



No: QUD523/2015

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

**DIRECTOR, FAIR WORK BUILDING INDUSTRY INSPECTORATE**  
Applicant

**ADCO CONSTRUCTIONS PTY LTD ACN 001 044 391**  
Respondent

### **ORDER**

**JUDGE:** JUSTICE COLLIER

**DATE OF ORDER:** 21 October 2015

**WHERE MADE:** Brisbane

#### **THE COURT ORDERS BY CONSENT THAT:**

1. Order 10 of the order of Justice Collier dated 22 July 2015 be vacated.
2. Orders 8 to 10 of the order of Justice Collier dated 21 August 2015 be vacated.
3. The definitions in the Amended Statement of Claim apply to the terms used herein.
4. By 4.00 pm on 11 November 2015 the Respondent give discovery, by serving a list in accordance with Rule 20.17 of the *Federal Court Rules 2011* (Cth) of all documents, or extracts of documents, that are directly relevant to the issues raised by the pleadings falling within the following categories:
  - (a) Any record of information (including, but not limited to, letters, email communications, file notes, text messages, social media postings or records and memoranda) created in the period 1 September 2012 to 31 July 2013 which constitute, refer to or otherwise record any communication(s) or other correspondence between the CFMEU and/or BLF (including delegates, officials, employees and agents of the CFMEU and/or BLF) and employees or agents of the Respondent relating to or concerning:
    - (i) the crane subcontractor/s (or type of crane subcontractor/s), whether by specific reference to crane subcontractor/s or to a category or class of subcontractors that included crane subcontractors, the Respondent



- could or should engage on the Robina Project, the Pindara Hospital Project and/or the Bond University Project (whether by specific reference to these projects or to a category or class of projects that included or applied to the Robina Project, the Pindara Hospital Project and/or the Bond University Project);
- (ii) the crane subcontractor/s (or type of crane subcontractor/s), whether by specific reference to crane subcontractor/s or to a category or class of subcontractors that included crane subcontractors, the Respondent could not or should not engage on the Robina Project, the Pindara Hospital Project and/or the Bond University Project (whether by specific reference to these projects or to a category or class of projects that included or applied to the Robina Project, the Pindara Hospital Project and/or the Bond University Project);
  - (iii) the type of employees (of crane subcontractors whether by specific reference to crane subcontractors or to a category or class of subcontractors that included crane subcontractors) the Respondent could or should allow on the Robina Project, the Pindara Hospital Project and/or the Bond University Project (whether by specific reference to these projects or to a category or class of projects that included or applied to the Robina Project, the Pindara Hospital Project and/or the Bond University Project);
  - (iv) the type of employees (of crane subcontractors whether by specific reference to crane subcontractors or to a category or class of subcontractors that included crane subcontractors) the Respondent could not or should not allow on the Robina Project, the Pindara Hospital Project and/or the Bond University Project (whether by specific reference to these projects or to a category or class of projects that included or applied to the Robina Project, the Pindara Hospital Project and/or the Bond University Project);
  - (v) the engagement of Surf City Cranes Pty Ltd ACN 118 714 837 (Surf City), on the Respondent's projects; and
  - (vi) the cessation of engagement of Surf City, on the Respondent's projects.
- (b) Any record of information (including, but not limited to, letters, email communications, file notes, text messages, social media postings or records



and memoranda) created in the period 1 September 2012 to 31 July 2013 which details:

- (i) the decision to stop engaging and/or communication of the decision to stop engaging Surf City on:
    - (A) the Respondent's projects generally;
    - (B) the Bond University Project,
    - (C) the Pindara Hospital Project; and
    - (D) the Robina Project;
  - (ii) any reason or reason/s why Surf City was not engaged, or was no longer engaged, on the Bond University Project, Pindara Hospital Project or the Robina Project;
  - (iii) any reason or reason/s why a crane services provider other than Surf City was engaged on the Bond University Project, Pindara Hospital Project or the Robina Project.
- (c) Any record of information (including, but not limited to, tax invoices, receipts, letters, email communications, file notes, text messages, records and memoranda) which details:
- (i) the hourly rates paid by the Respondent to Surf City for services provided and work completed on the Bond University Project;
  - (ii) the crane services work the Respondent engaged Surf City to complete on the Bond University Project.
- (d) Any record of information (including, but not limited to, tax invoices, receipts, letters, email communications, file notes, text messages, records and memoranda) which details the crane services work completed by any provider of crane services for the Respondent at:
- (i) the Bond University Project after 12 October 2012;
  - (ii) the Pindara Hospital Project;
  - (iii) the Robina Project;
- including (but not limited to):
- (iv) the hours worked;
  - (v) the qualification/classification of individuals who completed the crane services work;
  - (vi) the equipment used to complete the crane services work;
  - (vii) the applicable rates;



