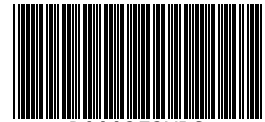




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Amended Defence

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	ACCIONA INFRASTRUCTURE PROJECTS AUSTRALIA PTY LTD ACN 000201516
First Cross Defendant	Brett Andrew Button
Second Cross Defendant	Linq Buslines Pty Ltd
Number of Cross Defendants	6

FILING DETAILS

Filed for	AECOM COST CONSULTING PTY LTD,Cross Defendant 5
Filed in relation to	Cross-Claim 2
Legal representative	Gregory McKenzie
Legal representative reference	
Contact name and telephone	Natale Ilardo
Your reference	GJM:2129148

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 (2026.07.30 - Amended Defence to Second Cross-Claim.pdf)

[attach.]

Form 7A (version 5)
UCPR 14.3

AMENDED DEFENCE TO SECOND CROSS-CLAIM

Pursuant to orders made by Cavanagh J on 12 May 2026

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
Number of defendants	3

TITLE OF THIS CROSS-CLAIM

Cross-claimant	ACCIONA INFRASTRUCTURE PROJECTS AUSTRALIA PTY LTD ACN 000 201 516
First cross-defendant	BRETT ANDREW BUTTON
Number of cross-defendants	6

FILING DETAILS

Filed for	AECOM Cost Consulting Pty Limited , fifth cross-defendant
Legal representative	Greg McKenzie Lander & Rogers
Legal representative reference	PCN: P0000755 VIC Ref: GJM:2129148
Contact name and telephone	Greg McKenzie Tel. +61 3 9269 9000
Contact email	nilardo@landers.com.au

HEARING DETAILS

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

PLEADING AND PARTICULARS

The fifth cross-defendant, Aecom Cost Consulting Pty Ltd ("**ACC**") pleads and responds to the Second Cross-Claim Statement of Cross-Claim ("**Second Cross-Claim**") filed 17 September

2025 as follows, adopting the defined terms therein and in ACC's Defence to the Amended Statement of Claim, unless stated otherwise or the context requires.

A. DRIVER

1. ACC admits paragraph 1 of the Second Cross-Claim.
2. In answer to paragraph 2 of the Second Cross-Claim, ACC:
 - (a) admits Mr Button owed to each passenger of the bus (including any group members who were passengers) a duty to take reasonable care to avoid harm to them from the manner in which he drove the bus; and
 - (b) otherwise does not admit the paragraph.
3. In answer to paragraph 3 of the Second Cross-Claim, ACC:
 - (a) admits Mr Button was driving the bus in a manner dangerous to other persons, on the basis identified in the particulars subjoined to the paragraph;
 - (b) says further that at the time of the crash, Mr Button was driving in a manner dangerous to other persons in that he:
 - (i) was under the influence of an opioid painkiller, Tramadol; and
 - (ii) was driving dangerously and negligently, including at excessive and unreasonable speed, causing him to lose control of the bus.

Particulars

Statement of Agreed Facts dated 3 May 2024, filed in the District Court of New South Wales, [9]

- (c) otherwise does not plead to the paragraph as it contains no allegations against ACC.
4. ACC does not plead to paragraphs 4 and 5 of the Second Cross-Claim as they contain no allegations against ACC or, in the alternative, does not admit the allegations.

B. LINQ BUSLINES

5. ACC does not plead to paragraphs 6 to 14 of the Second Cross-Claim as they contain no allegations against ACC or, in the alternative, does not admit the allegations.

C. DJV

6. ACC does not plead to paragraphs 15 to 48 of the Second Cross-Claim as they contain no allegations against ACC or, in the alternative, does not admit the allegations.

