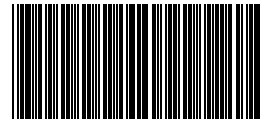




Filed: 27 March 2026 4:40 PM



D0002C7ZXK

**FIFTH CROSS-CLAIM
DEFENCE TO CROSS CLAIM**

COURT DETAILS

Court	Supreme Court of NSW
Division	Common Law
List	Common Law General
Registry	Supreme Court Sydney
Case number	2024/00338021

TITLE OF PROCEEDINGS

First Plaintiff	Adam James Bray
First Defendant	TRANSPORT FOR NSW ABN 18804239602
Second Defendant	ACCIONA INFRASTRUCTURE PROJECTS AUSTRALIA PTY LTD
Number of Defendants	3

TITLE OF THIS CROSS-CLAIM

First Cross Claimant	Jacobs Group (Australia) Pty Ltd ACN 001024095
Second Cross Claimant	SMEC Australia Pty Limited
First Cross Defendant	BRETT ANDREW BUTTON
Second Cross Defendant	Linq Buslines Pty Ltd
Number of Cross Defendants	6 Refer to Party Details at rear for full list of parties

FILING DETAILS

Filed for	GHD PTY LTD, Cross Defendant 6
Filed in relation to	Cross-Claim 5
Legal representative	Tyler Atkins
Legal representative reference	
Telephone	0433935813

NOTICE OF LISTING

This matter has been listed at the same time as the cross claim.

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Defence to Cross Claim (e-Services), along with any other documents listed below, were filed by the Court.

Defence (UCPR 7A/7B) (260327 - GHD - Defence to 5XC 3448-8553-6073 v.1.pdf)

[attach.]

Form 7A (version 5)
UCPR 14.3

FIFTH CROSS-CLAIM DEFENCE TO CROSS-CLAIM

COURT DETAILS

Court	Supreme Court of NSW
Division	Common Law
List	Common Law General
Registry	Supreme Court Sydney
Case number	2024/00338021

TITLE OF PROCEEDINGS

First plaintiff	Adam James Bray
First defendant	Transport for NSW ABN 18804239602
Number of defendants	3

TITLE OF FIFTH CROSS-CLAIM

First cross-claimant	Jacobs Group (Australia) Pty Ltd (ACN 001 024 095)
First cross-defendant	Brett Andrew Button
Number of cross-defendants	6

FILING DETAILS

Filed for	GHD Pty Ltd ACN 008 488 373 , sixth cross-defendant
Filed in relation to	Fifth Cross-Claim
Legal representative	Tyler Atkins, Batch Mewing
Legal representative reference	[reference number]
Contact name and telephone	Tyler Atkins, + 61 433 935 813
Contact email	tyler.atkins@batchmewing.com.au

PLEADINGS AND PARTICULARS

The sixth cross-defendant, GHD Pty Ltd (**GHD**), pleads and responds to the Fifth Cross-Claim Statement of Cross-Claim (**Fifth Cross-Claim**) filed on 19 January 2026 as follows, adopting the defined terms therein unless stated otherwise or the context requires.

Brett Andrew Button

- 1 GHD admits paragraph 1 of the Fifth Cross-Claim.
- 2 GHD does not plead to paragraphs 2 and 3 of the Fifth Cross-Claim as they contain no allegations against GHD.

Linq Buslines

- 3 GHD admits paragraph 4 of the Fifth Cross-Claim
- 4 GHD does not plead to paragraphs 5 and 6 of the Fifth Cross-Claim as they contain no allegations against GHD.

Transport for NSW

- 5 GHD admits paragraph 7 of the Fifth Cross-Claim.
- 6 GHD does not plead to paragraphs 8 to 17 of the Fifth Cross-Claim as they contain no allegations against GHD.

Acciona Infrastructure Projects Australia Pty Ltd

- 7 GHD admits paragraph 18 of the Fifth Cross-Claim.
- 8 GHD does not plead to paragraphs 19 and 20 of the Fifth Cross-Claim as they contain no allegations against GHD.

AECOM Cost Consulting Pty Ltd

- 9 GHD admits paragraph 21 of the Fifth Cross-Claim.
- 10 GHD does not plead to paragraphs 22 to 41 of the Fifth Cross-Claim as they contain no allegations against GHD.

