

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 11/12/2015 4:19:36 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged:	Submissions
File Number:	VID333/2015
File Title:	Director of the Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union & Ors
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads 'Warwick Soden'.

Dated: 11/12/2015 4:19:42 PM AEDT

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



No: VID333/2015

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

**DIRECTOR OF THE FAIR WORK BUILDING INDUSTRY INSPECTORATE**

Applicant

**CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION** and others named in the  
schedule

Respondents

**OUTLINE OF EVIDENCE OF LUKE NAUGHTON**

**LUKE NAUGHTON**, Project Manager for McConnell Dowell Constructors (Aust) Pty Ltd, will  
give evidence as to:

**Mr Naughton's employment**

1. Mr Naughton's qualifications, employment history with McConnell Dowell Constructors (Aust) Pty Ltd (**McConnell Dowell**) and his current role and responsibilities as a Project Manager.

**McConnell Dowell**

2. Mr Naughton's knowledge of the nature of McConnell Dowell's business and operations.
3. McConnell Dowell's role as head contractor for the Papa Uniform Golf (PUGS) Taxi Lane Replacement Project at Melbourne Airport (**Project**).
4. McConnell Dowell's greenfields enterprise agreement with the Construction, Forestry, Mining and Energy Union (**First Respondent**) which covers employees working on the Project.

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Filed on behalf of The Applicant

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Prepared by \_\_\_\_\_

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Law firm Lander & Rogers

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Tel +61 3 9269 9639 Fax +61 3 9269 9001

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Email wspargo@landers.com.au Ref MVD: 2045563

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DX 370, Melbourne

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**Address for Service** **LANDER & ROGERS**, Lawyers  
Level 12, 600 Bourke Street, Melbourne VIC 3000  
Email: wspargo@landers.com.au

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## **The Project**

5. That the Papa Uniform Golf (PUGS) Taxi Lane Replacement Project at Melbourne Airport (**Project**) involved slab replacement in a particular taxi lane at Melbourne Airport.
6. A description of the premises where the works were carried out.
7. Mr Naughton's knowledge and experience of the usual commencing, finishing and break times of employees of McConnell Dowell working on the Project.

## **Rod Duggan, Gavin Carter and David White**

8. That:
  - (a) Rod Duggan (**Duggan**) was a labourer working for McConnell Dowell and a health and safety representative;
  - (b) Gavin Carter (**Carter**) was a site supervisor working for McConnell Dowell; and
  - (c) David White (**White**) was the Operations Manager (Southern Region Australia) for McConnell Dowell.

## **The First, Second and Third Respondents**

9. Mr Naughton's past dealings with representatives of the First Respondent and understanding of union right of entry.
10. Mr Naughton's understanding of the roles performed by Mark Travers (**Second Respondent**) and Adam Hall (**Third Respondent**) and his past interactions with each of them.

## **Events of 17 June 2014**

11. Mr Naughton's attendance at work and the events which occurred on 17 June 2014.
12. The location of the lunch room within the Project site and in relation to Mr Naughton's office.
13. The time and manner in which Mr Naughton was informed that the Second and Third Respondent were on site and speaking with Duggan in the lunch room.
14. Mr Naughton's first visit to the lunch room upon receiving this information and his observations of the Second and Third Respondent speaking to Duggan there.

15. Mr Naughton's knowledge that the Second and Third Respondent had not provided an entry notice giving at least 24 hours' notice of their intention to enter the site.
16. Mr Naughton's actions following his first visit to the lunchroom, including his telephone call to White.
17. White's advice to Mr Naughton that he should ask the Second and Third Respondent to leave the site and call the police if they refused.
18. Mr Naughton's request to Carter that he accompany Mr Naughton on a second visit to the lunch room.
19. Mr Naughton's second visit to the lunch room and his conversation with the Second Respondent in the presence of Carter and the Third Respondent, including that:
  - (a) he requested the Second and Third Respondent to leave the site, citing their failure to provide 24 hours' notice;
  - (b) they refused, denying that they were required to provide 24 hours' notice
  - (c) he repeated his request to leave; and
  - (d) the Second Respondent told him that he and the Third Respondent were discussing safety matters with Mr Duggan.
20. Mr Naughton's direction to Carter that he stay in the lunch room while Mr Naughton made a further telephone call to Mr White.
21. White's instruction that Mr Naughton should repeat his request for the Second and Third Respondent to leave and call the police if they refused.
22. Mr Naughton's further conversation with the Second and Third Respondent in which he again requested that they leave and they again refused to leave.
23. Mr Naughton's direction to Carter that he stay in the lunch room while Mr Naughton called the police.
24. Mr Naughton's telephone discussion with the Australian Federal Police (**AFP**) and his communication of the fact he had called the AFP to the Second and Third Respondent.
25. Mr Naughton's telephone discussion with John Rose of the Victoria Police.

26. Mr Naughton's observations of the AFP officers arriving on site, his interactions with them and observations of their communications with the Second and Third Respondent
27. Mr Naughton's observations of the AFP officers escorting the Second and Third Respondent to their car.