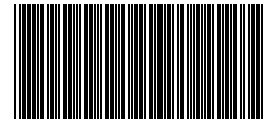




Filed: 23 May 2025 3:40 PM



D00025OUNS

Form 7A/B
UCPR 14.3

DEFENCE

COURT DETAILS

Court	Supreme Court of NSW
Division	Common Law
List	Common Law General
Registry	Supreme Court Sydney
Case number	2025/00060605

TITLE OF PROCEEDINGS

First Plaintiff	Andreas Sklavos
First Defendant	THE UNIVERSITY OF NEWCASTLE ABN 15736576735

FILING DETAILS

Filed for	THE UNIVERSITY OF NEWCASTLE, Defendant 1
Legal representative	Beverley Newbold
Legal representative reference	
Telephone	02 9921 4894
Your reference	1532577

NOTICE OF LISTING

This matter has been listed for Directions at Supreme Court Sydney on 1 August 2025 at 09:30 AM

AFFIDAVIT

Deponent Name	Daniel Bell
Sworn/Affirmed on	23 May 2025

ATTACHMENT DETAILS

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

Defence (UCPR 7A/7B) (20250523 - Defence.pdf)

[attach.]

Form 7A (version 5)
UCPR 14.3

DEFENCE

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	Common Law General
Registry	Sydney
Case number	2025/00060605

TITLE OF PROCEEDINGS

Plaintiff	Andreas Sklavos
Defendant	The University of Newcastle ABN 15 736 576 735

FILING DETAILS

Filed for	Defendant
Filed in relation to	Plaintiff's claim
Legal representative	Beverley Ruth Newbold, MinterEllison
Legal representative reference	1532577
Contact name and telephone	Beverley Ruth Newbold, 02 9921 4894
Contact email	Beverley.newbold@minterellison.com

HEARING DETAILS

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

PLEADINGS AND PARTICULARS

In this defence, the Defendant adopts the defined terms in the Statement of Claim filed on 14 February 2025 (**SOC**) without admission and says as follows.

- 1 The Defendant admits paragraph 1.
- 2 In answer to the allegations contained in paragraph 2, the Defendant:
 - a. denies the Plaintiff or any other person has suffered loss or damage by reason of the matters alleged in the SOC; and
 - b. otherwise does not plead to paragraph 2 as it contains no allegation against it.
- 3 In answer to the allegations contained in paragraph 3, the Defendant:
 - a. admits there were seven or more persons enrolled in the BME during the Relevant Period; and

b. otherwise denies the allegations contained in paragraph 3.

4 In answer to paragraph 4, the Defendant:

a. admits subparagraphs a, b and e; and

b. otherwise denies the allegations contained in paragraph 4.

5 The Defendant admits paragraph 5.

6 In answer to paragraph 6 the Defendant:

a. says:

i. professional accreditation of the BME is not required for graduates to be eligible to practise as an engineer;

ii. consequently, s 3.1.5 of the *Higher Education Standards Framework (Threshold Standards) 2015* had no application to the BME;

b. says:

i. professional accreditation of the BME is not required for engineers to obtain registration or chartership with Engineers Australia; and

ii. consequently, s 7.1.2 of the *Higher Education Standards Framework (Threshold Standards) 2015* had no application to the BME;

c. admits subparagraphs a.ii and b; and

d. otherwise denies the allegations contained in paragraph 6.

7 In answer to the allegations contained in paragraph 7, the Defendant:

a. says that at all material times, the signatories to the Washington Accord had exchanged information on, and examined, their respective processes, policies and procedures for granting accreditation to engineering academic programmes, and had concluded that they were comparable and, through the Washington Accord, recognised the substantial equivalence of such programmes in satisfying the academic requirements for the practice of engineering at the professional level;

b. relies on the terms of the Washington Accord as if set out here in full; and

c. otherwise denies the allegations contained in paragraph 7.

8 The Defendant admits paragraph 8.

9 In answer to the allegations contained in paragraph 9, the Defendant:

- a. says that at all material times, when requested, Engineers Australia could, through its Australian Engineering Accreditation Centre, evaluate engineering courses against the entry-to-practice competencies for the levels of professional engineer, engineering technologist and engineering associate;
- b. further says that at all material times Engineers Australia was a signatory to the Washington Accord; and
- c. otherwise denies the allegations contained in paragraph 9.

