

IN THE MATTER of an Adjudication
pursuant to the Construction Contracts
(Security of Payments) Act (NT) (“The Act”)

BETWEEN:

Applicant

and

Respondent

WITHDRAWAL OF APPLICATION

Introduction

1. On 18 January 2017 I was appointed by the Institute of Arbitrators and Mediators Australia (now part of the Resolution Institute) (“the Institute”) to adjudicate a payment dispute between the Applicant and the Respondent in relation to Civil Design Services for the [*project details redacted*] being undertaken by the Respondent in [*site details redacted*] in the Northern Territory.
2. The Application documents dated 17 January 2017 were collected at the Institute’s Offices that same day, 18 January 2017.
3. On 19 January 2017 I wrote to the parties advising my appointment and declared no conflict of interest in the matter. I also sought submissions should either party object to the appointment. There were no objections to my appointment.

4. In that same letter of 19 January 2017 I also sought confirmation from the Applicant on the method and date of Service of the Application on the Respondent.
5. On 20 January 2017 the Applicant wrote to me, with a copy to the Respondent, advising that the Application had been served on 17 January 2017 by registered post and that the Respondent had received and signed for the application documents on 18 January 2017.
6. Later that same day, 20 January 2017, I received an email from the Applicant advising that as a result of discussions with the Respondent, the Applicant wished to withdraw the Application. The Applicant also sought my directions as to the process of withdrawal of the Application and I wrote to the parties as follows:

“...Dear Mr [redacted] and Mr [redacted],

I will require a letter from [the Applicant], copied to [the Respondent], requesting withdrawal of the Application under section 28A(2) of the Construction Contracts (Security of Payments) Act (“the Act”).

Once that is received, I will seek objections to the Withdrawal from [the Respondent] under s.28A(3) of the Act.

If there are no objections from [the respondent], I will draft and register the Withdrawal with the Construction Registrar and provide a copy to each party.

Generally costs follow a Withdrawal.....”

7. On 21 January 2017 the Applicant wrote to me, with a copy to the Respondent, confirming its withdrawal of the Application pursuant to s.28A(2) of the Act.
8. On that same day, 21 January 2017, I wrote to the Respondent, copied to the Applicant, seeking any objections to the withdrawal of the Application under s.28A(3) of the Act.
9. On 23 January 2017 I received an email and letter from the Respondent advising that there were no objections to the withdrawal of the Application pursuant to s.28A(3) of the Act.

10. I therefore accept the Applicant's notice of withdrawal of the Application under section 28A(3)(b) of the Act and release the parties from the Adjudication of the payment dispute.

Costs

11. On 20 January 2017 I wrote to the parties and advised that generally on Withdrawal of an Application, costs follow the Withdrawal. There has been no indication or prior arrangements for costs advised by the parties.
12. In relation to my costs to date, these are to be paid by the Applicant as Costs of the Adjudication under section 46(5) of the Act.
13. I make no decision under section 36(2) of the Act. The parties must bear their own costs.

Confidential Information

14. The following information is confidential:
- (a) the identity of the parties;
 - (b) the identity of the principal; and
 - (c) the location and nature of the works.

DATED: 31 January 2017



Rod Perkins
Adjudicator No. 26