- (viii) the amount paid;
  - (ix) the corporate name of the provider of crane services.
- (e) Any record of information to or from the following employees of the Respondent (including, but not limited to, tax invoices, receipts, letters, email communications, file notes, text messages, social media postings, records and memoranda) created in the period 1 September 2012 to 31 July 2013 regarding any decision to stop engaging or not engage Surf City:
- (i) Michael Duckett;
  - (ii) Colin Kitto;
  - (iii) Richard Tanner;
  - (iv) Simon Hawkins;
  - (v) Greg Radburn;
  - (vi) Adrian Robson.
5. By 4.00 pm on 11 November 2015 the Applicant give discovery, by serving a list in accordance with Rule 20.17 of the *Federal Court Rules 2011* (Cth) of all documents, or extracts of documents, that are directly relevant to the issues raised by the pleadings falling within the following categories:
- (a) The following documents which were produced, received or obtained during the pre-investigation phase to the extent that they are directly relevant to the issues raised by the pleadings:
- (i) statements taken from discussions with relevant individuals;
  - (ii) notes or any other records of discussions with relevant individuals, including any transcripts of interview or examination;
  - (iii) documents produced by relevant individuals to the Applicant;
  - (iv) emails and other written correspondence between FWBC and relevant individuals regarding matters in dispute;
  - (v) recordings of interviews or examinations (whether audio, audio-visual or transcript).
- (b) The following documents which were produced, received or obtained during the investigation phase to the extent that they are directly relevant to the issues raised by the pleadings:
- (i) statements taken from discussions with relevant individuals;
  - (ii) notes or any other records of discussions with relevant individuals, including any transcripts of interview or examination;



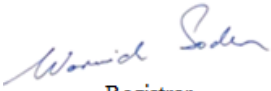
- (iii) documents produced by relevant individuals to the Applicant;
  - (iv) emails and other written correspondence between FWBC and relevant individuals regarding matters in dispute;
  - (v) recordings of interviews or examinations (whether audio, audio-visual or transcript).
- (c) The following documents which were produced, received or obtained during the post-investigation phase to the extent that they are directly relevant to the issues raised by the pleadings:
- (i) statements taken from discussions with relevant individuals;
  - (ii) notes or any other records of discussions with relevant individuals, including any transcripts of interview or examination;
  - (iii) documents produced by relevant individuals to the Applicant;
  - (iv) emails and other written correspondence between FWBC and relevant individuals regarding matters in dispute;
  - (v) recordings of interviews or examinations (whether audio, audio-visual or transcript).
- (d) Documents relating to the alleged loss and damage suffered by Surf City Cranes Pty Ltd as a consequence of the alleged contravening conduct, including but not limited to:
- (i) financial reports of Surf City Cranes Pty Ltd including balance sheets and profit and loss statements of Surf City Cranes Pty Ltd:
    - (A) for the financial year ending 30 June 2012;
    - (B) for the financial year ending 30 June 2013;
    - (C) for the financial year ending 30 June 2014;
  - (ii) records, including new job orders, purchase orders, bookings, contracts and asset registers, which show, record or detail:
    - (A) the number and type of cranes Surf City Cranes Pty Ltd had available for use including hire, between 12 October 2012 and 30 April 2014;
    - (B) how the cranes of Surf City Cranes Pty Ltd were utilised between 12 October 2012 and 30 April 2014;
    - (C) where the cranes of Surf City Cranes Pty Ltd were deployed to between 12 October 2012 and 30 April 2014; or



(D) how many and which types of workers the cranes of Surf City Cranes Pty Ltd were deployed with between 12 October 2012 and 30 April 2014.

6. Orders 4 and 5 of this order are made on the ground that they are for the just resolution of the proceeding.
7. Both parties are to request copies of documents from the lists of discovery documents served by the other party by 4.00 pm on 18 November 2015.
8. Both parties are to produce copies of any documents requested under order 7 to the other party by 4.00 pm on 25 November 2015.
9. The Applicant is to file and serve any affidavits of evidence in chief on which it intends to rely by 4.00pm on 8 December 2015.
10. The Respondent is to file and serve any affidavits of evidence in chief on which it intends to rely by 4.00pm on 29 February 2016.
11. The Applicant is to file and serve any affidavits of evidence in chief in reply on which it intends to rely by 4.00pm on 18 March 2016.
12. The parties shall attend a mediation before a Registrar at a time between 21 March 2016 and 6 May 2016.
13. There be liberty to apply.

Date that entry is stamped: 22 October 2015

  
Registrar