10 In answer to the allegations contained in paragraph 10, the Defendant:

- a. says that by the Washington Accord, signatories agreed, amongst other things:
 - i. that the criteria, policies and procedures used by the signatories in accrediting engineering academic programmes are comparable;
 - ii. that the accreditation decisions rendered by one signatory are acceptable to the other signatories, and that those signatories will so indicate by publishing statements to that effect in an appropriate manner; and
 - iii. each signatory will make every reasonable effort to ensure that the bodies responsible for registering or licensing professional engineers to practise in its country or territory accept the substantial equivalence of engineering academic programmes accredited by the signatories to the Washington Accord;
- b. relies on the terms of the Washington Accord as if set out here in full; and
- c. otherwise denies the allegations contained in paragraph 10.

11 In answer to the allegations contained in paragraph 11, the Defendant:

- a. says that at all material times:
 - i. there were three categories of individual member and four grades of membership for each occupational category of Engineers Australia;
 - ii. the qualification for a professional engineer member of Engineers Australia was required to include a 4 year degree in engineering or equivalent; and
 - iii. the qualifications for the occupational categories of members were required to be consistent with the international accords to which Engineers Australia was a party; and

- b. otherwise denies the allegations contained in the paragraph.

12 In answer to the allegations contained in paragraph 12, the Defendant:

- a. repeats paragraph 11 of this Defence;
- b. says that different jurisdictions could and did have additional requirements to be met before a person could be employed as a professional engineer in that jurisdiction, irrespective of whether they had graduated from a course accredited by a signatory to the Washington Accord;

Particulars

The requirements for foreign engineering graduates are specified by the relevant national engineering body in each country which is a signatory to the Washington Accord. This includes:

Canada – Engineers Canada

Hong Kong – The Hong Kong Institute of Engineers

India – National Board of Accreditation

Ireland – Engineers Ireland

Japan – Japan Accreditation Board for Engineering Education

Korea – Accreditation Board for Engineering Education of Korea

Malaysia – Board of Engineers Malaysia

New Zealand – Engineering New Zealand

Russia – Association for Engineering Education of Russia

Turkey - Association for Evaluation and Accreditation of Engineering Programs

United Kingdom – Engineering Council United Kingdom

USA – Accreditation Board for Engineering and Technology

- c. further says that a person was not prevented from obtaining employment in Australia as an engineer by reason that they had obtained an engineering degree from an Australian university which was not accredited by Engineering Australia; and
- d. otherwise denies the allegations contained in paragraph 12.

13 In answer to the allegations contained in paragraph 13, the Defendant:

- a. says that it first published information in relation to the BME in or about June 2017;

- b. admits that the first intake for the BME occurred in the first semester of 2018; and
- c. otherwise denies the allegations contained in paragraph 13.

14 In answer to the allegations contained in paragraph 14, the Defendant:

- a. says that:
 - i. from about 13 June 2017 to 26 October 2017, the webpage for the BME published on the Defendant's website (**BME webpage**) included the following statements:
 - A. under the heading 'Why study with us?': 'Travel the world with international recognition through Engineers Australia'; and
 - B. under the heading 'Career' and the subheading 'Professional recognition': 'Professional recognition through Engineers Australia and the Washington Accord qualifies you as a professional engineer. You can work in places such as: • Canada • Hong Kong • India • Ireland • Japan • Korea • Malaysia • New Zealand • Russia • Turkey • United Kingdom • USA';

Particulars

The BME webpage was <www.newcastle.edu.au/degrees/bachelor-of-medical-engineering-honours>.

- b. further says the relevant context of the statements set out at subparagraph a. above includes the following matters:
 - i. from about April 2018, the Defendant published its 2019 undergraduate prospectus (**Prospectus**) which stated in relation to the BME: 'This program is seeking provisional accreditation through Engineers Australia in 2018.'

Particulars

Page 58 of the Prospectus.

- ii. the Prospectus was published:
 - A. electronically on the Defendant's website; and
 - B. in hardcopy, made available on campus and distributed at certain events;

- iii. from about 12 September 2018, the Defendant published a brochure titled 'Study Area Engineering' (**Engineering Brochure**) which stated in relation to the BME: 'We are seeking provisional accreditation for this program through Engineers Australia in 2018';

Particulars

Page 21 of the Engineering Brochure.

- iv. the Engineering Brochure was published:
 - A. electronically on the Defendant's website; and
 - B. in hardcopy, made available on campus and distributed at certain events;
- v. from about 19 June 2019, the Defendant published an Engineering Brochure which stated in relation to the BME: 'Accreditation for this program will be sought from Engineers Australia';

Particulars

Page 22 of the updated Engineering Brochure.