GHD Pty Ltd

- 11 GHD admits paragraph 42 of the Fifth Cross-Claim.
- 12 GHD does not plead to paragraph 43 of the Fifth Cross-Claim as it contains no allegations against GHD.
- 13 As to paragraph 44 of the Fifth Cross-Claim, GHD:
 - (a) says that the paragraph is embarrassing and liable to be struck out because Jacobs and SMEC do not identify:
 - (i) how it is said that GHD owed a duty of care to Acciona by reference to sections 5B and 5C of the *Civil Liability Act 2002* (NSW); and
 - (ii) the material facts relied upon to contend that such a duty is “at least equivalent in scope” to that owed by Jacobs or “alternatively, coextensive in part” with the duty owed by Jacobs; and
 - (b) denies paragraph 44 of the Fifth Cross-Claim.

- 14 As to paragraph 45 of the Fifth Cross-Claim, GHD:
- (a) says that the paragraph is embarrassing and liable to be struck out because ACC does not identify:
 - (i) how it is said that GHD owed a duty of care to ACC by reference to sections 5B and 5C of the *Civil Liability Act 2002* (NSW);
 - (ii) the material facts relied upon to contend that such a duty is “at least equivalent in scope” to that owed by Jacobs and/or SMEC or “alternatively, coextensive in part” with the duty owed by Jacobs and/or SMEC to ACC; and
 - (b) denies paragraph 45 of the Fifth Cross-Claim.
- 15 As to paragraph 46 of the Fifth Cross-Claim, GHD:
- (a) repeats and relies upon the matters pleaded in paragraphs 13 and 14 above;
 - (b) says that the Fifth Cross-Claim is embarrassing and liable to be struck out because Jacobs and SMEC have not identified, by reference to section 5D of the *Civil Liability Act 2002* (NSW), how they say that any alleged breach of duty on the part of GHD caused loss to any of the plaintiff, group members, TfNSW or Acciona; and
 - (c) denies paragraph 46 of the Fifth Cross-Claim.
- 16 As to paragraph 47 of the Fifth Cross-Claim, GHD:
- (a) repeats and relies upon the matters pleaded in paragraphs 13 to 15 above; and
 - (b) denies paragraph 47 of the Fifth Cross-Claim.

Limitation under the EPA Act

- 17 In further answer to the entirety of Jacob’s and SMEC’s claims against GHD, GHD says that:
- (a) the design and construction of the Branxton Interchange is building work:
 - (i) within the meaning of section 109ZK(1) of the *Environmental Planning and Assessment Act 1979* (NSW);
 - (ii) alternatively (from and after 1 March 2018), within the meaning of section 6.20(1) of the *Environmental Planning and Assessment Act 1979* (NSW);
 - (b) each of the Jacob’s and SMEC’s claims against GHD is:
 - (i) a “building action” within the meaning of section 109ZK(1);

- (ii) alternatively (from and after 1 March 2018), a civil action for loss or damage arising out of or in connection with defective building work within the meaning of section 6.20(1) of the *Environmental Planning and Assessment Act 1979* (NSW);
- (c) Jacob's and SMEC's claims against GHD are claims for recovery of economic loss; they are not claims for the recovery of damages for death or personal injury arising out of or concerning defective building work within the meaning of:
 - (i) section 109KL of the *Environmental Planning and Assessment Act 1979* (NSW);
 - (ii) alternatively (from and after 1 March 2018), section 6.21 of the *Environmental Planning and Assessment Act 1979* (NSW);
- (d) with respect to section 109ZK(1) of the *Environmental Planning and Assessment Act 1979* (NSW):
 - (i) the Branxton Interchange was first used on 22 March 2014;
 - (ii) by reason of the matter referred to in subparagraph (d)(i) above, the latest date for bringing a building action in relation to the design and construction of the Branxton Interchange was 22 March 2024;
 - (iii) the Fifth Cross-Claim was filed on 25 October 2025, being a later than 22 March 2024; and
 - (iv) by reason of the matters referred to in subparagraphs (a) to (d)(iii) above, the claims in the Fifth Cross-Claim against GHD are barred;
- (e) in the alternative to the matter pleaded in paragraph (d) above and with respect to section 6.20 of the *Environmental Planning and Assessment Act 1979* (NSW) (on and from 1 March 2018):
 - (i) completion of the Branxton Interchange occurred on 7 November 2014 at the latest;
 - (ii) by reason of the matter referred to in subparagraph (e)(i) above, the latest date a civil action for loss or damage arising out of or in connection with defective building work with respect to the Branxton Interchange could be brought was 7 November 2024;
 - (iii) the Fifth Cross-Claim was filed on 19 January 2026, being a later than 7 November 2024; and

