

CHAIRMAN

VICTORIAN BUILDING INDUSTRY DISPUTES PANEL
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FULTON HOGAN

BURWOOD HIGHWAY OVERPASS - EASTLINK

-and-

CFMEU

RE: CLAIM FOR APPROPRIATE SITE ALLOWANCE

TUESDAY 27 MAY 2008

052-2008

DECISION

This matter relates to a claim for a site allowance based on the total value of works being carried out as part of the overall Eastlink Project.

This claim is for a site allowance to apply to the pedestrian walkway work being carried out by the contractor at the Burwood Highway Pedestrian Bridge Project.

The Union argued that these works form part of the Eastlink trail which is part of the \$2.5 billion project linking Melbourne's eastern suburbs with Frankston.

They added that the existing site allowance should therefore apply to the contractors employees and sub-contractors engaged on the pedestrian bridge given that the Company's contract was with S.E.I.T.A.

The Union based their argument on the fact that the company's registered EBA (Civil) requires payment of the allowance claimed.

In support of the Union's argument reference was made to the J A Dodd Eastlink – Decision No 029-2007 where the Chairman stated :-

"... That the contract is part of an overall project known as Eastlink controlled by a Government Agent called S.E.I.T.A and is not other than an integral part of the Eastlink project as announced and confirmed by Minister of public transport on 26 April 2006".

The Chairman further considered whether the claim met the criteria established by the AIRC when considering the question of site allowances and project value.

In doing so he referred to Bovis Lend Lease decision (PR75618) when Deputy President Ives stated at paragraph:-

"[30] Pursuant to the definition a project is an enterprise carefully planned to achieve a particular result, that has clearly established entity or entities that exercise control over its development that has a scope sufficiently definable at any given point in time to enable its proper definition and costing for the purpose of determining the appropriate site allowance".

Management confirmed that there was a Company/Union Registered Civil Works Agreement, however they went on to say that works under consideration were properly covered by the "Greenfields" agreement notwithstanding the fact that it was still under review and had not been registered to this point in time.

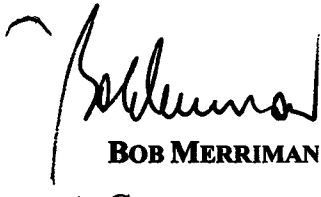
Management in their submission stressed that the works should fall within under the terms of this "Greenfields" Agreement.

I have carefully considered all aspects of this matter and formed a view that the works in question are properly covered by the Civil Works EBA for the following reasons:-

- the works fall within the scope and application of the Civil Works Registered Agreement;
- Clearly the Pedestrian Bridge constitutes an integral part of the overall Eastlink project;

- The "Greenfields Agreement" is currently not finalised and therefore is not registered and cannot be relied upon in this matter.

In these circumstances, I find that the works are properly covered by the Company/Union Civil Works EBA and therefore a site allowance of \$5.85 per hour for all purposes should apply under the terms of the Contractors contract and should be effective from the commencement of such works


BOB MERRIMAN
CHAIRMAN

DATED THIS

27

DAY OF

May

2008