D. PROJECT VERIFIER

7. ACC admits paragraph 49 of the Second Cross-Claim.
8. In answer to paragraph 50 of the Second Cross-Claim, ACC:
 - (a) admits the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
9. In answer to paragraph 51 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained an express term as paraphrased in the paragraph; and
 - (b) relies on the Deed of Appointment as if set out in full.
10. In answer to paragraph 52 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained definitions as paraphrased in the paragraph;
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full; and
 - (c) says that the Project Verifier Services (as defined in paragraph 52(b) of the Second Cross-Claim) included, but were not limited to, obligations under cll 12.2(b), (d), and (h) of the Design and Construct Project Deed in respect of the preparation of Design Documentation (as defined in the Design and Construct Project Deed).
11. In answer to paragraph 53 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained an express term as paraphrased in the paragraph; and
 - (b) relies on the Deed of Appointment as if set out in full.
12. In answer to paragraph 54 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained a warranty as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
13. In answer to paragraph 55 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained a warranty as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
14. In answer to paragraph 56 of the Second Cross-Claim, ACC:

- (a) admits the Deed of Appointment contained an acknowledgement as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
- 15. In answer to paragraph 57 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained an acknowledgement as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
- 16. In answer to paragraph 58 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained a warranty as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
- 17. In answer to paragraph 59 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained an acknowledgement as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
- 18. In answer to paragraph 60 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained an express term as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
- 19. In answer to paragraph 61 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained an express term as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
- 20. In answer to paragraph 62 of the Second Cross-Claim, ACC:
 - (a) admits the Deed of Appointment contained an express term as paraphrased in the paragraph;
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full; and
 - (c) says that ACC was required to subcontract to GHD the design verification part of the Verification Services.
- 21. In answer to paragraph 63 of the Second Cross-Claim, ACC:

- (a) admits the Deed of Appointment contained an express term as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
22. In answer to paragraph 64 of the Second Cross-Claim, ACC:
- (a) admits the Deed of Appointment contained an express term as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
23. In answer to paragraph 65 of the Second Cross-Claim, ACC:
- (a) admits the Deed of Appointment contained an express term as paraphrased in the paragraph; and
 - (b) relies on the entirety of the Deed of Appointment as if pleaded herein in full.
24. In answer to paragraph 66 of the Second Cross-Claim, ACC:
- (a) admits that on or around 7 November 2014, ACC issued a certificate containing, amongst other things, the information set out in Schedule 16 of the Design and Construct Project Deed ("**Schedule 16 Certificate**") and relies on the entirety of the Schedule 16 Certificate as if pleaded herein in full;
 - (b) otherwise does not admit the paragraph; and
 - (c) says further that under the Design and Construct Project Deed, other parties were required to certify that the Design Documentation complies with all of the requirements of the Design and Construct Project Deed, including the Scope of Works and Technical Criteria:
 - (i) ACC, in reliance upon services it was required to Subcontract to GHD, was required by cl 12.2(h)(i) to issue a certificate in the form of Schedule 15 to the Design and Construct Project Deed;
 - (ii) any Subcontractor involved in the preparation of a design was required by cl 12.2(h)(ii) to issue a certificate in respect of the design in the form of Schedule 26 to the Design and Construct Project Deed;
 - (iii) Acciona was required by cl 12.2(h)(iii) to issue a certificate in the form of Schedule 20 to the Design and Construct Project Deed; and
 - (iv) the Proof Engineer was required by cl 12.2(h)(iv) to issue a certificate in the form of Schedule 27 to the Design and Construct Project Deed.
25. ACC denies paragraph 67 of the Second Cross-Claim.

26. ACC denies paragraph 68 of the Second Cross-Claim.
27. ACC denies paragraph 69 of the Second Cross-Claim.
28. In answer to paragraph 70 of the Second Cross-Claim, ACC:
 - (a) denies the paragraph;
 - (b) says further, or in the alternative, that the existence of any such duty was precluded by clause 9.16(b) of the Deed of Appointment of Project Verifier;
 - (c) says further, or in the alternative, if ACC is found to owe the Project Verifier's Duty of Care owed to Acciona:
 - (i) the extent of any such duty is assessed by reference to road users exercising reasonable care for their own safety; and
 - (ii) ACC repeats paragraphs 9(b) and 36 of its Defence to the ASOC.
29. In answer to paragraph 71 of the Second Cross-Claim, ACC:
 - (a) denies the paragraph;
 - (b) repeats paragraph 28 above; and
 - (c) in respect of the question of breach:
 - (i) the question of breach is determined by reference to road users exercising reasonable care for their own safety (as to which, ACC repeats paragraphs 9(b) and 36 of its Defence to the ASOC); and
 - (ii) ACC was not negligent in failing to take precautions against any alleged risk of harm, by reason of ss 5B and 5C of the *Civil Liability Act*;
 - (d) in respect of the question of causation, ACC:
 - (i) repeats and relies on the matters alleged in paragraph 9(b) of its Defence to the ASOC;
 - (ii) says further that any negligence of ACC (which is denied) was not a necessary condition of the occurrence of any harm suffered by the plaintiff or group members (which is not admitted), within the meaning of s 5D(1)(a) of the *Civil Liability Act*; and
 - (iii) says further, or in the alternative, that it is not appropriate for the scope of any liability of ACC to the plaintiff or group members (which is denied) to extend to the harm so caused, within the meaning of s 5D(1)(b) of the *Civil Liability Act*;

