

VBIDP

VICTORIAN BUILDING INDUSTRY DISPUTES PANEL

CHAIRMAN: SIMON WILLIAMS

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S J HIGGINS PTY LTD

**“MASTERS” STORE
MIDDLEBOROUGH ROAD
BOX HILL**

RE: NON-PAYMENT OF APPROPRIATE SITE ALLOWANCE AND ASBESTOS REMOVAL WITHOUT APPROPRIATE DECONTINATION FACILITIES

20 February 2012

003-2012

DECISION

[1] On 8 February 2012, the Construction Forestry Mining and Energy Union (“the CFMEU”) notified a dispute between it and S J Higgins Pty Ltd (“the employer”) concerning two issues, namely the alleged non-payment of the appropriate site allowance at the site of the “Masters” Store project in Box Hill (“the Project”) and the removal of asbestos at the same site without the provision of appropriate decontamination facilities.

[2] The matter was heard by the Panel on 15 February 2012.

[3] The parties are bound by the terms of the *S J Higgins Pty Ltd and the CFMEU Building and Construction Industry Enterprise Agreement 2008-2011* (“the Agreement”). [3] The Project is a “Shopping Centre Project” for the purposes of Clause 14 of Appendix C to the Agreement. The appropriate rate of site allowance payable under the Agreement is \$3.70 per hour. The employer’s representative stated that this rate was now being paid by the employer and that all issues in relation to payment of the appropriate allowance had now been rectified in respect to the employer’s employees. The CFMEU representatives stated that, as far as they were aware, that is correct.

[4] Any disagreement between the parties as to the rate of site allowance to apply to a particular project is, under the terms of Clause 11 of Appendix C of the Agreement, to be determined by the Chairperson of the Panel. The Chairperson notes the statements made at the hearing by the representatives of the parties and determines that no further action needs to be taken in relation to this particular dispute. The Chairperson, however, recommends that the employer make it clear to subcontractors who may work on the site that the Project is a “Shopping Centre Project”, that the employer itself, pursuant to the Agreement by which it is bound, is paying the Shopping Centre Project rate of site allowance and that a subcontractor should have regard to any enterprise agreement binding on it for the purposes of determining its liabilities in relation to the payment of the appropriate site allowance.

[5] In relation to the issue of the removal of asbestos at the project site without the provision of appropriate decontamination facilities, the CFMEU representatives stated that, although the project site was contaminated with asbestos and workers were involved in the removal of that asbestos, no changing facilities had been provided at the site other than a roped off area effectively in the middle of a paddock. The employer representative stated that a decontamination unit had been originally provided and then removed after a certificate had been issued by the hygienist, but that such a unit had now been returned to the site as a sign of good faith. Whilst the CFMEU representatives did not confirm that there had been a decontamination unit at the project site originally, they did accept that this was now the position.

They did not seek that the Panel make any decision in relation to this particular aspect of the dispute.



Simon Williams
Chairperson



Fergal Doyle
Panel Member



Laurie Cross
Panel Member

Date: