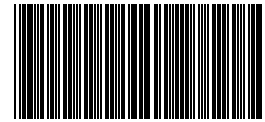




Filed: 28 April 2026 5:14 PM



D0002CVMG5

Amended Defence

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	ACCIONA INFRASTRUCTURE PROJECTS AUSTRALIA PTY LTD,Cross Defendant 3
Filed in relation to	Cross-Claim 1
Legal representative	Michael Bath
Legal representative reference	
Contact name and telephone	Aristea Friedrich 02 8315 2706
Your reference	169881

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.

Amended Defence (20260428 FINAL Defence to TfNSW's Amended 1XC - Acciona.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
List	General
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 000 201 516)

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	Acciona Infrastructure Projects Australia Pty Ltd, third cross-defendant
Filed in relation to	Amended first cross-claim (filed 12 February 2026)
Legal representative	Michael Ronald Bath, Carter Newell Lawyers

Legal representative reference MRB:AXF:169881
 Contact name and telephone Aristeia Friedrich, 8315 2706
 Contact email afriedrich@carternewell.com

HEARING DETAILS

If the proceedings do not already have a listing date, they are to be listed at

PLEADINGS AND PARTICULARS

This is the defence of the third cross-defendant ("**Acciona**") to the amended statement of cross-claim (first cross-claim) filed by the cross-claimant ("**Transport**") on 12 February 2026 ("**Transport's Amended Cross-Claim**"). Below, the term:

- "**ASOC**" means the plaintiff's amended statement of claim filed 15 July 2025, and "**Defence to the ASOC**" means Acciona's defence filed 7 August 2025 to the ASOC;
- "**bus**" and "**driver**" have the meaning as in the ASOC;
- "**Design and Construct Project Deed**" and "**RTA**" have the same meaning as in Transport's Amended Cross-Claim;
- "**Acciona's Cross-Claim**" means the statement of cross-claim (second cross-claim) filed 17 September 2025; and
- "**Aecom's Cross-Claim**" means the statement of cross-claim (third cross-claim) filed 27 October 2025, and "**Defence to Aecom's Cross-Claim**" means Acciona's defence filed 16 January 2026 to Aecom's Cross-Claim.

INTRODUCTION

1 Acciona admits paragraph 1 of Transport's Amended Cross-Claim.

BRETT ANDREW BUTTON

2 Acciona admits paragraph 2 of Transport's Amended Cross-Claim.

3 In response to paragraph 3 of Transport's Amended Cross-Claim, Acciona:

- (a) admits subparagraph (a); and
- (b) does not admit subparagraph (b).

4 In response to paragraph 4 of Transport's Amended Cross-Claim, Acciona:

- (a) admits that the accident that is the subject of this proceeding ("**accident**") was caused by the manner in which the driver drove the bus; and

- (b) does not know the full details of the accident and, therefore, cannot admit, and does not admit, the remainder of the paragraph.

5 In response to paragraph 5 of Transport's Amended Cross-Claim, Acciona:

- (a) admits that the accident was caused by the manner in which the driver drove the bus;
- (b) admits the driver breached his duty to the plaintiff; and
- (c) does not know the full details of the accident and, therefore, cannot admit, and does not admit, the remainder of the paragraph.

6 Acciona does not admit paragraph 6 of Transport's Amended Cross-Claim.

7 Acciona does not admit paragraph 6A of Transport's Amended Cross-Claim.

LINQ BUSLINES

8 In response to paragraphs 7 to 12A of Transport's Amended Cross-Claim, Acciona:

- (a) repeats paragraphs 6 to 14 of Acciona's Cross-Claim; and
- (b) otherwise does not admit the paragraphs, which do not make any allegations against Acciona or in support of the case against it.

