

31 August 2016

The Hon. Justice IJK Ross
President
Fair Work Commission
80 William Street
SYDNEY NSW 2000

Email: chambers.ross.i@fwc.gov.au

**4 Yearly Review of Modern Awards – Group 4 Awards –Construction Awards
(AM2016/23)**

Dear President,

We refer to the Memorandum dated 22 August 2016 (Memorandum) and the subsequent Statement and Directions (Statement) dated 26 August 2016 with regard to the Group 4 – Construction awards.

We make the following points in response to the Statement and the Report of Senior Deputy President Watson (Report) referenced at paragraph [8] of the Statement.

Classification of allowances – On-site Award

At item 8 of the table at paragraph [17], the Senior Deputy President noted within the Report that:

'During the conciliation process the parties have agreed on tables of skill, disability and expense allowances to better direct award users to allowances relevant in their circumstances, involving a table of "all-purpose allowances" (agreed save for three allowances) and the grouping of other allowances by type.'

(Our emphasis)

We concur with correspondence from the Housing Industry Association dated 24 August 2016 and note that no agreement was reached between the parties as expressed.

Work Health and Safety Claim – On-site Award

To provide some clarity, there are two elements to this part of our claim. The first is the removal or amendment of certain allowance provisions on the basis that they are inconsistent with Work Health and Safety requirements and/or are obsolete.¹

The second element of our claim which is referenced in part within the attachment to the Memorandum would be, in the alternative, to remove any prescriptive requirements under the Award and replace them with generic references to Work Health and Safety obligations.

The first aspect of our claim is dealt with in the Report but not in the Memorandum and we would respectfully draw the Commission's attention to this omission.

Payment of Wages – On-site & Joinery Awards

Master Builders has sought to vary elements of the payment of wages provisions within these awards originally advanced in the Award Stage of the review proceedings.

A separate bench dealing specifically with payment of wages matters was subsequently constituted (AM2016/8) that initially sought to include our claims. At an earlier stage of those proceedings, Master Builders noted the parties' preference for our claims to be dealt with in the Award Stage. This course was subsequently adopted by the Commission.²

While our claims regarding payment of wages are noted in the Report of Senior Deputy President Watson, they do not feature in the Memorandum listing matters to be dealt with before the Full Bench and we would ask that this oversight be rectified.

On a related matter, we note that Australian Business Industrial (ABI) and the NSW Business Chamber have also filed a draft determination to vary the payment of wages clause in the Joinery Award and that this claim is currently before the payment of wages bench (AM2016/8). The ABI claim has significant relevance to our claims on this same subject and, in those circumstances, the Commission may consider it desirable to transfer the ABI claim to the Construction Award Stage proceeding.

National Training Schedule – On-site Award

Master Builders has filed a claim to delete clause 28 (Training Wage) from the On-Site Award. We note this item does not feature in the schedule of claims with regard to the

¹ Refer also to items 26, 27, 36, 29-64, 66-68, 71-74, 78, 79, 81-86 and 88-120 of the Summary of Proposed Variations, *Building and Construction General On-Site Award 2010* dated 5 August 2016.

² Refer to items 153 and 154 of the *Summary of Proposed Variations, Building and Construction General On-Site Award 2010* and Items 10 and 11 of the *Summary of Proposed Variations, Joinery and Building Trades Award 2010*, both dated 5 August 2016.

Construction Awards³ and understand that it will be dealt with in the National Training Wage common issue matter (AM2016/17).

Additional Item – On-site Award

Master Builders also notes the inclusion of Item 179 in the attachment to the Memorandum. We are unaware of the existence of such an item and note that it may be a typographical or related administrative error.

We thank the Commission for its consideration of these matters.

Yours sincerely

A handwritten signature in black ink, appearing to read 'RS', with a stylized flourish at the end.

Rebecca Sostarko
Lawyer

³ Refer to item 148 of the Summary of Proposed Variations, *Building and Construction General On-Site Award 2010*.