

# 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](mailto:dboard@vbidb.org.au)

## FITZGERALD CONSTRUCTIONS AUSTRALIA PTY LTD CHANNEL DEEPENING PROJECT EAST/ WEST SWANSTON DOCK & PIER 32

**-and-**

**CFMEU**

**RE: PROJECT VALUE – APPENDIX C**

**SATURDAY, 28 AUGUST 2021**

**096-2008**

### **DECISION**

This matter relates to a claim by the Union that contracted works being undertaken by the above contractor formed part of the overall “Channel Deepening Project” under the control of the Port of Melbourne Authority. The combined value of civil, building and construction works being undertaken by Fitzgerald Constructions has a value of approximately \$35 million out of a total project value of approximately \$790 million.

Specific Fitzgerald Constructions works relate to –

- Swanston Dock West
- Swanston Dock East
- South Wharf

and also upgrade works being undertaken on the Gellibrand Pier.

The contractor is currently paying a site allowance in accordance with Appendix C scale of rates based on a project with a value falling within the range of \$31 million and \$61.9 million (range prior October 1, 2008).

Hearings and a Conference involving a senior representative of the Port of Melbourne Authority led to a final hearing which took place on October 24, 2008. At that time the Union reaffirmed its position that the works being undertaken by the contractor were fundamental and without doubt part of the overall Channel Deepening Project as announced by the State Government and as repeatedly referred to in project documentation.

On that basis the Union submitted that all of the works should be based on a dollar value of \$790 million as provided for in the scale of rates set out in Appendix C.

Management contended that their works were of a stand alone nature which was also the position of the Port of Melbourne Authority who further advised that the works being undertaken by the contractor were clearly defined and did not involve interaction with the primary Maritime works associated with dredging the Bay etc.

I have carefully considered this matter and conclude that all of the civil, building and construction works being undertaken by Fitzgerald Constructions fall within the scope of Appendix C – Site Allowance Procedure.

Traditionally and historically the provisions of Appendix C have applied to mixed metal, civil, building and construction works only and therefore I conclude that the main Maritime works associated with the dredging cannot properly fall within the definition of Project Value as provided by Appendix C.

Following further advice from the Senior Representative of the Port of Melbourne Authority, I am advised that some other associated works being undertaken by other civil, building and construction contractors together with the Fitzgerald Constructions works remain within the dollar range between \$31 million and \$61.9 million (prior to October 1, 2008).

I further decide that the works associated with South Wharf which front on to Lorimer Street qualify for the payment of the CBD rate of \$3.35 per hour worked (prior to October 1, 2008).

Works involving Swanston Dock West, Swanston Dock East and the Gellibrand Pier qualify for the payment of a site allowance of \$2.70 per hour worked based on projects with a value of \$31 million to \$61.9 million (prior to October 1, 2008).

This decision should apply retrospectively from the commencement of works and should include the CPI adjustment which took effect from October 1, 2008.



**BOB MERRIMAN**  
**CHAIRMAN**

**DATED THIS                    28<sup>TH</sup>                    DAY OF                    OCTOBER                    2008**