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CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION

and

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***RE: RAVENHALL PRISON PROJECT
(AREA BOUND BY BOUNDARY RD, MIDDLE RD, AND DEER PARK BY-PASS, RAVENHALL, VICTORIA***

31 March 2017

023-2016

Majority Decision

[1] This Decision is to be read in conjunction with Statements issued by the Panel on 15 November 2016 , 7 December 2016 and 1 March 2017.

[2] Arising from the Conference on 1 March 2017 the Panel issued the following directions:

Directions:

1. *The CFMEU is to make any further submissions to the Panel and copy to all other parties, in writing, including an outline of what further evidence, if any, it intends to place before the Panel, no later than 5.00 pm on Wednesday 15 March 2017.*
2. *The Employers are to provide any submissions to the Panel and copy to the CFMEU, in writing, and any response to the CFMEU's submission, including an outline of any evidence, if any, which any Employer intends to place before the Panel, no later than Wednesday 22 March 2017.*
3. *The Panel will convene to hear any of the evidence outlined in the foregoing and to receive any final submissions on Friday 31 March at 9.00 am in order to determine the matter.*

[3] The CFMEU filed its submissions on 15 March 2017. The applicable Enterprise Agreements are set out in Schedule 1 to the submission.

[4] No submissions as directed were received by any of the named Employers.

[5] The Hearing took place on 31 March 2017 at which the CFMEU was represented together with its witnesses.

[6] There were no submissions received or any evidence presented by any Employer. There was no attendance by any Employer at the Hearing. No apologies or any other form of communication were received by the Panel from any Employer in relation to the Directions and the Hearing. The Panel notes that regular Notices and Statements together with regular reminders were issued by the Panel to each and every Employer party to the dispute.

[7] The CFMEU reaffirmed that it relies upon its submissions and evidence in this matter and the submissions of the PTEU and the evidence before the Panel in Matter number 015-2016 and that majority Decision itself, such that the employees of the Employers named in this matter, who remained on the Ravenhall Prison Project site on any of the relevant days (namely 4, 5, 9, 10, 11 and 12 August 2016), should be paid their ordinary hours pay without deduction for each such day, whilst on site.

[8] The following named employers are parties to this matter:

- ABLE Industrial Floors Pty Ltd
- Accuracy Interiors Pty Ltd
- Ascoat Contracting Pty Ltd
- Aust Truestyle Trust t/a Aus Truestyle Pty Ltd
- Casello Pty Ltd
- Civilex Victoria Pty Ltd
- DECA Constructions Pty Ltd t/a DECA Constructions
- Exar (Vic) Pty Ltd
- Fitzgerald Constructions Australia Pty Ltd
- Hollow Core Concrete Pty Ltd
- Marco Polo Trust t/a Marco Polo Painting & Decorating
- MC Labour Services Pty Ltd

- MGR Industries Pty Ltd
- Michael Schiavello Office Furniture
- MBBC Trust No 2. t/a Mulgrave Bricklaying and Building Contractors P/L
- Nu Tech Tiling Trust (The Trustee for) t/a Nu Tech Tiling Pty Ltd
- Toppi Group t/a Omni Seal Pty Ltd
- Premier Cranes & Rigging Pty Ltd
- Q3 Unit Trust (The Trustee for) t/a Q3 Group
- Speedro Industries Pty Ltd
- Steelvision Pty Ltd
- Stuart Dent Pty Ltd
- Summit Formwork
- Westpot Consolidated (Vic) Pty Ltd

[9] The following Employers had earlier claimed by way of correspondence to the Panel that they did not or may not have had any employees on the Ravenhall Prison Project site on any of the days in question. The CFMEU had claimed that they did.

- Hollow Core Concrete Pty Ltd
- Stuart Dent Pty Ltd
- Steelvision Pty Ltd
- Toppi Group t/-as Omniseal Pty Ltd

Each of the parties were required to provide evidence to the Panel in order for it to settle this matter.

[10] In relation to paragraph [9] the CFMEU relied upon its submissions and evidence. Neither of the Employers named made any submissions or provided any evidence. Accordingly the Panel finds that each of these named Employers are parties to this matter.

[11] There is no dispute that the matter is properly before the Panel pursuant to the terms of each of the Enterprise Agreements to which each of the Employers are bound and which cover the CFMEU and employees in question.

[12] Having regard to all the circumstances in this matter, the submissions, material and evidence before the Panel and having regard to its majority Decision in matter number 015-2016, the Panel, by majority, determines that the lost time was due to genuine occupational health and safety grounds and that any employee of any Employer named in paragraph [8] , who remained on the Ravenhall Prison Project site on any of the following days, should be paid their ordinary hours pay without deduction for each such day, whilst on site:

Thursday 4 August 2016,

Friday 5 August 2016,

Tuesday 9 August 2016,

Wednesday 10 August 2016,

Thursday 11 August 2016 and

Friday 12 August 2016.

[13] The evidence of the CFMEU confirmed that at least one of the named Employers in this matter paid its employees Annual leave for the said days. For any such employees their Employer is required to comply with the terms of paragraph [12] and re-credit any such annual leave to the employee(s).

[14] Accordingly the Employers party to this matter as named in paragraph [8] are required to comply with this Decision and are directed to provide satisfactory evidence of compliance to the CFMEU no later than 5.00pm on Friday 28 April 2017.

[15] Member Hodges does not resile from his minority finding in 015-2016.



Peter Parkinson
Chairman



Tony Cordier
Panel Member