

IN THE DISTRICT COURT  
AT AUCKLAND

CIV-2005-004-224

**UNDER** The Construction Contracts Act 2002

**BETWEEN** **SOLIDCRETE TECHNOLOGY LIMITED**, a duly incorporated company having its registered office at 1005 State Highway 17, Albany, Auckland

Plaintiff

**AND** **FIRST PACIFIC INVESTMENTS LIMITED**, a duly incorporated company having its registered office at 99 Green Lane East, Remuera Auckland

Defendant

Date of Hearing: 4 April 2005

Date of Receipt of Last Supplementary Submissions: 20 April 2005

Date of Judgment: 13 May 2005

Counsel: B. Rooney for plaintiff  
M. Gošić for defendant

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**RESERVED JUDGMENT OF JUDGE RODERICK JOYCE Q.C.**

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*Solicitors:*

*Collaghan & Co, P O Box 1434, Auckland, for plaintiff  
Sheehan Carter, 611, Princes Bay 92318, Auckland, for defendant*

## APPLICATION

[1] The plaintiff ("Solidcrete") has sought summary judgment against the defendant ("First Pacific") for \$82,389.42, plus interest and costs, in reliance on s.23 of the Construction Contracts Act 2003 ("the Act") and on account First Pacific's asserted failure to provide a payment schedule under s.21.

## GROUND OF OPPOSITION

[2] The notice of opposition of First Pacific may be summarised in terms that:

- A payment schedule was provided to the plaintiff on 17 January 2005, 2 working days after receipt of the plaintiff's claim.
- The plaintiff well knew why the claim was disputed and the already mentioned, and two, later payment schedules satisfied the requirements of s.21 of the Act; and given such a state of affairs
- There were substantial issues in dispute between the parties rendering the claim unsuitable for a summary remedy.

## THE ACT

[3] This application is to be dealt with in the context of Part II of the Act which, as was common ground, is applicable to the present facts.

[4] It is necessary constantly to keep in mind that the Act's reformative purposes include the facilitation of regular and timely payments between the parties to a construction contract, and the provision of remedies for the recovery of payments under such – see s.3.

[5] That objective recognises that "there must be a 'cashflow' in the building trade. It is the very life blood of the enterprise" – Lord Denning (quoted in *Gilbert-Ash (Northern) Ltd v Modern Engineering (Bristol) Ltd* [1973] 3 All ER 195, 214 (HL) Lord Diplock).

[6] Progress payments, calculated in accordance with s.17, are a statutory right under a construction contract. In the absence of express terms, a progress payment under a construction contract becomes due and payable on the date occurring 20 working days after a payment claim is served under s.20 the payment - s.18.

[7] There is no room for contracting out - s.12 - though the parties to a construction contract are free to agree on mechanisms for determining the number of progress payments, the interval between them, the amount of each, and the date when such become due - s.14.

[8] Section 20 provides that a 'payee' (which means a party to a construction contract who is entitled to a progress payment) may serve a payment claim on the 'payer' (which means the party to a construction contract who is liable for that payment) *at the end of the relevant period that is specified in, or is determined in accordance with the terms of, the contract; or ... if the contract does not provide for this matter, at the end of the relevant period referred to in s.17.*

[9] Section 20 goes on to adumbrate the essentials of a payment claim but, since it has not directly been contended that the claim here lacked any such, it will suffice if I note that one must include a claimed amount referable to identified work, and the manner of calculation, as well identify itself as a payment claim under the Act.

## PAYMENT SCHEDULES

[10] It is necessary, however, to set out s.21 (dealing with payment schedules) in its entirety:

(1) A payer may respond to a payment claim by providing a payment schedule to the payee.

(2) A payment schedule must -

(a) state why it is not;

(b) identify the payment claim to which it relates, and

(c) indicate a scheduled amount.

(3) If the scheduled amount is less than the claimed amount, the payment schedule must indicate -

(i) The manner in which the payer estimated the scheduled amount;

(b) *The payer's reason or reasons for the difference between the scheduled amount and the claimed amount; and*

(c) *In a case where the difference is because the payer is withholding payment on any basis, the payer's reason or reasons for withholding payment."*

[11] Section 23 provides that if the payer does not provide a payment schedule to the payee within the time required by the construction contract or (if the contract does not provide for the matter) within 30 working days after the payment is received, then the payer becomes liable to pay the claimed amount on the due date for the progress payment to which the payment claim relates.