- vi. the Engineering Brochure was published:
 - A. electronically on the Defendant's website; and
 - B. in hardcopy, made available on campus and distributed at certain events;
- vii. at all times during the Relevant Period, the BME webpage contained the following disclaimer: 'Every effort has been made to ensure the accuracy of the information on this website. However, changes to courses and programs may occur. The University accepts no responsibility for any information supplied on this web site or any actions taken on the basis of the information. Users are advised to seek confirmation of the information from the relevant area of the University';

- c. otherwise denies the allegations contained in paragraph 14.

15 The Defendant denies the allegations contained in paragraph 15.

16 In answer to the allegations contained in paragraph 16, the Defendant:

- a. admits the BME was not accredited by Engineers Australia as at July 2017;
- b. says that:

- i. Engineers Australia granted provisional accreditation in respect of the BME on 11 December 2023; and
 - ii. provisional accreditation was applied retrospectively to any student commencing in the BME from 2020; and
 - c. otherwise denies the allegations contained in paragraph 16.
- 17 In answer to the allegations contained in paragraph 17, the Defendant repeats paragraph 12 of this Defence and otherwise denies the allegations contained in the paragraph.
- 18 In answer to the allegations contained in paragraph 18, the Defendant:
- a. repeats paragraphs 2 and 14 of this Defence;
 - b. says that, at all material times, students and prospective students were reasonably entitled to expect that reasonably accurate, relevant and timely information for students would be publicly available and accessible to enable informed decision making about educational offerings and experiences, and such information was publicly available and accessible with respect to the BME; and
 - c. otherwise denies the allegations contained in paragraph 18.
- 19 In answer to the allegations contained in paragraph 19, the Defendant:
- a. says that at all material times it knew, and ought to have known, that it was required to take all reasonable steps to comply with the *Higher Education Standards Framework (Threshold Standards) 2015* with respect to any representations it made as to its educational offerings, including by taking reasonable steps to ensure that such representations were accurate and not misleading; and
 - b. otherwise denies the allegations contained in the paragraph.
- 20 The Defendant denies the allegations contained in paragraph 20.
- 21 In answer to the allegations contained in paragraph 21, the Defendant:
- a. says that from the time it commenced to accept enrolments in the BME on 8 December 2017 until it obtained provisional accreditation of the BME from Engineers Australia on 11 December 2023, it knew or ought to have known that the BME was not accredited by Engineers Australia; and
 - b. otherwise denies the allegations contained in paragraph 21.
- 22 The Defendant denies the allegations contained in paragraph 22.

23 The Defendant denies the allegations contained in paragraph 23.

24 The Defendant denies the allegations contained in paragraph 24.

25 The Defendant denies the allegations contained in paragraph 25.

26 The Defendant denies the allegations contained in paragraph 26.

27 The Defendant denies the allegations contained in paragraph 27.

28 The Defendant denies the allegations contained in paragraph 28.

29 The Defendant denies the allegations contained in paragraph 29.

30 The Defendant denies the allegations contained in paragraph 30.

31 The Defendant denies the allegations contained in paragraph 31.

32 The Defendant denies the allegations contained in paragraph 32.

33 In answer to the allegations contained in paragraph 33, the Defendant:

a. says that an unparticularised allegation of students or prospective students being “in the position of the Plaintiff and Group Members” is vague and embarrassing;

b. further says that:

i. to the extent that any ‘further qualification’ was required to become a member of Engineers Australia for any person who did not obtain the benefit of the retrospective provisional accreditation of the BME, such persons were required to complete a Stage 1 Competency Assessment;

ii. the process of completing a Stage 1 Competency Assessment involved making an application to Engineers Australia which included:

A. identification information for the prospective member;

B. a curriculum vitae of no more than three A4 pages which included details of any engineering work experience;

C. evidence of English language competency, for which a statement of (among other things) being a native English speaker or successfully completing an undergraduate or higher level engineering qualification in Australia (such as the BME) was sufficient;

D. documentation of qualifications including a testamur and transcripts;

- E. three career episode reports describing engineering experiences through which the applicant developed and demonstrated Stage 1 competency, of no more than 2,000 words each;
- F. a summary statement in a template form; and
- G. payment of an assessment fee;

Particulars

Engineers Australia, Eligibility for Membership Guide dated January 2016 , pp 6-11; Engineers Australia, Stage 1 Competency Assessment Booklet – Guide to Eligibility for Membership dated November 2019 , pp 6-11.

