



Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD1908/2016

GAVIN SMITH and others named in the schedule
Applicant

COMMONWEALTH OF AUSTRALIA (DEPARTMENT OF DEFENCE)
Respondent

ORDER

JUDGE: JUSTICE JAGOT

DATE OF ORDER: 04 April 2017

WHERE MADE: Sydney

THE COURT ORDERS THAT:

Discovery

General

1. By 4:00pm on 12 April 2017, the respondent is to provide a written response to the applicants' proposed categories for discovery as set out in the Redfern Schedule provided to the respondent's solicitor dated 29 March 2017, by providing, without limitation:
 - a. the nature and reasons for any objections to the proposed categories; and
 - b. any alternative categories that the respondent agrees to discover.
2. By 4:00pm on 12 April 2017, the applicants are to provide a written response to the respondent's proposed categories for discovery as set out in the schedule provided to the applicants' solicitor dated 29 March 2017, by providing, without limitation:
 - a. the nature and reasons for any objections to the proposed categories; and
 - b. any alternative categories that the applicants agree to discover
3. By 4:00pm on 19 April 2017, the applicants are to provide the respondent with a written reply to the response provided by the respondent.
4. By 4:00pm on 19 April 2017, the respondent is to provide the applicants with a written reply to the response provided by the applicants.
5. By 4:00pm on 26 April 2017, the applicants and the respondent to:
 - a. inform the Associate to Jagot J that categories for discovery have been agreed and precisely what agreement has been reached; or



- b. inform the Associate to Jagot J that categories for discovery have not been agreed, advise what categories for discovery are sought by each party and which are disputed by the other party and seek to have the matter relisted by no later than 10 May 2017 for further orders to be made in relation to discovery.

Respondent to provide discovery – tranches

6. The respondent is to make discovery in the following way:
 - a. The respondent to make discovery, in electronic format, of all documents pursuant to the categories for discovery that have been agreed or ordered by way of 3 tranches then available to be made available for inspection on the following dates:
 - i. By 4:00pm on 30 June 2017 (Tranche 1);
 - ii. By 4:00pm on 31 August 2017 (Tranche 2); and
 - iii. By 4:00pm on 31 October 2017 (Tranche 3).
 - b. By 4:00pm on 31 October 2017, the respondent to serve a List of Documents pursuant to Rule 20.17 of the *Federal Court Rules 2011* (Cth) with respect to the documents made available for inspection by the solicitors for the applicants pursuant to Tranche 1, Tranche 2 and Tranche 3.

Applicants to provide discovery

7. By 4:00pm on 31 August 2017, the applicants to:
 - a. make discovery, in electronic format, of all documents pursuant to the categories for discovery that have been agreed or ordered; and
 - b. serve a List of Documents pursuant to Rule 20.17 of the *Federal Court Rules 2011* (Cth) with respect to the documents made available for inspection by the solicitors for the Respondent.

Evidence and other matters

8. The parties' representatives are to, no later than 30 June 2017, confer with a view to:
 - a. agreeing an efficient, timely and cost effective process for the preparation of evidence, including considering engaging joint experts where appropriate;
 - b. discussing a timetable for the filing of lay and expert evidence in chief and evidence in reply; and
 - c. considering a timetable for mediation and the further conduct of the proceedings including any procedural or administrative matters.

Further directions

9. The matter is listed for a further case management hearing at 9:30am on 11 July 2017.
10. Liberty to apply on 3 days' notice.



Date that entry is stamped:

Warrick Soden
Registrar



Schedule

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Second Applicant	KIM SMITH
Third Applicant	ANN AND LINDSAY CLOUT SMSF PTY LTD ACN 154 516 006
Fourth Applicant	ANN CLOUT
Fifth Applicant	LINDSAY CLOUT
Sixth Applicant	JOHN ARTHUR HEWITT
Seventh Applicant	CHANTEL WALKER
Eighth Applicant	MARSHALLS TRANSPORT PTY LTD
Ninth Applicant	NICHOLAS MARSHALL
Tenth Applicant	MELISSA MARSHALL