[12] Section 23 provides that, in a case of failure either to pay or to provide a payment schedule within the time allowed by s.23(b), the payee –

(a) *May recover from the payer, as a debt due to the payee, in any Court, –*

(i) *The unpaid portion of the claimed amount; and*

(ii) *The nominal and reasonable costs of recovery against the payer by that Court; and*

(b) *May serve notice on the payer of the payee's intention to suspend the carrying out of construction work under the construction contract .."*

[13] But, importantly, the Court *must not* enter judgment in favour of the payee unless it is satisfied that the circumstances referred to in ss.(1) exist – and there lies a balancing of the competing interests.

## **FACTUAL BACKGROUND**

[14] The parties entered into a written agreement by which Solidcrete would construct a commercial warehouse facility for First Pacific in Albany.

[15] The terms of the agreement made included that:

"26. You (Solidcrete) may make progress claims on a fortnightly basis. Such claims will be sufficiently detailed to enable accurate assessment.

27. Claims will be evaluated to ensure they are fair and correct and such valuation will form the basis of any payments.

28. The valued amount will be paid within five working days of the receipt of a claim detailed, fair and correct claim."

[16] On 13 January 2005 Solidcrete delivered a payment claim (described as No. 6 and as a payment claim under the Act) for work done between 31 December 2004 and 12 January 2005 in the sum of \$164,808.50 GST inclusive.

[17] On 17 January 2005 Create Management Ltd (First Pacific's project management company) responded:

*"Attached is a copy of my valuation for your progress claim No. 6.*

*Once again we calculate substantial differences in amount of work properly completed to date and invite you to discuss this with myself and the site manager."*

*Anticipated damages are also increasing as your completion date extends. Your current programme (issued 12 Jan 2005) is already out of date.*

*Please issue a tax invoice to this office as usual."*

It is not in issue but that Create, which had prepared the construction contract between the parties, spoke for First Pacific.

[18] Attached to that communication was a two page schedule. Appendix 'A' to this judgment is a copy of same and Appendix 'B' is a copy of the payment claim to which it is said to respond.

[19] First Pacific paid the supposedly scheduled by Create on its behalf \$82,419.08 on 20 January. Solidcrete then gave notice of its intention to suspend work for lack of full payment or what, in its consideration, amounted to a payment schedule.

[20] Create responded on 25 January 2005 (the day of its receipt) with a document that repudiated that of 17 January save that what had been described as "progress claim valuation of work to date" was now identified as a "payment schedule" in reference to "payment claim No. 6".

[21] This document was accompanied by a two page letter from Create arguing that the first, 17 January, document actually did comply with the statute.

[22] On 2 February 2005 First Pacific itself took issue with Solidcrete's rebuff, saying by fax:

*"Although our legal advice is that our previous payment schedule was more than valid etc, given the 20 day working deadline for service of a payment schedule has now just expired, so that there can be no misunderstanding of the position under the*

*contracts we will shortly issue you with a further and more detailed payment schedule under the Construction Contracts Act in relation to your payment claim No. 6.*

[23] First Pacific kept its promise for, that same day and on its behalf, Create sent Solidcrete three documents described as:

- Revised payment schedule No. 6.
- Explanation of differences.
- Detail sheets of slab measure.

## ISSUES

[24] First Pacific's counsel, Mr Gold, identified its stance in this way:

*"The defendant's position is simple. It did provide a document that fulfilled all the ingredients required of a payment schedule."*

[25] Mr Rooney's submission, which can be treated as a helpful elaboration, was that Solidcrete's case turned on the answer to three issues:

- Was First Pacific's 17 January 2005 document a payment schedule within the meaning of the Act?; and if not
- Were First Pacific's 25 January 2005 and/or 2 February 2005 documents payment schedules within the Act; and if so
- Were they delivered to Solidcrete within the requisite time.

