

VBIDP

VICTORIAN BUILDING INDUSTRY DISPUTES PANEL

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COMMERCIAL INDUSTRIAL CONSTRUCTION GROUP TIMBARRA PRIMARY SCHOOL RYELANDS DRIVE, NARRE WARREN

CFMEU

RE: OCCUPATIONAL HEALTH & SAFETY ISSUES AND ALLEGED BREACHES OF CODE OF PRACTICE

24 JUNE 2010

STATEMENT

026-2010

[1] This statement relates to a dispute notified by the Construction, Forestry, Mining and Energy Union (“the CFMEU”) concerning occupational health and safety issues and alleged breaches by Commercial Industrial Construction Group (“the employer”) of the Victorian Code of Practice for the Building and Construction Industry (“the Code of Practice”).

[2] The CFMEU and the employer are parties to the *Commercial Industrial Construction Group and the CFMEU Building and Construction Industry Enterprise Agreement 2005-2008* (“the Agreement”) [Agreement ID: AC310438]. There does not appear to be any dispute that the Agreement applies to work performed by the employer and its employees at the Timbarra Primary School, Ryelands Drive, Narre Warren (“the project”).

[3] Clause 10 of the Agreement sets out the procedure for dealing with work related grievances. In particular, Clause 10.2 provides as follows:

In the event of any work related grievance arising between the Company and an employee or employees, the matter shall be dealt with in the following manner:

- a. The matter shall be first submitted by the employee/s or his/her employee representative or other representative to the site foreperson, supervisor or the other appropriate site representative of the Company, and if not settled, to a more senior Company representative.*
- b. Alternatively, the Company may submit an issue to the employee/s who may seek the assistance and involvement of the employee representative or other representative.*
- c. Work shall continue without interruption from industrial stoppages, bans and/or limitations while these procedures are being followed. The pre-dispute status quo shall prevail while the matter is being dealt with in accordance with this procedure.*
- d. If still not resolved, there may be discussions between the relevant Union official (if requested by the employee/s), or other representative of the employee, and senior Company representative.*
- e. The relevant union official commits to make him/herself available to be involved at any stage of the procedure as required, or in respect of any potential dispute.*
- f. Should the matter remain unresolved either of the parties or their representative shall refer the dispute at first instance to the Victorian Building Industry Disputes Panel (which shall deal with the dispute in accordance with the Panel Charter.*
- g. Either party may, within 14 days of a decision of the Panel, refer that decision to the Australian Industrial Relations Commission (AIRC) for review. The AIRC may exercise its conciliation and/or arbitration powers in such review.*

[4] When the matter came before the Panel for hearing, the CFMEU stated that there were at that time no outstanding occupational health and safety issues as between it and the employer. In respect to this aspect of the notification, the Panel therefore takes no further action.

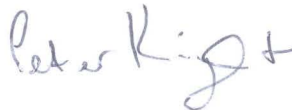
[5] The CFMEU does, however, allege that some unidentified sub-contractors working on the site have not, in relation to their employees, been meeting their obligations and responsibilities, either pursuant to the relevant award or relevant agreements. We note that the CFMEU's allegations in this respect lacked detail and that the CFMEU did not provide any specific examples of such breaches. We also note that the CFMEU has not notified either to this Panel or to Fair Work Australia any dispute between it and any particular sub-contractor about such alleged breaches.

[5] As in the matter concerning the CFMEU and Kane Constructions Pty Ltd heard on the same day, the CFMEU's claim against the employer is that the latter is in breach of its obligations under the Code of Practice in that it has failed to ensure that sub-contractors are complying with their award and/or agreement obligations.

[6] We refer the parties to the Statement issued today in respect to the Kane Constructions Pty Ltd matter (a copy of which is being forwarded to the parties along with this Statement), and, for the reasons set out therein, we make the same recommendations.



Simon Williams
Chairman



Peter Knight
Panel Member

Date: 24 June 2010