

# CHAIRMAN

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

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ADCO CONSTRUCTIONS (VIC) PTY LTD

CAROLINE SPRINGS - MEDICAL CENTRE  
CAROLINE SPRINGS BLVD

CFMEU

-and-

**RE: CLAIM FOR SITE ALLOWANCE**

4 June 2009

038-2009

## DECISION

This matter relates to a claim by the union for the application of the "Caroline Springs Town Centre" site allowance earlier established, for a project with an overall value of \$155m as provided for in Appendix C of the 2008-2011 EBA to a Medical Centre being constructed by ADCO Constructions (Vic) Pty Ltd (the Employer) with a value of \$2.35 million.

Panel members undertook an inspection and conference at the project on 20 May 2009 following which a report was made to the Chairman.

At the hearing on 2nd June 2009, the Union submitted that the works underway constituted stage 2 of the existing Medical Centre and therefore in accordance with guidelines contained in the Chairman's decision 031-2007 - J A Dodd Ltd - the Union believed that this project fell fairly and squarely within the concept of -

*"an enterprise carefully planned to achieve a particular result, that has clearly established entity or entities that exercise control over its development"*

The Union went on to say that the original town centre project was seen as a clearly defined development identifying many buildings and involving the construction of specific facilities. The master plan for the project had been previously presented to the Panel.

A comprehensive collection of documentation (U1) was submitted to the Panel in support of the contention that works underway should attract a site allowance of \$3.45 per hour being the appropriate site allowance for a project with an overall value of \$155m.

The Employer stated that the works underway were of a stand alone nature with its own developer - a group of doctors who had no relationship with the original developer - Delfin or the Shire of Melton - other than for the normal process of issuing of a building permit.

In support of this contention the Employer submitted a Building Permit document issued by GE-Building Surveyors (E1) being a normal document issued for building construction works of this nature.

The Employer also referred to the Panel's decision 031-2007 and stressed that the project underway did not conform with the guidelines contained therein, which would establish that the project constituted part of the original Town Centre, and submitted that the contractor

would be severely disadvantaged if seen to do so having regard to the time which has passed since the original concept was formulated.

The Employer further submitted that had the Shire of Melton and Delfin wanted an outcome consistent with the Union's submission then such a position should have been advised to the employer and absence of such advice demonstrated an "overall absence of responsibility" of those parties. No such lines of responsibility whatsoever could be established in the matter before the Panel, therefore the claim should be rejected.

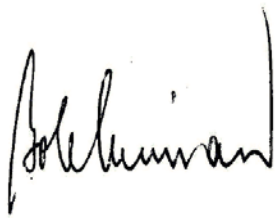
I have carefully considered the submissions which have been presented in this matter and conclude the following:-

- The original Town Centre concept was developed and made public in 2003 and was supported by a Plan which included a number of specified facilities and also various areas which were not specified but would be commercially developed. It is clear to me that it was the intention of the Shire of Melton and the Developer that the specified facilities were non negotiable and essential to the overall development.
- Following my earlier decisions on this project a number of individual building/constructions have been subject to the \$3.45 per hour allowance by consent following advice from the MBAV. Such advice and action is consistent with the total project and Town Centre concept, the basis of the earlier decisions.
- I note that the Medical Centre under construction abuts the existing Medical Centre which is identified in the original concept and the original Plan.

Having regard to all the information before me, it is clear that the works are comprehended as forming part of the original Town Centre project and in so concluding, I determine that the Town Centre site allowance should apply from the commencement of the employer's work and for the duration of such works.

The issue of the ongoing application of the Town Centre allowance has been raised and my view is that once the specified works and the commercial areas (as shown on the Plan) have been concluded then the Town Centre allowance payment will no longer apply to other works.

It goes without saying that unspecified works which may be undertaken will not attract the Town Centre allowance, and that the allowance would certainly not apply to future refurbishment works other than initial fit outs on existing specified buildings.



**BOB MERRIMAN**  
**CHAIRMAN**

DATED THIS                    **4TH**                    DAY OF                    **JUNE**                    2009