

# **VBIDP**

## **VICTORIAN BUILDING INDUSTRY DISPUTES PANEL CHAIRMAN: BOB MERRIMAN**

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### **J A DODD EASTLINK RAIL UPGRADE HEATHERDALE RAILWAY STATION**

- AND -

### **ALL UNIONS**

### **RE: CLAIM FOR SITE ALLOWANCE**

**FRIDAY, 25 MAY 2007**

**029-2007**

### **DECISION**

This matter was first notified by the Union on the 27 March 2007 and was followed by a site inspection by the Panel to the Heatherdale Section of the Project which took place on Thursday 29 March 2007.

A hearing of the matter took place at the Panel's premises on the 19 April 2007.

The works in question relate to the Eastlink Rail Stations Upgrades at Heatherdale, Kananook, Noble Park and Dandenong for the department of Infrastructure and Southern and Eastern Integrated Transport Authority (SEITA).

Connect/East is contributing \$20 million for the upgrade works at these locations as part of the Eastlink project and documentation was presented to the Panel supporting this statement.

The Union is seeking the application of the Eastlink Mitcham/Frankston Project site allowance to apply to these works as part of the intended integrated rail and road network funded by Connect/East to the tune of \$20 million.

The employer parties submitted that the Union claim had no standing and for the purpose of site allowance the Theiss – John Holland Project should be seen as a separate project from the proposed station's upgrade.

The Employer has no contract with Theiss – John Holland for the works currently underway.

I have carefully examined all of the material presented and throughout the exhibits the project is referred to as the Eastlink Project for Connect/East. The purpose of the project as detailed in the material evidence supplied is to provide an integrated transport system as part of the \$2.5 billion Eastlink Project. The media releases issued by the Minister for Public Transport together with the publicly displayed notice boards confirming this linkage. I examined a number of other documents authorised by Connect/East and the Victorian Government detailing the following "as part of the Eastlink Project four railway stations will be upgraded to help deliver an integrated transport solution for the communities along the corridor"

An organisation chart also clearly demonstrates the relationship between the Victorian Government, SEITA, Connect/East and details the control factor that SEITA and Connect/East has in relation to total Eastlink Project. Further documentation identifies the direct link between J. A. Dodd and SEITA as the client for the Dodds project as part of Eastlink.

All of the documentation before me confirms that the Dodds contract is part of an overall project known as Eastlink controlled by a Government Agent called SEITA and is not other than an intrinal part of the Eastlink Project as announced and confirmed by the Minister of Public Transport on 26 April 2006.

Given all this material I now turn to consider this claim as to whether it meets the criteria established by the Australian Industrial Relations Commission when considering the question of site allowances and project value.

In the Bovis Lend Lease decision (PR975618) Deputy President Ives states at paragraph -

*"[30] Pursuant to the definition a project is an enterprise carefully planned to achieve a particular result, that has clearly established entity or entities that exercise control over its development and that has a scope sufficiently definable at any given point in time to enable its proper definition and costing for the purpose of determining the appropriate site allowance".*

The work in question to be undertaken by J A Dodd is part of a carefully planned project to achieve a particular result namely an integrated transport system and there is an established entity exercising control over its development namely SEITA.

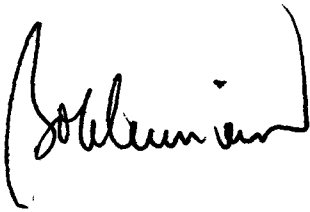
At paragraph 32 of the same decision -

*"[32] Victoria Harbour, as opposed to being an enterprise carefully planned to achieve a particular result, appears to me to be an enterprise planned to achieve a general result. That general result being a series of buildings of varying purposes constructed at some time within a relatively lengthy time frame in accordance with a market driven and largely dynamic master plan. Particularity is unascertainable based upon the changing nature of the master plan and the lack of, other than notional value that can be ascribed to the enterprise".*

The Dodd works and Eastlink Project are carefully planned for a particular result that being an integrated transport system and there is no lengthy timeframe related to market and certainly the master plan has not changed in nature and the total value of the project as to Eastlink has included the \$20 million set aside by Connect/East for these works under the control of the client SEITA.

In considering all aspects of this matter including site inspection, detailed submissions and documented evidences I am convinced that the Union's claim in this matter is justifiable, it meets the requirements of the principles and therefore I determine that the site allowance for the Dodds

project as part of Eastlink is to be the same as applies to the Eastlink project, that is \$5.70 per hour and in the same terms.



**BOB MERRIMAN**  
**CHAIRMAN**

**DATED THIS**

25<sup>th</sup>

**DAY OF**

May

**2007**