

FILE NO :	2016/45027	
PARTIES :	Clayton William SEARLE v Commonwealth of Australia	
DIVISION :	Common Law	
DATES :	9.4.24	
CORAM :	Garling J	

GARLING J MAKES THE FOLLOWING ORDERS BY CONSENT:

The Court orders by consent that:

Diesel Fitter Sample Group members

1. Pursuant to r 21.2(1)(a) of the *Uniform Civil Procedure Rules 2005*, the Plaintiff must give discovery to the Defendant of the following categories of documents for each Diesel Fitter Sample Group Member, as soon as is reasonably practicable, with production to be provided in tranches beginning by 5 April 2024:
 - a. Personal tax returns and notices of assessment for the financial years ended 30 June 2009 to 30 June 2024 for the Diesel Fitter Sample Group Member;
 - b. Documents evidencing any formal or trade qualifications held by the Diesel Fitter Sample Group Member;
 - c. Applications for employment made by the Diesel Fitter Sample Group Member since being discharged from the Royal Australian Navy;
 - d. Documents recording or referring to any training or industry recognised work experience the Diesel Fitter Sample Group Member undertook after discharge towards any qualification, particular any competency units achieve towards a particular qualification; and
 - e. Documents dated or created in the period 2012 to date recording the Curriculum Vitae (or similar) of the Diesel Fitter Sample Group Member.
2. Pursuant to r 21.2(1)(a) of the *Uniform Civil Procedure Rules 2005*, the Defendant must give discovery to the Plaintiff of the following categories of documents for each Diesel Fitter Sample Group Member, as soon as is reasonably practicable, with production to be provided in tranches beginning by 5 April 2024:
 - a. Copies of ADO Service Records containing details of Course History, Proficiency History, Academic Qualifications and Competencies Assessed, as well as copies of any Qualification Certificates, for currently enlisted Diesel Fitter Sample Group Members;
 - b. Copies of ADO Service Records containing details of Course History, Proficiency History, Academic Qualifications and Competencies Assessed, as well as copies of any Qualification Certificates, available to the Navy for discharged Diesel Fitter Sample Group Members;
 - c. The ADF Permanent Pay Rates and Allowances (or equivalent document) published in the Pay and Conditions Manual of the Australia

Defence Force (PACMAN) for the period 30 July 2015 to 30 June 2024;

- d. All documents recording or evidencing any appraisals, reviews, or reports regarding the Diesel Fitter Sample Group Member's performance or conduct during the time that they were enlisted;
- e. All documents recording or evidencing the pay and allowances received by the Diesel Fitter Sample Group Member in the course of the Diesel Fitter Sample Group Member's enlistment in the Navy;
- f. All documents recording or evidencing any postings or promotions that the Diesel Fitter Sample Group Member has been awarded, including in relation to the group member's rank, pay grade, or skill grade;
- g. All documents recording or evidencing any consideration of whether to, or any decision to or not to:
 - i. assign the Diesel Fitter Sample Group Member to a particular posting; or
 - ii. award the Diesel Fitter Sample Group Member with a particular honour or promotion (including in relation to the Diesel Fitter Sample Group Member's rank, pay grade or skill grade); and
- h. All documents recording or evidencing any medical, psychiatric, psychometric, or other testing or evaluation conducted in relation to the Diesel Fitter Sample Group Member in the course of the Diesel Fitter Sample Group Member's enlistment, including any consideration or evaluation of:
 - i. the Diesel Fitter Sample Group Member's fitness for a particular role or roles; or
 - ii. the Diesel Fitter Sample Group Member's fitness to enlist or to remain enlisted in the Navy.

Refrigeration and air-conditioning Sample Group members

- 3. Pursuant to r 21.2(1)(a) of the *Uniform Civil Procedure Rules 2005*, the Plaintiff must give discovery to the Defendant of the following categories of documents for each Refrigeration and air-conditioning Sample Group Member, as soon as is reasonably practicable, with production to be provided in tranches beginning by 5 April 2024:
 - a. Personal tax returns and notices of assessment for the financial years ended 30 June 2009 to 30 June 2024 for the Refrigeration and air-conditioning Sample Group Member;
 - b. Documents evidencing any formal or trade qualifications held by the Refrigeration and air-conditioning Sample Group Member;
 - c. Applications for employment made by the Refrigeration and air-conditioning Sample Group Member since being discharged from the Royal Australian Navy;
 - d. Documents recording or referring to any training or industry recognised work experience the Refrigeration and air-conditioning Sample Group Member undertook after discharge towards any qualification, particular any competency units achieve towards a particular qualification; and

