



Federal Court of Australia
District Registry: Western Australia
Division: Fair Work

No: WAD542/2016

FRANK SHEEHAN
Applicant

THIESS PTY LTD
Respondent

ORDER

JUDGE: JUSTICE COLVIN

DATE OF ORDER: 01 November 2019

WHERE MADE: Perth

THE COURT ORDERS THAT:

1. There be judgment for the applicant.
2. Pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth) the issues of law and fact common to the claims of the applicant and the group members be answered as follows:
 - (a) Does the reference to Employee's Project Working Hours finishing 'at the inside of the Site Employee access gates' in cl 16(9) of the Thiess Pty Ltd Wheatstone Project Agreement 2012 (**Agreement**) refer to:
 - (i) a point immediately inside the 'Site Employee access gates'; or
 - (ii) any point within the Wheatstone Project site?

Answer: The reference to Employee's Project Working Hours finishing 'at the inside of the Site Employee access gates' refers to a point immediately inside the 'Site Employee access gates'.
 - (b) Is the effect of the phrase 'finish at the inside of the Site Employee access gates' in cl 16(9) of the Agreement to:
 - (i) define the place and the time at which employees finish their Project Working Hours under the Agreement; and



(ii) require Thiess Pty Ltd to use such place and time for the purposes of calculating employees' periods of work relevant to paid entitlements under:

(A) cl 10 - Site Allowance; and

(B) cl 20 - Overtime Payments;

of the Agreement?


Answer: Yes, as to both (i) and (ii).

(c) During the period between 5 September 2012 and 31 December 2013, what structures comprised the 'Site Employee access gates' for the purposes of cl 16(9) of the Agreement?

Answer: During the period between 5 September 2012 and 31 December 2013 the structures that comprised the 'Site Employee access gates' for the purposes of cl 16(9) of the Agreement were the security access gates at the perimeter of the site for the Wheatstone Project being the gates at the following three points depicted on the map at page 224 of Exhibit 1, namely at or near the juncture of the roads shown as AR2 and Old Onslow Road, at or near the juncture of the roads shown as PR2BX and PRB2 and at or near the juncture of the roads shown as AR4 and PR2A.

3. Otherwise, the parties do file a joint minute or competing minutes of proposed orders to give effect to these reasons on or before 15 November 2019.
4. There be a further case management hearing at 9.15 am on 20 November 2019 at which time the Court will make orders giving effect to these reasons and programming the hearing of any further claim for penalties.

Date that entry is stamped: 1 November 2019


Registrar