



**IN THE FEDERAL CIRCUIT COURT
OF AUSTRALIA
AT BRISBANE**

File No: BRG514/2015

BUILT QLD PTY LIMITED ACN 108 064 099
Applicant

CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION
First Respondent

SCOTT VINK
Second Respondent

TIM JARVIS
Third Respondent

STEVE TOYER
Fourth Respondent

STEPHEN ANDERSEN
Fifth Respondent

TEVITA AVININDRA
Sixth Respondent

ORDER

BEFORE: JUDGE VASTA
DATE: 23 June 2015
MADE AT: BRISBANE

APPEARANCES: Mr C J Murdoch of Counsel appearing on behalf of the Applicant and Mr Kent of Queen's Counsel appearing on behalf of the Respondents.

THE COURT ORDERS THAT:

(A) In the following orders:

'Event Cinemas Project' means the construction project located at the Event Cinemas site (previously the Birch, Carroll & Coyle Cinemas) within the Pacific Fair Shopping Centre at Broadbeach, Queensland.



'Event Cinemas Project Employee' means an employee of the Applicant or any Event Cinemas Project Subcontractor engaged to carry out work on the Event Cinemas Project.

'Event Cinemas Project Subcontractor' means any company or organisation carrying out work on the Event Cinemas Project including as a subcontractor to the Applicant or its client, as a subcontractor to a subcontractor to the Applicant or as an entity who has entered into an agreement (whether orally or in writing) with the Applicant to complete work on the Event Cinemas Project and includes:

- (b) Cree8 Commercial Pty Ltd;
- (c) Delta Pty Ltd;
- (d) Disability Lifts Pty Ltd trading as Platform Lift Company;
- (e) Edge Digital;
- (f) Enviro-Acoustics Pty Ltd;
- (g) F.I.P. Electrical (QLD) Pty Ltd;
- (h) IFire Protection Pty Ltd;
- (i) Lindores Construction Logistics Pty Ltd;
- (j) McGahon Building Service Pty Ltd trading as Dewpoint Air;
- (k) Microfire Systems Pty Ltd;
- (l) PHP Contractors Pty Ltd;
- (m) Queensland Glass Pty Ltd;
- (n) Usher and Son Commercial Coatings Pty Ltd; and
- (o) WERX Engineering Pty Ltd trading as S.J.C Engineering.

THE COURT ORDERS THAT UNTIL 4.00 PM ON TUESDAY 30 JUNE 2015:

1. Pursuant to sections 343, 363, 545, 550 and 793 of the *Fair Work Act 2009* that the First Respondent (whether by its officers, delegates or employees, or howsoever otherwise) and the Second to Sixth Respondents be restrained from:
 - (a) advising, encouraging, aiding, abetting, counselling or procuring any stoppage of work by any Event Cinemas Project Employee at the Event Cinemas Project;
 - (b) advising, encouraging, aiding, abetting, counselling or procuring any Event Cinemas Project Employee not to attend for work as required by his or her employer;



- (c) impeding, hindering, preventing or discouraging the entry or exit of persons or vehicles to and from the Event Cinemas Project;
 - (d) organising, encouraging, assisting or participating in a picket line at any entry or exit point of the Event Cinemas Project which has the effect of impeding, hindering, preventing or discouraging the entry or exit of persons or vehicles to and from the Event Cinemas Project;
 - (e) placing or leaving any vehicle, trailer, apparatus, equipment or other thing within 50 metres of any entrance or exit to the Event Cinemas Project;
 - (f) attending, or organising or procuring any person to attend, within 200 metres of any entrance or exit to the Event Cinemas Project, save for such entry:
 - (i) as may be authorised by law;
 - (ii) in the case of the Fourth to Sixth Respondents, pursuant to an applicable contract of employment or engagement;
 - (iii) for the purpose of using a public road for reasons unconnected with the said Event Cinemas Project; or
 - (iv) for the purpose of complying with these orders.
2. Pursuant to section 343, 363, 545, 550 and 793 of the *Fair Work Act 2009* that the First Respondent (whether by its officers, delegates or employees, or howsoever otherwise) and the Second to Sixth Respondents be restrained from organising or taking, or threatening to organise or take, or being involved in organising or taking or threatening to organise or take, any action with the intent to coerce the Applicant to enter into an enterprise agreement with the First Respondent.
3. The orders in paragraphs 1 and 2 do not apply to the organising or taking by any person of protected industrial action in accordance with section 408 of the *Fair Work Act 2009* or activity which is not industrial action because of the operation of section 19(2) of the *Fair Work Act 2009*.
4. Pursuant to section 343, 363, 545, 550 and 793 of the *Fair Work Act 2009* that the First Respondent:
- (a) within 24 hours of this Order being issued:
 - (i) post a copy of this Order on its website;
 - (ii) issue and distribute a circular to each of the Event Cinemas Project Subcontractors and to its members who are employed to perform work at the Event Cinemas Project which sets out the terms of this Order;



5. That, until further order, the First Respondent (whether by its officers, delegates or employees, or howsoever otherwise) and the Second, Third, Fourth, Fifth and Sixth Respondents:
 - (a) Be restrained in the terms set out paragraphs 1, 2 and 3 above;
 - (b) Comply with paragraph 4 above.
6. The Applicant file and serve any further material by 2.00pm Monday 29 June detailing any changes that have occurred as a result of the area described in Order 1f being extended from 50 metres to 200metres.
7. The Respondents file and serve any further material that they wish to rely upon in the interlocutory application by no later than 4.00pm on 25 June 2015.
8. The matter be adjourned to **10.00am** on **30 June 2015** in the Federal Circuit Court of Australia sitting at Brisbane for further interlocutory hearing.

By the Court

DATE ENTERED:23 June 2015


Registrar

Please note you will be liable to imprisonment, sequestration of property or punishment for contempt if:

- (a) you neglect or refuse to do an act or thing within the time specified in this order;
- or
- (b) you disobey this order.