- e. Documents dated or created in the period 2012 to date recording the Curriculum Vitae (or similar) of the Refrigeration and air-conditioning Sample Group Member.
4. Pursuant to r 21.2(1)(a) of the *Uniform Civil Procedure Rules 2005*, the Defendant must give discovery to the Plaintiff of the following categories of documents for each Refrigeration and air-conditioning Sample Group Member, as soon as is reasonably practicable, with production to be provided in tranches beginning by 5 April 2024:
- a. Copies of ADO Service Records containing details of Course History, Proficiency History, Academic Qualifications and Competencies Assessed, as well as copies of any Qualification Certificates, for currently enlisted Refrigeration and air-conditioning Sample Group Members;
 - b. Copies of ADO Service Records containing details of Course History, Proficiency History, Academic Qualifications and Competencies Assessed, as well as copies of any Qualification Certificates, available to the Navy for discharged Refrigeration and air-conditioning Sample Group Members;
 - c. The ADF Permanent Pay Rates and Allowances (or equivalent document) published in the Pay and Conditions Manual of the Australia Defence Force (PACMAN) for the period 30 July 2015 to 30 June 2024;
 - d. All documents recording or evidencing any appraisals, reviews, or reports regarding the Refrigeration and air-conditioning Sample Group Member's performance or conduct during the time that they were enlisted;
 - e. All documents recording or evidencing the pay and allowances received by the Refrigeration and air-conditioning Sample Group Member in the course of the Refrigeration and air-conditioning Sample Group Member's enlistment in the Navy;
 - f. All documents recording or evidencing any postings or promotions that the Refrigeration and air-conditioning Sample Group Member has been awarded, including in relation to the group member's rank, pay grade, or skill grade;
 - g. All documents recording or evidencing any consideration of whether to, or any decision to or not to:
 - i. assign the Refrigeration and air-conditioning Sample Group Member to a particular posting; or
 - ii. award the Refrigeration and air-conditioning Sample Group Member with a particular honour or promotion (including in relation to the Refrigeration and air-conditioning Sample Group Member's rank, pay grade or skill grade); and
 - h. All documents recording or evidencing any medical, psychiatric, psychometric, or other testing or evaluation conducted in relation to the Refrigeration and air-conditioning Sample Group Member in the course of the Refrigeration and air-conditioning Sample Group Member's enlistment, including any consideration or evaluation of:

- i. the Refrigeration and air-conditioning Sample Group Member's fitness for a particular role or roles; or
- ii. the Refrigeration and air-conditioning Sample Group Member's fitness to enlist or to remain enlisted in the Navy.

For these orders:

'Document' has the meaning given in the *Evidence Act 1995* (NSW) and includes letters, emails and faxes, notes of any description, and records stored in any electronic format.

'Reference' has the meaning given to it in order 1 of the orders made by Garling J on 18 August 2023 in these Proceedings.

'Diesel Fitter Sample Group Member' means the following Diesel Fitter group members which the parties have agreed will be the subject of assessment for the Reference:

1. Kalob David Holland;
2. Thomas James Anning;
3. Benjamin Alan Harper;
4. Wade Barry Williamson;
5. Timothy Lawrence Graham;
6. Mark Alan Daniels;
7. Scott Graham Bowring;
8. Daniel John Carter;
9. Mitchell Kevin Cupitt;
10. Jarryd Anthony De Strang;
11. Mark John Rixon; and
12. Justin David Frith.

'Refrigeration and air-conditioning Sample Group Member' means the following Refrigeration and air-conditioning group members which the parties have agreed will be the subject of assessment for the Reference:

1. Jack Samuel Walsh;
2. Cameron Lyall Woodham;
3. Robert Graham Connors;
4. Richard Hunt Kirkham;
5. Adam Scott Bartusch;
6. Jake Ronald Richard Cannon;
7. John Graeme Duffield;
8. Rhys Andrew Yaxley;
9. Jon Jaie Cresswell;
10. Joshua Aaron Day;
11. Christopher Jack Stuart Fairley;
12. Blake John Castro; and

13. Cailean Cameron.