## WHAT CONSTITUTES A SUFFICIENT PAYMENT SCHEDULE?

[26] As a reasonable template for what might generally be required, I was referred to a payment schedule form approved by the New Zealand Building Sub-Contractors' Federation Incorporated that is set out in Smellie's Progress Payments and Adjudication, LexisNexis 2003.

[27] The template begins with provision for basic arithmetic setting out the value claimed and the amount approved, and goes on to provide a framework for more details.

[28] Of course the format carries no force at law but, being the effort of an association deeply interested and involved in the whole topic, is certainly not one blithely to be ignored - especially as the view of the text's author that it meets the Act is one that commands great respect.

[29] It could well be said that the 'payment schedule' here does not meet that template's standard. Nevertheless, construction enterprises are no more conducted in an ideal world than any other and a payment schedule should not be looked at in a vacuum, but in the light of individual surrounding circumstances.

[30] Such a schedule will necessarily be in response to a payment claim, which explains why s.21 does not oblige the author of a payment schedule actually to describe it as such.

[31] Subsection 1 of (2) begins in terms that a payer may respond to a payment claim by providing a payment schedule to the payee. So long as it is plain that such responds to a particular payment claim (ss.(2)(b) and "indicates" a "scheduled amount" that suffices, it should generally pass muster.

[32] A "scheduled amount" means - s.19 - *an amount of progress payment specified in a payment schedule that the payer proposes to pay to the payee in response to a payment claim.* There is no obligation, as regards the calculation and explanation thereof, actually to describe the outcome as "a scheduled amount".

### **SOLIDCRETE'S CRITIQUE**

[33] Solidcrete's critique of the 17 January document necessarily related to its asserted failure to meet the requirements of s.21.

[34] It was generally said that this document (being one promoting a payment less than the claimed amount) failed to indicate the manner in which the payer calculated the scheduled amount and the payer's reasons for the difference.

[35] Counsel cited the inclusion of such as a "contra claim" described as "damages for late completion" in the sum of \$25,275 which was simply described as "estimated".

[36] In his final written submission (which related to supplementary legal materials filed by First Pacific) counsel for Solidcrete said that the nub of its argument was that the amount effectively disputed was just \$20,712.38 (GST inclusive) whereas the amount withheld was \$82,389.42.

[37] The assertion was that only the reference (against item 6) to *excludes areas of slab rejected* could possibly qualify, and that merely as regards damage apparently done by crane overload. Nothing else in the document, it was said, could qualify as being sufficient and thus effective.

[38] Counsel also argued that there were distinct anomalies identifiable in the percentage figures in the 17 January document – this when same was related to the previous valuation or schedule. In some cases he said that First Pacific had simply maintained, without explanation, the previous percentages.

[39] But, in my view, Solidcrete cannot ask the Court to overlook that the established pattern had been of relating payments to percentages referable in turn to money sums ascribed to the various components of the job. Indeed it would be artificial and illogical to ignore the present lot of surrounding circumstances and pattern of conduct.

## PRESENT CIRCUMSTANCES

[40] Up until claim No. 6, neither party had dealt in specific reference to the Act – in particular none of the previous claims was described as a being payment claim under the Act.

[41] In the contract itself (that arising from a quotation of 16 August 2004) the job was broken down into some 7 components or elements. From claim No. 1 onwards, such were dealt with on the basis of percentages of work completed.

[42] Each of the "valuations" (as they were originally called) that was delivered in response to the claims prior to that of 12 January, referred to the contract sum and



then allocated section values across each of the components, generally as identified by the original quotation.

[43] The only variation from the original componentry was that the items referred to in the quotation as "2" and "2(a)" were treated as numerically independent and the original item "6" was broken into 2 - hence 9 items altogether.

[44] Mr Young of Solidcrete has acknowledged that the first 5 'payment claims' did not conform with the Act, but complains of the 'manner' of, and amount in which, the earlier claims had been paid.

[45] Following receipt of the very first "valuation" from First Pacific, Solidcrete itself had adopted and used the 9 components formula. And all this occurred in the terms already recognised of the approach of each party being that of percentage in relation to completion calculations.

