



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: 11 October 2017

WHERE MADE: Sydney

BY CONSENT, THE COURT ORDERS THAT:

1. The return of subpoena hearing in relation to the subpoenas issued to The Proper Officer, AECOM Services Pty Ltd ACN 000 691 690 (**AECOM Subpoena**), and The Proper Officer, Sullivan Nicolaides Pty Ltd (**Sullivan Nicolaides Subpoena**) on 11 October 2017 be vacated.

AECOM Subpoena

2. The AECOM Subpoena and the Sullivan Nicolaides Subpoena be adjourned to 9:30 am on Wednesday, 18 October 2017 at the Law Courts Building, Queens Square, Sydney.

Jacobs Group, SMEC, WSP GHD and Coffey Subpoenas – first access period

Further to the orders made on 20 September 2017:

3. The date until which the Respondent has first access to the documents produced:
 - 3.1. on 12 July and 9 August 2017 in response to the subpoena addressed to The Proper Officer, Jacobs Group (Australia) Pty Ltd ACN 001 024 095 (the **Jacobs Group Subpoena**) (S9)
 - 3.2. in response to the subpoena addressed to The Proper Officer, SMEC Australia Pty Ltd ACN 065 475 149 (the **SMEC Subpoena**) (S2)



- 3.3. in response to the subpoena addressed to The Proper Officer, WSP Australia Pty Limited ACN 078 004 798 (the **WSP Subpoena**) (S7)
- 3.4. on 10 August 2017 in response to the subpoena addressed to The Proper Officer, GHD Pty Ltd ACN 008 488 373 (the **GHD Subpoena**) (S10), and
- 3.5. in response to the subpoena addressed to The Proper Officer, Coffey International Limited ACN 003 835 112 (the **Coffey Subpoena**),

be EXTENDED to 4.30pm on 25 October 2017.

4. The time by which the solicitors for the Respondent are to:

- 4.1. notify the solicitors for the Applicants in writing of any confidentiality or privilege claims made over the documents referred to in Order 3, with such notification to identify:
 - 4.1.1. each document in relation to which a full claim of confidentiality or privilege is made
 - 4.1.2. each document in relation to which a partial claim of confidentiality or privilege is made, and
 - 4.1.3. in respect of each document in relation to which a full or partial claim of confidentiality is made, the basis upon which that claim is made, and

4.2. provide the Court with:

- 4.2.1. a redacted copy of each document referred to in Order 3 in relation to which a partial claim of confidentiality or privilege is made with only those parts of the document over which confidentiality or privilege is claimed to be redacted, and
- 4.2.2. a separate envelope containing all documents referred to in Order 3 in relation to which a full claim of confidentiality or privilege is made,

be EXTENDED to 4.30pm on 25 October 2017.

5. The date by which the solicitors for the Respondent are to return the documents referred to in Order 3 to the Registry be EXTENDED to 4.30pm on 25 October 2017.

6. The date from which leave be granted to the solicitors for the Applicants to access and uplift for the purposes of inspection and copying:

- 6.1. the documents referred to in Order 3 in respect of which no confidentiality and/or privilege claims have been made in accordance with Order 4; and




6.2. any redacted copies of documents referred to in Order 3 in respect of which partial claims of confidentiality and/or privilege have been made in accordance with Order 4,

be EXTENDED to 9am on 26 October 2017.

7. The court notes that the first access period referred to above in Order 3 was requested by the Respondent, and granted, on 11 October 2017.
8. Where the Respondent seeks an extension to the first access period referred to above in Order 3, the Respondent must by 5:00pm on 24 October 2017 file and serve an affidavit outlining the reasons why it seeks such an extension.
9. The Jacobs Group Subpoena, the SMEC Subpoena, the WSP Subpoena, the GHD Subpoena and the Coffey Subpoena be adjourned to 9:30 am on Wednesday, 25 October 2017 at the Law Courts Building, Queens Square, Sydney.

Date that entry is stamped: 11 October 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
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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