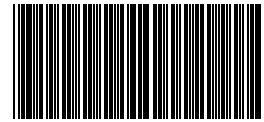




Filed: 10 April 2026 9:17 PM



D0002CHVWH

Defence to Amended Statement of 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	TRANSPORT FOR NSW ABN 18804239602
First Cross Defendant	Brett Andrew Button (MIN: 708188)
Second Cross Defendant	LINQ BUSLINES PTY. LTD.
Number of Cross Defendants	7

FILING DETAILS

Filed for	Jacobs Group (Australia) Pty Ltd, Cross Defendant 5
Filed in relation to	Cross-Claim 1
Legal representative	Alexander McKellar
Legal representative reference Telephone	03 8601 4504

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Defence to Amended Statement of Cross Claim (Defence to 1XC (DJV) 2026 04
10(17406925.1).pdf)

[attach.]

Form 7A (version 5)
UCPR 14.3

DEFENCE TO AMENDED FIRST CROSS-CLAIM

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law Division
List	General List
Registry	Sydney
Case number	2024/00338021

TITLE OF PROCEEDINGS

Plaintiff	Adam James Bray
First defendant	Transport for New South Wales ABN 18 804 239 602
Second defendant	Acciona Infrastructure Projects Australia Pty Ltd ACN 000 201 516
Third defendant	Aecom Cost Consulting Pty Ltd ACN 008 657 289

TITLE OF AMENDED FIRST CROSS-CLAIM

Cross-claimant	Transport for New South Wales ABN 18 804 239 602
First cross-defendant	Brett Andrew Button
Second cross-defendant	Linq Buslines Pty Ltd ACN 131 153 896
Third cross-defendant	Acciona Infrastructure Projects Australia Pty Ltd ACN 000 201 516
Fourth cross-defendant	Aecom Cost Consulting Pty Ltd ACN 000 201 516
Fifth cross-defendant	Jacobs Group (Australia) Pty Ltd ACN 001 024 095
Sixth cross-defendant	SMEC Australia Pty Limited ACN 065 475 149
Seventh cross-defendant	GHD Pty Ltd ACN 008 488 373

FILING DETAILS

Filed for	Jacobs Group (Australia) Pty Ltd ACN 001 024 095 Fifth cross-defendant SMEC Australia Pty Limited ACN 065 475 149 Sixth cross-defendant
Filed in relation to	Cross-Claimant's Amended First Cross-Claim
Legal representative	Alex McKellar, HFW Australia for the Fifth cross-defendant

	Steven Lurie, Clyde & Co for the Sixth cross-defendant
Legal representative reference	HFW reference: 92929/11 Clyde & Co reference: 10762844
Contact name and telephone	Alex McKellar (03) 8601 4504 Steven Lurie (02) 9210 4404
Contact email	alex.mckellar@hfw.com steven.lurie@clydeco.com

PLEADINGS AND PARTICULARS

This defence to the First Cross-Claim, Amended Statement of Cross-Claim filed on 15 January 2026 (**Amended First Cross-Claim**) is filed on behalf of the fifth cross-defendant, Jacobs Group (Australia) Pty Ltd (defined as “SKM” in the Amended First Cross-Claim) (**Jacobs**) and the sixth cross-defendant, SMEC Australia Pty Limited (**SMEC**).

The headings of the Amended First Cross-Claim and terms defined within the Amended First Cross-Claim are adopted herein unless otherwise defined. This approach has been adopted solely to assist the Court and the parties to the dispute and is not in itself any way an admission by Jacobs or SMEC to any part of the Amended First Cross-Claim.

1 Jacobs and SMEC note paragraph 1.

Brett Andrew Button

2 Jacobs and SMEC admit paragraph 2.

3 In answer to paragraph 3, Jacobs and SMEC:

a. admit paragraph 3(a);

b. do not admit paragraph 3(b) and say:

i. in so far as the paragraph relates to “group members who are not passengers”, that until the “group members who are not passengers” are identified, it is not possible to say whether the driver owed them a duty of care to avoid causing them harm; and

ii. in so far as the “group members” allege they have suffered compensable mental harm, the limitation on recovery in section 30 of the *Civil Liability Act 2002* (NSW) (**CLA**) applies.

4 Jacobs and SMEC admit paragraph 4.

5 In answer to paragraph 5, Jacobs and SMEC:

a. admit the paragraph in so far as it relates to the plaintiff; and

- b. do not admit the balance of the paragraph and rely upon and repeat paragraph 3 above.

6 Jacobs and SMEC admit paragraphs 6 and 6A.

Linq Buslines

7 Jacobs and SMEC admit paragraphs 7 to 10.

8 In answer to paragraph 11, Jacobs and SMEC:

- a. admit the paragraph in so far as it relates to the plaintiff; and
- b. do not admit the balance of the paragraph and rely upon and repeat paragraph 3 above.