**THE CREATE (FOR FIRST PACIFIC) RESPONSE**

[46] Coming to the claim now sought to be disputed, and with reference to the submission of a fatal information insufficiency, Mr Stanford of Create has explained that:

20. The major difference between the sum of \$164,808.50 claimed by the plaintiffs (sic) and the sum of \$83,419.08 valued by me as fair and correct was that the plaintiff had claimed for work that was defective. In particular, extensive cracking to ground slabs of units 2 & 3 had occurred. The plaintiff acknowledges that this cracking was caused by the plaintiff overloading those slabs with a 240 tonne crane. These cracked areas had previously been rejected by the defendant's site manager, and advised to the plaintiffs. This was already known by the plaintiffs (sic) when they received my payment schedule, but in any event I noted it in the comments section in relation to 'item 6'. This had been advised via site instruction No. 85810 on 20 December 2004, No. 850814 on 6 January 2005 and No. 859818 on 17 January 2005. The plaintiff was also advised of these faults at site meetings.

31. Although the comments in my valuation of 17 January 2005 are concise, the plaintiff had already been advised of the reasons why the work that they were claiming had been rejected. I do not consider that the comments relate to anything that was not already known by the plaintiffs.

23. The scheduled amount of \$83,419.08 being my assessment of what was fair and correct, was paid to the plaintiffs on 20 January 2005, in accordance with the construction contract (which provided for payment of the valued amount within 5 working days)."

[47] While the reaction of the recipient of the supposed payment schedule cannot of itself be determinative of sufficiency, I note that Mr Young's affidavit in reply for Solidcrete shows no signs of non- or miscomprehension of Mr Stanford's contentions. There is no suggestion that he was not 'in the know'.

[48] And he does not touch at all on the percentage anomalies contention of counsel, so the Court has no evidence on that account.

## DISCUSSION

[49] This is a summary judgment application. Such a judgment can only be got in the proven absence of room for material (and thus legitimate) contention of a kind requiring either a hearing in respect of a question or the full trial process to achieve resolution in limo-honoured fashion.

[50] So the admirable objectives of the Act are not thwarted if a particular plaintiff fails, sufficiently comprehensively for the immediate purpose, to make its case. The message implicit in s.23 is clear. The case must be well made because the Court *must not* enter judgment unless (in terms of the section) it is made out so as to satisfy the Court of the justification for what amounts to a distinctly peremptory (though well justified) weapon.

[51] Thus and entirely consonant too with first principles of summary judgment, a plaintiff acting in circumstances such as the present will be well advised (indeed effectively required) fully and in the first instance to disclose its appreciation of the surrounding circumstances. Indeed it must from the outset be very particular and comprehensive in identifying the perceived deficiencies in a payment schedule.

[52] The present plaintiff did not make a good start in this respect. And the original supporting affidavit failed even to disclose the complete sequence of 'payment schedule' communications. It effectively presumed that its 5 working days contention was the beginning and end of it.

[53] Mr Kounicy emphasised that in *Multiplex* at paragraph [77] the Court had noted that in a building dispute parties will see the issue only from their viewpoint, but that is no excuse for oversight in respect of available and potentially material matters of fact when approaching the Court.

[54] His point (as I would paraphrase it) was that the stage is set for misunderstanding (or miscomprehension) of the issues (and thus obfuscation as might defeat the Act) unless those emerge with sufficient clarity from the payment schedule when read in conjunction with the payment claim.

[55] Be that as it may, in the present case – if Mr Stanford's evidence held sway – it could be found that the schedules (any one including the first of them) were, in light of shared background knowledge, enough to fill the legislated for bill.

[56] Certainly the Young rejoinder does not cover ground sufficient to belie his evidence. As I have said, Solidorote should have (as surely it could have) got down to particulars in the evidential first place.

[57] Given (see below) that First Pacific only had to "indicate" the reasons for the difference, Solidorote should have laid its own ground work solidly – this if it was to demonstrate the absence, even, of a sufficient indication.

#### SO WAS FIRST PACIFIC'S 17 JANUARY 2005 DOCUMENT A "PAYMENT SCHEDULE"?

[58] For the reasons I have already given, First Pacific's 17 January document is clearly enough identifiable as a response to the (described for the first time as such) 13 January 2005 'payment claim' of Solidorote. So I hold it to have identified the payment claim to which it was sought to relate.

