

VBIDP

VICTORIAN BUILDING INDUSTRY DISPUTES PANEL

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**SALTA CONSTRUCTIONS
B.A.E. PROJECT
LOT 8 YARRA BOULEVARDE, RICHMOND 3121**

CFMEU

RE: MAN / MATERIAL HOIST

Friday, 18 July 2008

071-2008

DECISION

This matter relates to a claim by the Union that the building under construction qualifies for the installation of a passenger and material lift in accordance with Appendix D - **Passengers and Materials Lifts** of the contractors 2005-2008 EBA.

As a consequence of the Union's claim, the Panel representatives attended the project on July 1, 2008 and subsequently on July 9, 2008 for the purpose of conferring with all the parties and inspecting the building.

As the matter remained unresolved, the Union requested that the matter be heard and determined by the full Panel which led to a formal hearing of the matter on Tuesday July 15, 2008.

The parties provided verbal, written and pictorial evidence and the matter was then adjourned to enable the Panel to consider the matter.

Appendix D provides for the installation of a lift when the completed building will consist of more than six (6) storey levels excluding the roof, parapets and basement levels but including the ground floor. If the building meets that criteria then it should be operational from the date of commencement of form work erection above the floor level of the fifth (5) storey when counted from the lowest adjacent street level. Thus ensuring that an employee would not be required to walk either up or down more than two (2) floors within the range of the lift or more than four (4) within the range of the lift.

Substantial debate took place as to what in fact constituted the lower adjacent street level and also what were described as basement levels and whether or not these factors led to the conclusion that the building was in fact one of more than six (6) levels.

In considering this matter the Panel has found it necessary to consider the totality of the definition contained in Appendix D as no single point was conclusive in determining the status of the building.

Having considered the matter in accordance with subclause 2 - When Lift Required - Appendix D, we have determined that the adjacent street level means the street that concludes prior to the private property (the building under construction) namely River Boulevard which on inspection appears to be some feet above the entrance to the proposed car park. The employer's submission relied upon David Street as being the ground floor level however River Boulevard is the lowest adjacent street level. Further the under ground car park consists of split floors which in themselves do not qualify as levels given subclause 1.4 - Definition - Appendix D.

Having established the lowest adjacent street level and having discounted aspects of the underground car park, we then must take into consideration the Plant Room and we are advised that the Plant Room exceeds 25% of the top floor area and as such should be taken into consideration in accordance with definition 1.3.


Taking into consideration all aspects of this matter when reviewed against Appendix D we have concluded that the building is more than six (6) storey levels and in accordance with Appendix D a passenger/material lift should be provided.

In turning to the concerns expressed by the Union as to emergency evacuation of workers from upper floors in the event of high winds or the mechanical breakdown of the crane, the Panel would have expected that an appropriate agreed evacuation procedure was already in place.

Noting the concerns of the Union it is important that such a procedure is developed to the satisfaction of all parties and to that end the parties may seek the involvement of the Occupational Health and Safety Committee.


Bob Merriman
Chairman


Peter Knight
Panel Member


Bill Davis
Panel Member

This day 18 of *July* **2008**