- c. in the premises identified in subparagraph b., it was not reasonably foreseeable (and in fact it was not the case) that persons who graduated with a BME would suffer any material disadvantage in the manner pleaded in subparagraphs b. and c. or at all;
- d. denies that it failed to take reasonable care in the provision of the BME, made the BME Express Representations and, or, made the BME Silence Representations;
- e. repeats the matters pleaded at paragraphs 2, 6, 11 and 12 of this Defence; and
- f. otherwise denies the allegations contained in paragraph 33.

34 In answer to the allegations contained in paragraph 34, the Defendant:

- a. repeats paragraph 33 of this Defence;
- b. otherwise denies the allegations contained in paragraph 34.

35 The Defendant denies the allegations contained in paragraph 35.

36 The Defendant denies the allegations contained in paragraph 36.

37 The Defendant denies the allegations contained in paragraph 37.

38 The Defendant denies the allegations contained in paragraph 38.

39 In answer to the allegations contained in paragraph 39, the Defendant:

- a. does not know and therefore cannot admit the date at which each of the Plaintiff and persons alleged to be Group Members were expecting to graduate;

- b. admits the BME was not an Accredited Course up until 10 December 2023 and says that from 11 December 2023 provisional accreditation status was retrospectively applied to students who commenced in the BME from 2020;
- c. repeats paragraphs 6 and 12 of this Defence; and
- d. otherwise denies the allegations contained in paragraph 39.

40 In answer to the allegations contained in paragraph 40, the Defendant:

- a. says that the Plaintiff enrolled in the BME in or around January 2018; and
- b. otherwise denies the allegations contained in paragraph 40.

41 The Defendant denies the allegations contained in paragraph 41.

42 The Defendant denies the allegations contained in paragraph 42.

43 The Defendant denies the allegations contained in paragraph 43.

44 Paragraph 44 does not contain an allegation against the Defendant and so it does not plead to it.

AND IN FURTHER ANSWER TO THE CLAIMS PLEADED AGAINST IT, THE DEFENDANT SAYS:

45 If, which is denied, the Plaintiff or any other person might have suffered loss or damage by reason of any statement made by the Defendant with respect to the accreditation of the BME during the Relevant Period, such loss or damage is limited to the cost of the fee for completing a Stage 1 Competency Assessment, which the Defendant has offered to pay for any student enrolled in the BME before the commencement of its provisional accreditation by Engineers Australia.

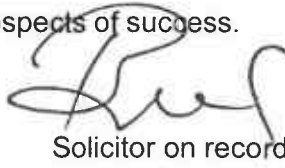
46 Further, if, which is denied, there may have been a risk of an increase in the time taken by persons who completed the BME to obtain membership with Engineers Australia, it is not common to all persons who have enrolled in the BME that they will graduate and seek membership of Engineers Australia such that the group of persons potentially affected by the time taken to obtain membership is significantly reduced (and has not been identified by the Plaintiff).

47 Further, the employability of any BME graduate, whether in Australia or overseas, depends upon a range of factors unique to that graduate such that the impact (if there be any), which is denied, of the lack of accreditation of the BME on a graduate's employability cannot be determined on a common basis.

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

A handwritten signature in black ink, appearing to be 'Ruf', written over the text 'Solicitor on record'.

Capacity

Solicitor on record

Date of signature

23 May 2025

AFFIDAVIT VERIFYING

Name Daniel Bell
 Address c/- MinterEllison, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000
 Occupation General Counsel
 Date 23 May 2025

I affirm:

- 1 I am General Counsel for the University of Newcastle, the Defendant in this proceeding, and am authorised to make this affidavit on its behalf.
- 2 Generative artificial intelligence was not used to generate this affidavit.
- 3 I believe that the allegations of fact contained in the defence are true.
- 4 I believe that the allegations of fact that are denied in the defence are untrue.
- 5 After reasonable inquiry, I do not know whether or not the allegations of fact that are not admitted in the defence are true.

AFFIRMED at

Elmore Vale, NSW, 2287

Signature of deponent

D. Bell

Name of witness *BRIONY ARMSTRONG*

Address of witness *ELMORE VALE NSW 2287*

Capacity of witness *SOLICITOR ADMITTED IN NSW*

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.

Signature of witness

Briony Armstrong

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

FURTHER DETAILS ABOUT FILING PARTY**Filing party**

Name	The University of Newcastle ABN 15 736 576 735
Address	c/- MinterEllison, Governor Macquarie Tower, 1 Farrer Place Sydney NSW 2000

Legal representative for filing party

Name	Beverley Newbold
Practising certificate number	33378
Firm	MinterEllison
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