- (e) in further answer, ACC says that by virtue of s 5O of the *Civil Liability Act*, ACC cannot incur a liability in negligence in respect of those claims because it acted in a manner that, at the time the Verification Services were performed, was widely accepted in Australia by peer professional opinion as competent professional practice.

30. In answer to paragraph 72 of the Second Cross-Claim:

- (a) denies the paragraph;
- (b) says further, or in the alternative, if ACC is found to owe the Project Verifier's Duty of Care owed to the Plaintiff/Group Members:
 - (i) the extent of any such duty is assessed by reference to road users exercising reasonable care for their own safety; and
 - (ii) ACC repeats paragraphs 9(b) and 36 of its Defence to the ASOC.

31. In answer to paragraph 73 of the Second Cross-Claim, ACC:

- (a) denies the paragraph;
- (b) repeats paragraph 30 above; and
- (c) in respect of the question of breach:
 - (i) the question of breach is determined by reference to road users exercising reasonable care for their own safety (as to which, ACC repeats paragraphs 9(b) and 36 of its Defence to the ASOC); and
 - (ii) ACC was not negligent in failing to take precautions against any alleged risk of harm, by reason of ss 5B and 5C of the *Civil Liability Act*;
- (d) in respect of the question of causation, ACC:
 - (i) repeats and relies on the matters alleged in paragraph 9(b) of its Defence to the ASOC;
 - (ii) says further that any negligence of ACC (which is denied) was not a necessary condition of the occurrence of any harm suffered by the plaintiff or group members (which is not admitted), within the meaning of s 5D(1)(a) of the *Civil Liability Act*; and
 - (iii) says further, or in the alternative, that it is not appropriate for the scope of any liability of ACC to the plaintiff or group members (which is denied) to extend to the harm so caused, within the meaning of s 5D(1)(b) of the *Civil Liability Act*;

- (e) in further answer, ACC says that by virtue of s 5O of the *Civil Liability Act*, ACC cannot incur a liability in negligence in respect of those claims because it acted in a manner that, at the time the Verification Services were performed, was widely accepted in Australia by peer professional opinion as competent professional practice.
32. ACC denies paragraph 74 of the Second Cross-Claim.
33. In answer to paragraph 75 of the Second Cross-Claim, ACC:
- (a) denies the paragraph;
 - (b) says further, or in the alternative, if ACC is found to owe the Project Verifier's Duty of Care owed to Transport:
 - (i) the extent of any such duty is assessed by reference to road users exercising reasonable care for their own safety; and
 - (ii) ACC repeats paragraphs 9(b) and 36 of its Defence to the ASOC.
34. In answer to paragraph 73 of the Second Cross-Claim, ACC:
- (a) denies the paragraph;
 - (b) repeats paragraph 33 above; and
 - (c) in respect of the question of breach:
 - (i) the question of breach is determined by reference to road users exercising reasonable care for their own safety (as to which, ACC repeats paragraphs 9(b) and 36 of its Defence to the ASOC); and
 - (ii) ACC was not negligent in failing to take precautions against any alleged risk of harm, by reason of ss 5B and 5C of the *Civil Liability Act*;
 - (d) in respect of the question of causation, ACC:
 - (i) repeats and relies on the matters alleged in paragraph 9(b) of its Defence to the ASOC;
 - (ii) says further that any negligence of ACC (which is denied) was not a necessary condition of the occurrence of any harm suffered by the plaintiff or group members (which is not admitted), within the meaning of s 5D(1)(a) of the *Civil Liability Act*; and
 - (iii) says further, or in the alternative, that it is not appropriate for the scope of any liability of ACC to the plaintiff or group members (which is denied) to extend to the harm so caused, within the meaning of s 5D(1)(b) of the *Civil Liability Act*;

- (e) in further answer, ACC says that by virtue of s 50 of the *Civil Liability Act*, ACC cannot incur a liability in negligence in respect of those claims because it acted in a manner that, at the time the Verification Services were performed, was widely accepted in Australia by peer professional opinion as competent professional practice.

