



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

REGISTRAR: REGISTRAR NG

DATE OF ORDER: 12 July 2017

WHERE MADE: Sydney

BY CONSENT, THE COURT ORDERS THAT:

1. Leave be granted to the solicitors for the parties to inspect and copy in the Registry, the documents produced in accordance with the Subpoena addressed to The Proper Officer, Sonic Healthcare Limited (**S3**).
2. Leave be granted to the solicitors for the Respondent to have first access to (and to uplift) the documents produced in response to the Subpoenas addressed to:
 - a. The Proper Officer, Jacobs Group (Australia) Pty Ltd ACN 001 024 095 (**S4**)
 - b. The Proper Officer, CRC Care Pty Ltd ACN 113 908 044 (**S1**), and
 - c. The Proper Officer, SMEC Australia Pty Ltd ACN 065 475 149 (**S2**),

until 4.30pm on 26 July 2017.

3. By 4.30pm on 26 July 2017:



- a. The solicitors for the Respondent notify the solicitors for the Applicants of any confidentiality or privilege claims made over the documents produced in response to the subpoenas issued to Jacobs Group (Australia) Pty Ltd, CRC Care Pty Ltd and SMEC Australia Pty Ltd, with such notification to identify:
 - i. each document in relation to which a full claim of confidentiality or privilege is made
 - ii. each document in relation to which a partial claim of confidentiality or privilege is made, and
 - iii. in respect of each document in relation to which a full or partial claim of confidentiality or privilege is made, the basis upon which that claim is made.
- b. The solicitors for the Respondent provide the Court with:
 - i. a redacted copy of each document produced in response to the subpoenas issued to Jacobs Group (Australia) Pty Ltd, CRC Care Pty Ltd and SMEC Australia Pty Ltd in relation to which a partial claim for confidentiality or privilege is made, and
 - ii. a separate envelope containing all documents produced in response to the subpoenas issued to Jacobs Group (Australia) Pty Ltd, CRC Care Pty Ltd and SMEC Australia Pty Ltd in relation to which a full claim of confidentiality or privilege is made.
4. The solicitors for the Respondent return the documents produced in response to the subpoenas issued to Jacobs Group (Australia) Pty Ltd, CRC Care Pty Ltd and SMEC Australia Pty Ltd to the Registry by 4.30pm on 26 July 2017.
5. Leave be granted to the solicitors for the Applicants to access and uplift for the purposes of inspection and copying:



- a. the documents produced in response to the Subpoenas issued to Jacobs Group (Australia) Pty Ltd, CRC Care Pty Ltd and SMEC Australia Pty Ltd in respect of which no confidentiality / privilege claims have been made in accordance with Order 3, and
- b. any redacted copies of documents produced in response to the Subpoenas issued to Jacobs Group (Australia) Pty Ltd, CRC Care Pty Ltd and SMEC Australia Pty Ltd in respect of which partial claims of confidentiality and/or privilege have been made in accordance with Order 3,

from 9am on 27 July 2017.

6. Leave pursuant to Orders 1, 2 and 5 to access and uplift documents produced in response to the subpoenas issued to Jacobs Group (Australia) Pty Ltd, CRC Care Pty Ltd and SMEC Australia Pty Ltd is granted on the following conditions:
 - a. If original documents rather than copies have been produced, the solicitor provides to the Registry a letter of consent from the person to whom the subpoena is addressed.
 - b. Documents be returned to the Registry in the same condition as when uplifted.
 - c. Documents be returned promptly and, in any event, when an officer of the Registry so requests.
7. The subpoena addressed to The Proper Officer, AECOM Services Pty Ltd ACN 000 691 690 be stood over until 19 July 2017.
8. The subpoena addressed to The Proper Officer, New South Wales Environment Protection Authority be stood over for a period of two weeks until 26 July 2017.
9. The subpoena addressed to The Proper Officer, GHD Pty Ltd ACN 008 488 373 be stood over for a period of two weeks until 26 July 2017.



10. The subpoena addressed to The Proper Officer, Coffey International Limited ACN 003 835 112 be stood over for a period of four weeks until 9 August 2017.

11. Unless the Court otherwise orders, no party shall be entitled to inspect, uplift or copy the documents produced in response to the subpoenas issued to Jacobs Group (Australia) Pty Ltd, CRC Care Pty Ltd and SMEC Australia Pty Ltd in relation to which a full claim of confidentiality or privilege is made.

12. Any notice of objection in relation to the documents produced in response to the Subpoenas issued to:

- a. Sonic Healthcare Limited
- b. AECOM Services Pty Ltd
- c. Coffey International Ltd
- d. CRC Care Pty Ltd
- e. GHD Pty Ltd
- f. Jacobs Group (Australia) Pty Ltd
- g. SMEC Australia Pty Ltd
- h. WSP Australia Pty Limited
- i. NSW EPA


or any application to set aside the above mentioned subpoenas be filed by 9 August 2017.

13. On completion of this matter, the Registrar may return to the addressee of the subpoena any document without giving the issuing party any further notice.



14. The subpoena addressed to The Proper Officer, WSP Australia Pty Ltd ACN 078 004 798 to be adjourned to 9.30 am on Wednesday, 26 July 2017 at the Law Courts Building, Queens Square, Sydney.

Date that entry is stamped: 13 July 2017


Registrar

Subsection 35A (5) of the *Federal Court of Australia Act 1976* (the *Act*) provides that a party to proceedings in which a Registrar has exercised any of the powers of the Court under subsection 35A (1) of the Act may, within the time prescribed by the Rules of Court, or within any further time allowed in accordance with the Rules of Court, apply to the Court to review that exercise of power.

Rule 3.11 provides that a party may apply to the Court under subsection 35A (5) of the Act for review of the exercise of a power of the Court by a Registrar and that any application must be made within 21 days after the day on which the power was exercised. A party seeking a review can apply to the Court to dispense with any requirement of the Rules (Rule 1.34).



Schedule

No: NSD1908/2016

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

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