[59] But did it include, in terms of s.19, a "scheduled amount"? In other words, did it indicate the manner in which the payer calculated the scheduled amount? In my view, and measured against the settled by then formula used by the parties, it did.

[60] I say that because it must sensibly be the case that the measure of content adequacy must include whether such is a fair match for the content of the particular payment claim.

[61] Did it indicate the payer's reason or reasons for withholding payment on any basis? In other, related to the statute, words did it explain (in indicative terms) the difference?

[62] To "indicate" means "to point out, point to or make known - to show more or less distinctly": see the Shorter Oxford Dictionary on Historical Principles. That dictionary offers as a variant "to express briefly, lightly, or without development; to give an indication".

[63] So the statute's choice of verb must be taken to demonstrate that something rather less than, for example, the full and explicit particulars requisite for many pleadings will suffice.

[64] Though, obviously enough, a payment schedule that is patently a sham - an unwarranted device to avoid or delay payment - is not something the statute would want to see countenanced.

[65] After what appears immediately above had been written, my attention was drawn to *Multiplex Constructions Pty Ltd v Luitkens & Anor* [2003] NSWSC 1140.

[66] There, (under the equivalent New South Wales legislation) Palmer J had the following to say as to what a payment schedule should show:

76. A payment claim and a payment schedule are, in many cases, given and received by parties who are experienced in the building industry and are familiar with the particular building contract, the history of the construction of the project and the broad issues which have produced the dispute as to the claimant's payment claim. A payment claim and a payment schedule must be produced quickly; much that is contained therein is in an abbreviated form which will be meaningless to the uninitiated reader will be understood readily by the parties themselves. A payment claim and a payment schedule should not, therefore, be required to be as precise and as particularised as a pleading in the Supreme Court. Nevertheless, precision and particularity must be required to a degree reasonably sufficient to appraise the parties of the real issues in the dispute.

77. A respondent to a payment claim cannot always content itself with cryptic or vague statements in its payment schedule as to its reasons for withholding payment on the assumption that the claimant will know what issue is sought to be raised. Sometimes the issue is so straightforward or has been so expansively agitated in prior correspondence that the briefest reference in the payment schedule will suffice to identify it clearly. More often than not, however, parties to a building dispute see the issues only from their own viewpoint: they may not be equally in possession of all the facts and they may not equally appreciate the significance of what facts are known to them. This will be so especially where, for instance, the contract is for the construction of a dwelling house and the parties are the owner and a small builder. In such cases, the parties are liable to misunderstand the issues between them unless those issues emerge with sufficient clarity from the payment schedule read in conjunction with the payment claim.

78. Section 14(3) of the Act, in requiring a respondent to 'indicate' its reasons for withholding payment, does not require that a payment schedule give full particulars of those reasons. The use of the word 'indicate' rather than 'state', 'specify' or 'set out', conveys an impression that some want of precision and

*particularity is permissible as long as the essence of 'the reason' for withholding the payment is made known sufficiently to enable the claimant to make a decision whether or not to pursue the claim and to understand the nature of the case it will have to meet in an adjudication."*

[67] I take respectful comfort from the fact that this approach is one coinciding with that to which I had already been attracted.

[68] As has just been confirmed by the Court of Appeal in *George Developments v Canam Construction Ltd* 12/4/05, CA 244104, the key is the provision of sufficient information to make clear the manner in which the amount claimed has been calculated. If the response is an adequate response to the degree of particularity of the payment claim then the claimant should have no cause to complain. The enquiry is contextual.

[69] Nor should it be overlooked that, in Part III, the Act provides a means by which, in specialised hands and timeous terms, disputes over such as the extent of the liability under a payment claim may be determined in something like a specialised environment without the parties having to (though they may) resort to litigation of the traditional kind.

#### **PAYMENT SCHEDULE**

[70] For the foregoing reasons, I hold that the document served or delivered in response to the 13 January 2005 payment claim on 17 January 2005 has not at this point been shown to fall to qualify as a "payment schedule".

[71] Thus Sollderele's application for summary judgment is bound to be dismissed.

[72] However, in case I should be wrong, I turn to the other sub-issues that were argued.

