

# CHAIRMAN

VICTORIAN BUILDING INDUSTRY DISPUTES PANEL

CHAIRMAN: BOB MERRIMAN

26 QUEENSBERRY STREET,  
CARLTON SOUTH VIC 3053  
TEL: 03 9639 1322 FAX: 03 9639 2490  
dboard@vbidb.org.au

JOHN HOLLAND

T2 – MELBOURNE AIRPORT PROJECT

-and-

CFMEU

**Re: CLAIM FOR SITE ALLOWANCE**

24 JUNE 2008

054-2008

## DECISION

The CFMEU notified the Chairman of the Panel that despite extensive negotiations the parties had failed to reach an understanding as to the site allowance to be applied to the T2 Melbourne Airport Project.

Following an initial hearing a program for written submissions was determined and a further hearing occurred on 30 May 2008.

At the hearing of the 30 May, 2008 where the written submissions were reviewed and additional verbal submissions made, I proposed that I should communicate with a Client Representative to ascertain the work to be undertaken as part of the T2 project. In agreeing to this a representative from John Holland provided a contact number for Mr David Foxley who has provided additional information for my consideration.

In short, the Union is claiming a project value of \$330 million relying upon announcements made by Melbourne Airport. The Company relies upon the contracts that they have, which have varying commencement dates for different values and were the subject of a separate bid process.

I have been greatly assisted by the quality of the submissions and the information provided by Mr Foxley who for very sound commercial reasons has requested that I observe and maintain the confidential nature of the figures that he provided.

In arriving at my decision I have taken into consideration all of the material before me.

In a recent decision 046-2008 concerning a CSR Project in Yarraville, I detailed at some length the background to the methodology adopted in determining project value. I also adopted recent decisions of the Australian Industrial Relations Commission made by Deputy President Ives. I again rely upon those decisions particularly the following passages:-

*"True it is that a contract or contracts may establish the existence of such a project but I do not accept the proposition that the existence of the project is dependent upon the existence of a relevant contract or contracts. In my view a project is an enterprise or undertaking that is "carefully planned" and has a clearly established entity or entities that exercise control over its development.*

*In the context of Appendix C, the scope of a project must also be definable. That is it must be possible to ascertain with a degree of certainty what works are included in the project in order to value the project and determine the appropriate site allowance." (Refer to paragraphs 45 & 46 President DP Ives Decision PR974122)*

he also stated

*"Accepting that it is not unusual in building and construction projects for the scope to vary during the life of the project, it is still necessary for the scope to be sufficiently defined at any given point during the project to enable proper definition and costing of the project". (Refer to paragraph 23 PR975618)*

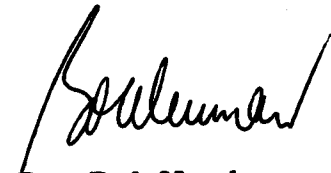
Clearly the Deputy President distinguishes between project value and contracts. The project needs to be sufficiently defined as well as being carefully planned and having an entity responsible for the overall control of the project.

In the matter before me, Melbourne Airport has a carefully planned project (T2) from which they issue various work contracts. The project is sufficiently defined so that the full scope is clearly identified.

The material before me identifies some amounts within the \$330 million that are part of the work to be performed under the Holland contracts and other activities which are undertaken by Melbourne Airport itself, together with Baggage Works.

It is important in determining the project value that I only consider the works to be performed and not include architectural work, or fees for consultants, or engineers etc.

I have therefore made the necessary adjustments to take into account the above considerations and in order to maintain my commitment to confidentiality, I have determined that the project value is less than \$330 million but in excess of \$248 million and therefore the site allowance of \$3.55 per hour worked should be paid effective from the date that the claim was first made.

  
**Bob Merriman**  
**Chairman**

**Dated this**

*24*

**day of**

*June*

**2008**