ACCIONA INFRASTRUCTURE PROJECTS AUSTRALIA PTY LTD

Formalities

9 Acciona admits paragraph 13 of Transport's Amended Cross-Claim.

10 Acciona admits paragraph 14 of Transport's Amended Cross-Claim.

Design and Construct Project Deed

11 Acciona admits paragraph 15 of Transport's Amended Cross-Claim.

12 Acciona admits paragraph 16 of Transport's Amended Cross-Claim.

13 As to paragraph 17 of Transport's Amended Cross-Claim, Acciona, in response to:

- (a) subparagraph (a) - admits that it agreed with RTA (not the world at large) to investigate, design and construct the Project Works in accordance with the terms of the Design and Construct Project Deed;
- (b) subparagraph (b) - admits that it so warranted to RTA (not the world at large);
- (c) subparagraph (c) - admits that it so agreed with RTA (not the world at large);

- (d) subparagraph (d) - admits that it so agreed with RTA (not the world at large);
- (e) subparagraph (e) - admits that it so accepted vis-a-vis RTA (not the world at large); and
- (f) otherwise denies the paragraph.

14 Acciona admits paragraph 18 of Transport's Amended Cross-Claim.

15 As to paragraph 19 of Transport's Amended Cross-Claim, Acciona, in response to:

- (a) subparagraph (a) - admits it was so obliged, but says the party entitled to enforce that obligation was RTA (not the world at large); and
- (b) subparagraph (b) - admits that it so acknowledged, but says that acknowledgement was given to RTA (not the world at large).

16 In response to paragraph 20 of Transport's Amended Cross-Claim, Acciona:

- (a) admits that it so warranted to RTA (not the world at large); and
- (b) otherwise denies the paragraph.

Design and construction of the interchange

17 Acciona admits paragraph 21 of Transport's Amended Cross-Claim and says that, in respect of the design and construction of the interchange under the Design and Construct Project Deed ("**D&C Work**"), Acciona engaged:

Design subcontractors & consultants

- (a) Sinclair Knight Merz Pty Ltd (ACN 001 024 095), now known as Jacobs Group (Australia) Pty Ltd (ACN 001 024 095) ("**SKM**"), to provide design services;
- (b) SMEC Australia Pty Limited (ACN 065 475 149) ("**SMEC**") to provide design services and as a geotechnical consultant;

Particulars

SKM and SMEC collaborated as a design joint venture ("**DJV**").

- (c) Douglas Partners Pty Ltd (ACN 053 980 117) as a geotechnical consultant;
- (d) Golder Associates Pty Ltd (ACN 006 107 857) as a geotechnical consultant;

- (e) HBO+EMTB Urban and Landscape Design Pty Ltd (ACN 103 858 493) (now deregistered) as an urban and landscape design consultant;
- (f) Renzo Tonin & Associates (NSW) Pty Ltd (ACN 117 462 861) as an acoustic consultant;

Construction

- (g) VSL (Australia) Pty Ltd (ACN 000 528 914) to construct bridgeworks ("**VSL Bridgeworks**");

Independent verifiers

- (h) Davis Langdon Australia Pty Ltd (ACN 008 657 289), now known as Aecom Cost Consulting Pty Ltd (ACN 008 657 289) (the fourth cross-defendant, "**Aecom**"), as project verifier;
- (i) Graeme P. Walter Pty Ltd (ACN 007 341 031) as proof engineer; and
- (j) KMH Environmental Pty Ltd (ACN 113 705 025), subsequently known as KM & A Environmental Pty Limited (ACN 113 705 025) (now deregistered), in respect of environmental management,

(collectively, the "**Subcontractors, Consultants & Verifiers**").

Claims against Acciona

Contribution

Characterising the allegations made by the plaintiff

18 In response to paragraph 22 of Transport's Amended Cross-Claim, Acciona:

- (a) admits that some elements of the duty of care alleged by the plaintiff as against Transport are in respect of the design and construction of the interchange; and
- (b) otherwise denies the paragraph.

19 In response to paragraph 23 of Transport's Amended Cross-Claim, Acciona:

- (a) admits that some of the breaches of duty alleged by the plaintiff against Transport are allegations with respect to the design and construction of the interchange;
- (b) repeats its responses to paragraphs 15 to 22 of Transport's Amended Cross-Claim; and

(c) otherwise denies the paragraph.

Duty

20 Acciona denies paragraph 24 of Transport's Amended Cross-Claim and repeats paragraph 23 of its Defence to the ASOC.

Breach

21 Acciona denies paragraph 25 of Transport's Amended Cross-Claim and repeats paragraph 24 of its Defence to the ASOC.

Claim for statutory contribution

22 Acciona denies paragraph 26 of Transport's Amended Cross-Claim and repeats paragraphs 23 to 28 of its Defence to the ASOC.