#### **WAS THERE AN AGREEMENT TO ABBREVIATE THE 20 WORKING DAYS?**

[73] If it should turn out that I am wrong in my conclusion that the 17 January 2005 document was "a payment schedule", the question would arise of whether the

parties had agreed to a time less than s.24's 20 working days for the provision of a payment schedule.

[74] As has been seen, s.24 does allow the parties to agree upon a different time. In other words, the 20 working days provision is a default one.

[75] Solidcrete said that clauses 26-28 (as earlier set out) constituted such an agreed (as a distinct alternative to the default provision under the statute) regime.

[76] I do not find clauses 26-28 to amount to an agreement between the parties as to the time within which a payment claim must be responded to under the Act and I now explain why.

[77] Most certainly, parties cannot contract out of the Act. And I would not read the clauses in question as constituting any such attempt.

[78] But nor can I read them as identifying an agreement that the time available for the service or delivery of a payment schedule was to be less than 20 working days.

[79] First of all, the statute is not referred to at all. Secondly, there is nothing drawn to attention as might indicate to the objective spectator that the parties ever had the statute in mind when agreeing to these provisions.

[80] Agreement on a time regime different from that of the statute could only sensibly be recognisable if it was obvious enough that that was what the parties were intent upon. There is no sign of that here.

[81] No doubt it would have sufficed had they adopted the statute's expressions, but the clauses do not even speak of payment claims or schedules.

[82] As has been discussed, and up until claim No. 6, the parties exchanges were in terms of enumerated 'claims' and 'valuations' (based on evaluations) by way of response.

[83] It is also inherently improbable (given the potential consequences) that there would have been a consensus that favoured, so as to be the framework adopted, the abbreviation of 20 working days down to a mere 5.

[84] In my view, the contractual arrangement between the parties is merely identifiable as one aimed at a quick turn around, but with the statutory route being all the while there as a backup, if the contract arrangement failed to work.

#### **EFFICACY OF 25 JANUARY AND 2 FEBRUARY DOCUMENTS**

[85] Given that I am right in this conclusion, First Pacific's responses of 25 January and 2 February 2005, were also in time.

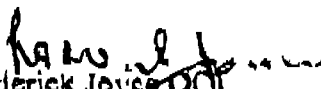
[86] I discard out of hand the contention for Solidcrete that the fact that they were served or delivered at all is an acknowledgement of a fundamental deficiency in the document of 17 January. There was no logic in that proposition.

[87] Each is patently an improvement (in terms of the depth of information provided) upon the respective predecessor including the 17 January document which I have not been summarily persuaded is one failing to meet the statute.

#### **CONCLUSION**

[88] For all of the foregoing reasons, it is my view that Solidcrete has failed to make its case for summary judgment, the application for which is accordingly dismissed.

[89] Counsel may file brief costs submissions in light of the new regime.

  
(Roderick Joyce)  
District Court Judge

before me:

A Solicitor of the High Court of New Zealand

# SOLIDCRETE TECHNOLOGY LTD

27, Rutland Street, City Central, Auckland 1001.

PH: 09-3599111 FAX: 09-3599112

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Pacific Investment Ltd  
OX 101981 NSMC  
AUCKLAND, NEW ZEALAND.

DATE: 13th January 2005

REF: 0124/SCT/28/04

PROJECT MANAGEMENT LTD  
PROJECT MANAGEMENT  
10/11A, 8 SATURN PLACE, ALBANY  
AUCKLAND, NEW ZEALAND.

PROJECT: PROPOSED WAREHOUSE-9 JOHN GLENN AVE, ALBANY

## PAYMENT CLAIM NO: 6

This is a payment claim under the Construction Contracts Act 2002

WORK DONE: 31<sup>st</sup> December 2004 TILL 12<sup>th</sup> January 2005

DUE DATE FOR PAYMENT: 19<sup>th</sup> January 2005

CONTRACT SUM: \$624,292.00 (EXCLUDING V.O. AND ADDITIONAL WORK)

RETAINMENT DEPOSIT: \$31,216.00 (5% OF THE CONTRACT SUM DEDUCTED ON PRO-RATA BASIS OF PROGRESS CLAIM)