9 Jacobs and SMEC admit paragraphs 12 and 12A.

Acciona Infrastructure Projects Australia Pty Ltd

10 Jacobs and SMEC admit paragraphs 13, 14 and 15.

11 In answer to paragraphs 16 to 20, Jacobs and SMEC:

- a. admit the paragraphs; and
- b. otherwise rely on the terms of the Design and Construct Project Deed as if set out in full.

12 Jacobs and SMEC admit paragraph 21.

Contribution

13 In answer to paragraph 22, Jacobs and SMEC:

- a. admit that some of the elements of the duty of care alleged by the plaintiff as against Transport for NSW are in respect of the design and construction of the interchange; and
- b. otherwise do not admit the paragraph.

14 In answer to paragraph 23, Jacobs and SMEC:

- a. refer to and repeat their response to paragraph 22; and
- b. otherwise do not know and cannot admit what work was delegated to Acciona other than pursuant to the terms of the Design and Construct Project Deed.

15 Jacobs and SMEC do not admit paragraphs 24 to 26A.

Direct Negligence

16 Jacobs and SMEC do not admit paragraphs 27 to 28.

Breach of Contract

17 Jacobs and SMEC do not admit paragraph 29.

Aecom Cost Consulting Pty Ltd

18 Jacobs and SMEC admit paragraph 30.

19 Jacobs and SMEC admit paragraph 31.

20 In answer to paragraphs 32 and 33, Jacobs and SMEC:

- a. admit the paragraphs; and
- b. otherwise rely on the terms of the Deed of Appointment of Project Verifier as if set out in full.

21 Jacobs and SMEC admit paragraph 34.

22 Jacobs and SMEC do not admit paragraphs 35 to 39A.

Direct Negligence

23 Jacobs and SMEC do not admit paragraphs 40 and 41.

Breach of Contract

24 Jacobs and SMEC do not admit paragraph 42.

Design Joint Venture – SKM and SMEC

25 Jacobs and SMEC admit paragraphs 43 and 44.

DJV Subcontract

26 Jacobs and SMEC admit paragraph 45.

27 Jacobs and SMEC admit paragraphs 46 to 47 and otherwise rely on the terms of the DJV Subcontract as if set out in full.

28 In answer to paragraph 48, Jacobs and SMEC:

- a. admit subparagraphs 48(a) to (d) and subparagraph 48(f);
- b. deny subparagraph 48(e); and
- c. otherwise rely on the terms of the DJV Subcontract as if set out in full.

29 In answer to paragraphs 49 to 51, Jacobs and SMEC:

- a. admit the paragraphs; and
- b. otherwise rely on the terms of the DJV Subcontract as if set out in full.

30 In answer to paragraph 52, Jacobs and SMEC:

- a. deny the paragraph; and
- b. otherwise rely on the terms of the DJV Subcontract as if set out in full.

31 In answer to paragraphs 53 to 55, Jacobs and SMEC:

- a. admit the paragraphs; and
- b. otherwise rely on the terms of the DJV Subcontract as if set out in full.

32 In answer to paragraph 56, Jacobs and SMEC:

- a. admit subparagraphs 56(a) and 56(b);
- b. deny subparagraph 56(c); and
- c. otherwise rely on the terms of the DJV Subcontract as if set out in full.

33 In answer to paragraph 57, Jacobs and SMEC:

- a. refer to and repeat their response to paragraph 56;
- b. deny the paragraph; and
- c. otherwise rely on the terms of the DJV Subcontract as if set out in full.

34 In answer to paragraphs 58 to 61, Jacobs and SMEC:

- a. admit the paragraphs; and
- b. otherwise rely on the terms of the DJV Subcontract as if set out in full.

Deeds of Indemnity

35 In answer to paragraph 62, Jacobs and SMEC:

- a. admit the paragraph; and
- b. otherwise rely on the terms of the DJV Subcontract as if set out in full.

36 In answer to paragraph 63, Jacobs and SMEC understand that the reference to SMK is intended to be a reference to SKM and on that basis admit the paragraph.

37 In answer to paragraph 64, Jacobs and SMEC:

- a. refer to and repeat paragraph 33 above;
- b. say design work was defined in the Schedule to the Deed of Covenant to include the detailed design and documentation as defined in the Design and Construction Deed, SWTC and SWTC Appendices;
- c. say further that the warranty contained in the Deed of Covenant was only to the RTA (and not the world at large);
- d. otherwise rely on the terms of the Deed of Covenant as if set out in full.

Contribution

38 In answer to paragraph 65, Jacobs and SMEC:

- a. admit that some of the elements of the duty of care alleged by the plaintiff as against Transport for NSW are in respect of the design and construction of the interchange; and
- b. otherwise do not admit the paragraph.

