



SUBMISSION BY THE
Housing Industry Association

to the
Fair Work Commission
on the
Additional Common Issues

11 November 2014

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HIA is the leading industry association in the Australian residential building sector, supporting the businesses and interests of over 43,000 builders, contractors, manufacturers, suppliers, building professionals and business partners.

HIA members include businesses of all sizes, ranging from individuals working as independent contractors and home based small businesses, to large publicly listed companies. 85% of all new home building work in Australia is performed by HIA members

1 Introduction

- 1.1.1 HIA refers to the statement dated 1 October 2014¹ and paragraph 7 of the further statement dated 30 October 2014² (collectively the '**Statements**').
- 1.1.2 In accordance with the directions contained within those Statements HIA provides these submissions which address the Additional Common Issues.

2 Additional Common Issues

2.1 The Association of Payroll Specialists (TAPS)

- 2.1.1 HIA notes the correspondence from TAPS dated 14 October 2014 (**TAPS Correspondence**).

Monthly Payment of Wages

- 2.1.2 HIA note that the TAPS Correspondence identifies the *Building and Construction General Onsite Award 2010* (**Onsite Award**) as an award containing a provision which may form a part of a potential common matter.
- 2.1.3 HIA understands that the following 2 issues arise from the TAPS Correspondence in relation to the monthly payment of wages:
- The need for a consistent method for the calculation of wages paid on a monthly basis; and
 - The inability to recoup wages paid in advance (other than by requesting permissions in accordance with the *Fair Work Act 2009*) in circumstances in which an employee terminates their own employment without providing the proper notice.
- 2.1.4 HIA submit that these matters, as identified by TAPS do not currently arise under the Onsite Award.
- 2.1.5 The provision of the Onsite Award identified within the TAPS Correspondence as potentially forming a part of this common issue is as follows:

31.3 *Payments must be paid and available to the employee not later than the end of ordinary hours of work on Thursday of each working week. Where an employer made payment less frequently in compliance with a relevant award or award-based transitional instrument, prior to the making of this award on 1 January 2010, or where an employer made payment less frequently in compliance with a Division 2B State award, prior to 1 January 2011, the employer may continue to make payment at that frequency, subject to the agreement of employees and/or a majority of employees if required by the relevant award, award-based transitional instrument or Division 2B State award.*

- 2.1.6 HIA submits that this is an award specific provision and as such, any potential issues that flow from its operation should be dealt with during the award stage.

Motor Vehicle Allowance

- 2.1.7 The TAPS Correspondence identifies the Onsite Award as falling within a category of awards within which this issue should be addressed during the individual award stage.
- 2.1.8 HIA agree that this is an award specific issue and as such should be dealt with during the individual award stage.

¹ [2014] FWC 6904
² [2014] FWC 7742

2.2 ACTU Family Friendly and Domestic Violence Claims

- 2.2.1 HIA refers to the correspondence from the ACTU dated 28 October 2014 (**ACTU Claims**).
- 2.2.2 HIA notes that the ACTU claims will affect all awards and, on this basis submit that it is reasonable to deal with these as a common issue.
- 2.2.3 HIA would however reserve the right to revise this position should any material be brought which may lend itself to an alternative view.

2.3 Small Business Schedule

- 2.3.1 HIA refers to the correspondence from Australian Business Industrial/NSW Business Chamber dated 26 September 2014 (**ABI Correspondence**).
- 2.3.2 The ABI Correspondence proposes the insertion of a Small (Micro) Business Schedule into modern awards including the Onsite Award and the *Joinery and Building Trades Award 2010*.
- 2.3.3 HIA supports the proposition that the Small Business Schedule be dealt with as a common issue.
- 2.3.4 HIA is still in discussion with other employer groups in relation to the Small Business Schedule and would submit that this process be allowed to continue to in order to facilitate the formation of a joint employer position.
- 2.3.5 As such, HIA would suggest that one course may be to call the matter on for Mention during December 2014 in order to provide an update to the Commission.