CLASS CLAIM ITEM	-5% SUM	% DONE	% WK.PRE THIS CLAIM	% WK.PRE THIS CLAIM	% WK.PRE THIS CLAIM	VAL CLAIM
SUPERVISION	\$27,645.00	70%	50%	20%		\$5,529.00
MOBILISATION	\$8,293.50	80%	70%	10%		\$829.30
TOP SURVEY PROFILE	\$1,900.00	100%	—	—		—
FORMWORK	\$23,037.50	95%	95%	—		—
CONCRETE BEAM	\$71,250.00	95%	43%	52%		\$37,050.00
CONCRETE SLAB	\$108,300.00	55%	38%	17%		\$18,411.00
CONCRETE SLABS	\$276,014.90	75%	60%	15%		\$41,402.20
CONCRETE TILT SLABS	\$66,500.00	65%	0%	65%		\$43,225.00
ASPHALT SUB-BASE	\$10,136.50	100%	—	—		—
<b>TOTAL</b>	<b>\$593,077.40</b>					<b>\$146,448.50 c/f</b>



\$146,446.50 B/F

QNS

1 install additional D16 bar to opening  
diagonal bar to internal corner for Panel A1-1

\$50.08

CT SUM \$624,292.00  
VARIATION \$6,640.00  
GROSS CONTRACT SUM \$630,932.00  
PAYMENT RECEIVED \$277,628.93  
NET CONTRACT AMOUNT \$353,303.07

NET TOTAL OF THIS CLAIM

\$146,496.50

GST

\$18,312.00

NET AMOUNT OF THIS CLAIM

\$164,808.50

*[Handwritten Signature]*

SHARD LIAW  
NETE TECHNOLOGY LTD  
CONTRACTS MANAGER

852 419.00  
 852 350.00  
 852 278.00  
 852 100.00

5. Site Preparation 55,200  
 5. General Work 37,000  
 5. General Work 18,400  
 5. General Work 32,200  
 5. General Work 1,800  
 5. General Work 26,000  
 5. General Work 92,100

Description	Value	Percentage	Value	Notes
As agreed	88,280.00	100%	88,280.00	As agreed
Final "how-to" manual for power and water supply costs total (Provisional)	TBA			
to panel thickness to 170mm	(83,016)	90%	(81,809.75)	estimated
costs for late completion	(80,000)		(26,275.00)	To date only (assumed)
total cost to fit slabs	8350	100%	8350.00	2 claims incl.
if required to footpath & adjacent side			(82,000.00)	Estimated pending completion of repairs
<b>VALUATION TO DATE (excl. GST)</b>	<b>657,918.15</b>		<b>881,882.33</b>	
claims (excl. GST)	Valuation 1 to 6		(808,526.77)	
to Payment (excl. GST)			878,020.89	
GST			89,092.50	
<b>TOTAL VALUATION TO DATE (incl. GST)</b>			<b>982,418.08</b>	

and Ltd

WAREHOUSE  
AVE., ALBANY

Valuation no.  
valuation as at date:

13 January 2005

AIM VALUATION OF WORK TO DATE

First Pacific Investments Ltd

Solidorata Technology Ltd

Original Contract Work	Section Values	% complete	Value to date	Comment
supervision & co-ordination	\$ 27,846.00		\$13,822.50	only 5 weeks to go
mobilisation set up	\$ 8,283.50	80	\$6,634.80	insufficient H&S plan, QA plan. (Provisional)
site & site surveying	\$ 1,800.00	100	\$1,800.00	
work to required sub-base	\$ 23,037.50	98	\$22,686.63	
structure & ground beams	\$ 71,250.00	48	\$34,237.50	excludes (1) slab thickness
crete slabs incl saw cuts	\$ 108,300.00	38	\$41,154.00	as measured by Site Mgr - excludes areas of slab rejected
brick fill slabs	\$ 278,014.00	78	\$217,011.18	as measured by Site Mgr
UP slabs	\$ 88,500.00	80	\$70,800.00	
crete & dry sub-base to car park	\$ 10,136.50	100	\$10,136.50	
	\$ 883,077.40		\$373,062.10	
ash	\$ 31,216.00		\$31,216.00	
net sum	\$ 921,292.40		\$404,297.10	