35. ACC denies paragraph 77 of the Second Cross-Claim.

Good faith defence

36. In further answer to the whole of the Second Cross-Claim as against ACC:

- (a) to the extent ACC performed the Project Verifier Services, ACC was acting under the direction of RTA (or authorised officers thereof) for the purposes of executing the *Roads Act*;
- (b) ACC performed such Project Verifier Services in good faith; and, therefore
- (c) by reason of s 256 of the *Roads Act*, ACC cannot be subject to any action, liability, claim or demand in respect of the Project Verifier Services, such that the entirety of the claims against ACC are statutorily barred and must fail.

Limitation of Liability

37. Further and in the alternative, in answer to the whole of the Second Cross-Claim as against ACC, ACC says that if it is liable to Acciona (which is denied), ACC's liability is limited in aggregate to \$20 million.

Particulars

- (i) Clause 6.1 of the Deed of Appointment of Project Verifier.

Contributory negligence

38. Further and in the alternative, if it is established that Acciona suffered loss and damage as alleged and ACC is liable for this loss and damage (which is denied), ACC says:

- (a) the plaintiff alleges that Acciona carried out the design and construction of the interchange;
- (b) if the plaintiff's allegations of breach by Acciona are correct (which is not admitted), except to the extent the work the subject of any such allegation was performed by ACC or GHD, such loss and damage was caused or contributed to by acts or omissions of Acciona; and
- (c) any damages that Acciona may recover from ACC should be reduced by virtue of its contributory negligence, to such extent as the Court thinks just an equitable

having regard to Acciona's share in responsibility for the damage, pursuant to s 9(1) of the *Law Reform (Miscellaneous Provisions) Act 1965* (NSW) and at law.

Limitation under the EPA Act

38A. In further answer to the entirety of Acciona's claim against ACC, ACC says:

- (a) the design and construction of the interchange is building work within the meaning of s 109ZK(1) of the *Environmental Planning and Assessment Act 1979* (NSW) (EPAA) and, or alternatively, on and after 1 March 2018, within the meaning of s 6.20(1) of the EPAA;
- (b) Acciona's claim against ACC is a "building action" within the meaning of s 109ZK(1) of the EPAA and, or alternatively, on 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 s 6.20(1) of the EPAA;
- (c) Acciona's claim against ACC is not a claim for damages for death or personal injury arising out of or concerning defective building work within the meaning of s 109KL of the EPAA and, or alternatively, on and after 1 March 2018, s 6.21 of the EPAA;
- (d) for the purposes of s 109ZK(1) of the EPAA:
 - (i) the interchange was first used on 22 March 2014 at the latest;
 - (ii) the Second Cross-Claim was filed on 17 September 2025; and
 - (iii) in the premises, the Second Cross-Claim is statute barred;
- (e) for the purposes of s 6.20 of the EPAA, on and after 1 March 2018:
 - (i) completion of the interchange occurred on 7 November 2014 at the latest;
 - (ii) the Second Cross-Claim was filed on 17 September 2025; and
 - (iii) in the premises, the Second Cross-Claim is statute barred.

E. TRANSPORT

- 39. ACC does not plead to paragraphs 78 to 86 of the Second Cross-Claim as they contain no allegations against ACC or, in the alternative, does not admit the allegations.
- 40. ACC denies that Acciona is entitled to the relief claimed against ACC in the Second Cross-Claim, or any relief against ACC at all.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under clause 4 of Schedule 2 of 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 the cross-claim in these proceedings has reasonable prospects of success.

Signature



Capacity

Solicitor on record

Date of signature

30 / 07 / 2026