

NOTICE OF MOTION

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	General
Registry	Sydney
Case number	2020/00359004

TITLE OF PROCEEDINGS

Plaintiff	DANNY MARIELLE MOUSSA
First defendant	CAMDEN COUNCIL ABN 31117341764
Number of defendants	4

FILING DETAILS

Person seeking orders	CORNISH GROUP SPRING FARM PTY LTD , second defendant
Legal representative	Bharath Balasubramanian Marsdens Law Group
Legal representative reference	435414
Contact name and telephone	Bharath Balasubramanian Tel. (02) 4626 5077
Contact email	bbalasubramanian@marsdens.net.au

PERSONS AFFECTED BY ORDERS SOUGHT

DANNY MARIELLE Moussa, Plaintiff

HEARING DETAILS

This motion is listed at

ORDERS SOUGHT

1. Pursuant to s 192A of the *Evidence Act 1995* (NSW) the Court determine in advance of any final hearing the question of the admissibility or use of the following evidence proposed to be adduced in these proceedings by the Plaintiff:
 - (a) Witness Statement of Rupinder Kaur dated 7 July 2022
 - (b) Witness Statement of Timothy Samuel Van Netten dated 7 July 2022
 - (c) Witness Statement of Gennan Lu dated 7 July 2022
 - (d) Witness Statement of Anne Marie Chapman dated 7 July 2022
 - (e) Witness Statement of Timothy James Bruce dated 7 July 2022
 - (f) Witness Statement of Angela Louise Alman dated 7 July 2022
 - (g) Witness Statement of Claire Brimble dated 7 July 2022
 - (h) Witness Statement of Matthew Newham dated 7 July 2022
 - (i) Witness Statement of Kristen Rita Brettle dated 8 July 2022
 - (j) Witness Statement of Brigitte Antoinette Button-Buisson dated 7 July 2022
 - (k) Witness Statement Sharon Louise Luhr dated 8 July 2022
2. Pursuant to s 136 of the *Evidence Act 1995* (NSW) the use of the served lay witness evidence identified above in Order (1) be limited only to the question of whether there are any common questions in these proceedings.
3. Pursuant to rule 21.2 of the *Uniform Civil Procedure Rules 2005* (NSW), an order that on or before [*date to be inserted by Court*], the Plaintiff is to give discovery in accordance with the categories of documents set out in **Annexure A** to this motion, together with a list of documents verified in accordance with rr 21.3 and 21.4 of the *UCPR*, with production to occur in accordance with the Electronic Exchange Protocol (“the **Protocol**”) as previously agreed between the parties.
4. Costs.
5. Any other order this Honourable Court sees fit.

SIGNATURE

Signature of legal representative



Capacity

Solicitor on record

Date of signature

26 September 2022

NOTICE TO PERSON AFFECTED BY ORDERS SOUGHT

If you do not attend, the court may hear the motion and make orders, including orders for costs, in your absence.

REGISTRY ADDRESS

Street address: Supreme Court of NSW, Level 5, Law Courts Building, Queens Square, 184 Phillip Street, Sydney NSW 2000

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DX: Supreme Court of NSW, DX 829, Sydney NSW

Telephone: 1300 679 272

ANNEXURE A

Form 1 (version 4)
UCPR [enter UCPR rule]

CATEGORIES OF DOCUMENTS TO BE DISCOVERED BY THE PLAINTIFF

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	Common Law General
Registry	Sydney
Case number	2020/359004

TITLE OF PROCEEDINGS

Plaintiff	DANNY MARIELLE MOUSSA
First Defendant	CAMDEN COUNCIL
Second Defendant	CORNISH GROUP SPRING FARM PTY LTD ACN 120 837 381
Third Defendant	SMEC TESTING SERVICES PTY LTD (IN LIQUIDATION) ACN 101 164 792
Fourth Defendant	SMECTS HOLDINGS PTY LTD ACN 063 746 823

DETAILS

Filed for	CORNISH GROUP SPRING FARM PTY LTD , Second Defendant
Legal representative	Bharath Balasubramanian, Marsdens Law Group
Legal representative reference	435414
Contact name and telephone	Bharath Balasubramanian Tel. (02) 4626 5077
Contact email	bbalasubramanian@marsdens.net.au

CATEGORIES OF DISCOVERY

1. All correspondence with any solicitor or conveyancer acting on the Plaintiff's behalf in relation to the purchase of the Property.
2. Any file maintained by a solicitor or conveyancer on the Plaintiff's behalf in relation to the purchase of the Property.
3. Any correspondence with any real estate agents, Firststyle Homes Pty Ltd or Anvest Holdings Pty Ltd in relation to the purchase of the Property.
4. All correspondence and contracts with any builder, engineer, certifier, Camden Council, the Mine Subsidence Board or any entity contracted to perform works on the Property, in relation to the dwelling constructed upon the Property or any other form of construction or earth works performed to the Property.

5. All documents, plans, diagrams, reports, letters, advices, opinions, or laboratory or other testing results referring to, and dealing with, advice, approval, testing or services provided by any builder, engineer, certifier, Camden Council and/or the Mine Subsidence Board in relation to the construction of, or rectification of, the dwelling constructed upon the Property.
6. All documents in relation to any additions or alterations to the dwelling constructed on the Property, including in relation to the construction of any outdoor entertainment or alfresco area.
7. All documents in relation to any rectification undertaken with respect to any part of the Property.
8. All correspondence with Tyrrells Property Inspections Pty Ltd in relation to any inspection or report undertaken by them with respect to the dwelling constructed upon the Property.
9. Any file maintained by Dr Kodsi for the period 2016 to date on the Plaintiff's behalf.
10. Any file maintained by Ms Paiche Hartley for the period 2016 to date on the Plaintiff's behalf.
11. The SCRs.
12. Any correspondence with any Group Member in relation to any alleged:
 - (a) Subsidence of land in any part of the Cornish Masterplan Area.
 - (b) Any building defects for any property situated within any part of the Cornish Masterplan Area.
 - (c) Any building defects to the dwelling on the Property.
13. All documents evidencing that the public is aware that properties in the Spring Farm Area are unsound for building, and the means by which the public became so aware, including any document sent or received by the Plaintiff containing the term "sink farm".
14. Any correspondence with any journalist and/or reporter in relation to any alleged:
 - (a) Subsidence of land in any part of the Cornish Masterplan Area.
 - (b) Any building defects for any property situated within any part of the Cornish Masterplan Area.
 - (c) Any building defects to the dwelling on the Property.

Note:

Property: means the land at Lot 4127 in DP 1195599 known as 37 Wagner Road, Spring Farm NSW 2570

SCRs: means that term as defined in the Further Amended Statement of Claim.

Spring Farm Area: means that phrase as defined in the Further Amended Statement of Claim.

Unsound for building: means that phrase as defined in the Further Amended Statement of Claim.

Cornish Masterplan Area: means that phrase as defined in the Further Amended Statement of Claim.

Group Member: means that phrase as defined in the Further Amended Statement of Claim.