



**MASTER BUILDERS
AUSTRALIA**

9 November 2018

Deputy President Gostencnik
Fair Work Commission
Level 10, Terrace Tower
EAST SYDNEY NSW 2011

via: chambers.gostencnik@fwc.gov.au

Dear Deputy President,

AM 2016/23 – 4 YEARLY AWARD REVIEW – CONSTRUCTION AWARDS

We write with reference to the above matter and further to conference proceedings held on Thursday 1 November 2018.

A height related allowance proposal was advanced during that conference and the parties were requested to advise the Commission with a view as to whether it had support (or at least some merit) or advance any potential alternative proposals.

Several employer parties subsequently requested further information as to the form of proposal and we are grateful that the CFMMEU has kindly provided this as requested.

Pursuant to the Commission's request, Master Builders Australia notes as follows:

- There is a link between the allowance set at clause 22.3(a) (that the Commission has determined to abolish at [369]) and clauses 21.4(d) and (g) (that the Commission has determined to retain) in that the retained clauses reference a clause to be removed;
- While there are various 'fixes' available to remedy the above circumstance, consideration of them presents difficulties in the context of (a) considering the broader allowances proposal advanced by the CFMMEU during the conference and (b) finalising a position with respect to the decision of the Full Bench more broadly; and
- Notwithstanding the above, and without prejudice to any response we may advance in formal written submissions or have expressed about allowances to date, our preliminary view is that there are deficiencies in the CFMMEU's proposed alteration to clause 21.4(d) and (g) that the alterations set out below represent a more accurate translation of the Commission's decision:

(d) Any buildings or structures which do not have regular storey levels but which are not classed as towers (e.g. grandstands, aircraft hangars, large stores, etc.) and which exceed 15 metres in height ~~may~~ will be covered by this subclause, ~~or by clause 22.3(a) by agreement between the employer and an employee.~~

(g) Service cores

(i) All employees employed on a service core at more than 15 metres above the highest point of the main structure must be paid the multistorey rate appropriate for the main structure plus an additional 3.2% of the hourly standard rate per hour, with 3.2% of the hourly standard rate per hour additional for work above each additional 15 metres ~~the allowance prescribed in clause 22.3(a),~~ calculated from the highest point reached by the main structure to the highest point reached by the service core in any one day period. (i.e. For this purpose, the highest point of the main structure will be regarded as though it were the ground.) ~~in calculating the appropriate Towers allowance prescribed in clause 22.3(a).~~

We thank the Commission for its consideration of this correspondence.

Kind regards,
Shaun Schmitke



for **DEPUTY CEO
MASTER BUILDERS AUSTRALIA
NATIONAL DIRECTOR – INDUSTRIAL RELATIONS, SAFETY AND CONTRACTS**