to make any submissions if they wish. To be clear, the Panel intends to make its Determination in relation to this matter following that Hearing.



**Peter Parkinson**  
**Chairman**



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



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