Claim for equitable contribution

23 Acciona denies paragraph 26A of Transport's Amended Cross-Claim and repeats paragraphs 23 to 28 of its Defence to the ASOC.

Direct negligence

Duty

24 Acciona denies paragraph 27 of Transport's Amended Cross-Claim and says further, without limiting the general denial, that:

- (a) the existence of any such duty was precluded by Design and Construction Project Deed clauses 22.7(b) and 22.11; and
- (b) if (contrary to what is pleaded above) Acciona is found to owe Transport any duty of care, then the extent of any such duty is assessed by reference to road users exercising reasonable care for their own safety.

Breach, loss & liability

25 Acciona denies paragraph 28 of Transport's Amended Cross-Claim and says further that if (contrary to what is pleaded above) Acciona is found to owe any duty of care to Transport, then:

Breach

- (a) the question of breach is assessed by reference to road users exercising reasonable care for their own safety, and by reference to *Civil Liability Act 2002* (NSW) ("**CLA**") s 5O, and Acciona discharged any such duty by acting in a manner that (at the time the D&C Work was provided) was

widely accepted in Australia by peer professional opinion as competent professional practice;

Particulars

Particulars will be provided after evidence.

- (b) by reason of CLA ss 5B and 5C, Acciona was not negligent in failing to take precautions against any alleged risk of harm;
- (c) no matter the standard by which its conduct is assessed, Acciona committed no breach;

Causation

- (d) any alleged harm suffered by Transport (which is not admitted) was, in light of CLA s 5D, not caused by any negligence of Acciona because:
 - i. any such negligence (which is not admitted) was not a necessary condition of the occurrence of the harm;
 - ii. it is not appropriate for the scope of Acciona's liability (which is not admitted) to extend to the harm so caused;
 - iii. responsibility for the harm should not be imposed on Acciona; and, therefore
 - iv. there should be no finding that any negligence by Acciona caused the harm alleged;

CLA s 5O defence

- (e) by virtue of CLA s 5O, Acciona cannot incur a liability in negligence to Transport because Acciona acted in a manner that (at the time the D&C Work was provided) was widely accepted in Australia by peer professional opinion as competent professional practice.

Particulars

Particulars will be provided after evidence.

Breach of contract

- 26 Acciona denies paragraph 29 of Transport's Amended Cross-Claim and says that, in any event, any such claim is time-barred by *Limitation Act 1969* (NSW) ss 14(1)(a) or 16 (and, to avoid doubt, any such right that Transport may have had to any such relief claimed is, as against Acciona, extinguished per *Limitation Act 1969* (NSW) ss 63 and 68A).

Limitation of liability

- 27 In further response to paragraphs 26(b), 26A(b), 28(b) and 29(b), Acciona says that if (contrary to what is pleaded above) it has any liability to Transport at all, the total of all such liability is limited to an amount equal to the “Project Contract Sum” as defined in the Design and Construct Project Deed.

Particulars

Design and Construct Project Deed clauses 6.5(a) and 23.2.

AECOM COST CONSULTING PTY LTD

- 28 In response to paragraphs 30 to 42 of Transport’s Amended Cross-Claim, Acciona:
- (a) repeats paragraphs 49 to 77 of Acciona’s Cross-Claim; and
 - (b) otherwise does not admit the paragraphs, which do not make any allegations against Acciona or in support of the case against it.

DESIGN JOINT VENTURE – SKM AND SMEC

- 29 In response to paragraphs 43 to 73 of Transport’s Amended Cross-Claim, Acciona:
- (a) repeats paragraphs 15 to 48 of Acciona’s Cross-Claim; and
 - (b) otherwise does not admit the paragraphs, which do not make any allegations against Acciona or in support of the case against it.

GHD PTY LTD

- 30 In response to paragraphs 74 to 87 of Transport’s Amended Cross-Claim, Acciona:
- (a) repeats paragraphs 10 to 18 of its Defence to Aecom’s Cross-Claim; and
 - (b) otherwise does not admit the paragraphs, which do not make any allegations against Acciona or in support of the case against it.

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

28 April 2026