39 In answer to paragraph 66, Jacobs and SMEC:

- a. admit that some of the breaches of duty alleged by the plaintiff against Transport for NSW are allegations with respect to the design and construction of the interchange; and
- b. otherwise do not admit the paragraph.

40 Jacobs and SMEC deny paragraph 67.

41 Jacobs and SMEC deny paragraphs 68 to 70.

Direct Negligence

42 Jacobs and SMEC deny paragraph 71.

43 In answer to paragraph 72, Jacobs and SMEC:

- a. say that:
 - i. each of them is a professional within the meaning of s5O of the CLA (**s5O**); and
 - ii. the matters in respect of which they are sued in these proceedings arise from the provision by them of a professional service within the meaning of s5O;
- b. say that in providing the professional service impugned in these proceedings, they acted in a manner that (at the time the services were provided) was widely accepted in Australia by peer professional opinion as competent professional practice;
- c. say that, in the premises, and pursuant to s5O, they do not incur a liability in negligence as alleged or at all; and
- d. otherwise deny paragraph 72.

Breach of warranty

44 Jacobs and SMEC deny paragraph 73.

45 Jacobs and SMEC admit paragraphs 74 to 81.

Contribution

46 Jacobs and SMEC admit paragraphs 82 to 87.

Limitation under the EPA Act

47 In further answer to the whole of the Amended First Cross-Claim, Jacobs and SMEC say that:

- a. the Services that Jacobs and SMEC provided pursuant to the DJV Subcontract which are the subject of the claim brought by TfNSW against Jacobs and SMEC in the Amended First Cross-Claim, were building work:
 - i. within the meaning of section 109ZK(1) of the *Environmental Planning and Assessment Act 1979* (NSW) applicable prior to 1 March 2018 (**Former EPA Act**); and
 - ii. from 1 March 2018 onwards, within the meaning of sections 6.19 and 6.20(1) of the *Environmental Planning and Assessment Act 1979* (NSW) (**EPA Act**).
- b. the claim brought by TfNSW against Jacobs and SMEC in the Amended First Cross-Claim is:
 - i. a building action within the meaning of sections 109ZI and 109ZK of the Former EPA Act; and
 - ii. 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 EPA Act;
- c. claim brought by TfNSW against Jacobs and SMEC in the Amended First Cross-Claim is not a claim for recovery of damages for death or personal injury arising out of or concerning defective building work within the meaning of section 109ZL of the Former EPA Act or section 6.21 of the EPA Act;
- d. with respect to section 109ZK of the Former EPA Act:
 - i. the building work the subject of the claim brought by TfNSW against Jacobs and SMEC in the Amended First Cross-Claim was first used on 22 March 2014;
 - ii. by reason of (i), the latest date for bringing a building action in relation to that building work was 22 March 2024;
 - iii. the Amended First Cross Claim was filed on 12 February 2026;

- iv. in the premises pleaded at (a)-(d)(iii), the claim brought by TfNSW against Jacobs and SMEC in the Amended First Cross-Claim is barred by operation of section 109ZK of the Former EPA Act;
- e. further and in the alternative, with respect to section 6.20 of the EPA Act:
 - i. the building work the subject of the claim brought by TfNSW against Jacobs and SMEC in the Amended First Cross-Claim was completed by 7 November 2014;
 - ii. by reason of (i), the latest date for bringing a building action in relation to that building work was 7 November 2024;
 - iii. the Amended First Cross Claim was filed on 12 February 2026;
 - iv. in the premises pleaded at (a)-(c) and (e)(i)-(iii), the claim brought by TfNSW against Jacobs and SMEC in the Amended First Cross-Claim is barred by operation of section 6.20 of the EPA Act.

SIGNATURE OF LEGAL REPRESENTATIVE

~~This defence does not require a certificate under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014.~~

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 for the Fifth Cross-Defendant to the First Cross-Claim

Date of signature

10 April 2026

Signature



Capacity

Solicitor on record for the Sixth Cross-Defendant to the First Cross-Claim, by his partner, S. Lurie

Date of signature

10 April 2026

FURTHER DETAILS ABOUT FILING PARTY

Filing party

Name **Jacobs Group (Australia) Pty Ltd ACN 001 024 095**

Address c/o HFW Australia,
Level 10, 126 Phillip Street
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Frequent user identifier [include if the filing party is a registered frequent user]

Legal representative for filing party

Name Alex McKellar

Practising certificate number P0021746

Firm HFW Australia

Address Level 10, 126 Phillip Street
Sydney, NSW 2000

Telephone (03) 8601 4504

Fax (03) 8601 4555

Email alex.mckellar@hfw.com

Electronic service address alex.mckellar@hfw.com

Filing party

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Address c/o Clyde & Co
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Sydney, NSW 2000

Frequent user identifier [include if the filing party is a registered frequent user]

Legal representative for filing party

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Practising certificate number 52554

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