- (iv) by reason of the matters referred to in subparagraphs (a) to (c) and (f)(i) to (f)(iii) above, the claims in the Fifth Cross-Claim against GHD are barred.

Limits to recovery by the plaintiff and group members

Civil Liability Act 2002 (NSW)

- 18 In further answer to the entirety of Jacob's and SMEC's claims against GHD, GHD says that:
- (a) by reason of section 30 of the *Civil Liability Act 2002 (NSW)*, to the extent any claims against GHD concern a claim for damages for pure mental harm arising wholly or partly from mental or nervous shock in connection with another person (the "victim") being killed, injured or put in peril by an act or omission of ACC, a person bringing such a claim is not entitled to recover damages for pure mental harm unless that person:
 - (i) witnessed, at the scene of the accident, the victim being killed, injured or put in peril; or
 - (ii) is a "close member of the family" of the victim, as defined by section 30(5) of the *Civil Liability Act 2002 (NSW)*;
 - (b) by reason of section 31 of the *Civil Liability Act 2002 (NSW)*, GHD has no liability to pay damages with respect to a claim for pure mental harm resulting from negligence unless the harm consists of a recognised psychiatric illness; and
 - (c) by reason of section 33 of the *Civil Liability Act 2002 (NSW)*, the Court cannot make an award of damages for economic loss for consequential mental harm resulting from negligence unless the harm consists of a recognised psychiatric illness.

Motor Accident Injuries Act 2017 (NSW)

- 19 In further answer to the entirety of Jacob's and SMEC's claims against GHD, GHD says that:
- (a) by reason of the *Motor Accident Injuries Act 2017 (NSW)* sections 4.1 and 4.2, Part 4 of the *Motor Accident Injuries Act 2017 (NSW)* applies to and in respect of any award of damages to the plaintiff or any group member in respect of the claims pleaded in the ASOC; and
 - (b) in the alternative, if Part 4 of the *Motor Accident Injuries Act 2017 (NSW)* does not so apply, then Part 2 of the *Civil Liability Act 2002 (NSW)* applies.

No double recovery

- 20 In further answer to the entirety of Jacob's and SMEC's claims against GHD, GHD says that by reason of the prohibition against double recovery, any damages payable by GHD are to be reduced to the extent that the plaintiff or any group member has received statutory benefits or damages under the *Motor Accident Injuries Act 2017* (NSW), non-refundable compensation under the *Workers Compensation Act 1987* (NSW), or any other form of compensation.

Contributory negligence

- 21 In further answer to the entirety of Jacob's and SMEC's claims against GHD, GHD says:
- (a) each of the seats on the bus was fitted with an "approved seatbelt" within the meaning of the *Road Rules 2014* (NSW);
 - (b) by reason of *Road Rules 2014* (NSW) rules 265(1) and (2), each passenger of the bus who was 16 years or older was required to wear a seatbelt properly adjusted and fastened; and
 - (c) to the extent any such passenger was not wearing a seatbelt properly adjusted and fastened, then pursuant to *Motor Accident Injuries Act 2017* (NSW) sections 4.17(1) and (2)(c), *Law Reform (Miscellaneous Provisions) Act 1965* (NSW) s 9, and Part 1A Division 8 of the *Civil Liability Act 2002* (NSW), any damages payable in respect of any claims against GHD referable to any such a passenger should be reduced by such extent as the Court thinks just and equitable.

Relief

- 22 GHD denies that Jacob and /or SMEC are entitled to the relief claimed against GHD in the Fifth Cross-Claim.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under clause 4 of Schedule 2 to the *Legal Profession Uniform Law Application Act 2014* that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the defence to the claim for damages in these proceedings has reasonable prospects of success.

Signature



Capacity

Solicitor on record

Date of signature

27 March 2026