

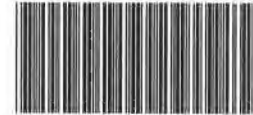
This & the following 3 pages is
the applicant's submissions in
reply for publication pursuant to
paragraph 27 of Practice note
no. SC CA1



30 september 2025
Solicitor for applicant



Filed: 29 September 2025 5:45 PM



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Written Submissions

COURT DETAILS

Court	Supreme Court of New South Wales, Court of Appeal
List	Court of Appeal
Registry	Supreme Court Sydney
Case number	2025/00273034

TITLE OF PROCEEDINGS

First Applicant	ALL CIVIL SOLUTIONS GROUP PTY LTD ABN 69610060458
First Respondent	WOONONA-BULLI R S L MEMORIAL CLUB LTD ABN 36001059374

FILING DETAILS

Filed for	ALL CIVIL SOLUTIONS GROUP PTY LTD, Applicant 1
Legal representative	Thomas Howard
Legal representative reference	
Contact name and telephone	Benjamin Chedid 99133377

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.

Written Submissions (250929 Applicant's Reply.pdf)

[attach.]

**All Civil Solutions Group Pty Ltd v Woonona-Bulli RSL Memorial Club Ltd
(2025/00273034)**

Applicant's Reply

1. The Subcontractor agrees with the factual summary contained in the Club's Submissions (**CS**) save for some minor inaccuracies:
 - (a) the dates in the CS 3.1 are 13 December 2024 and 20 December 2024;
 - (b) the date in CS 3.2 is 13 December 2024; and
 - (c) the relevant paragraph of the decision of Stevenson J referred to in CS 3.15 is [12].
2. That said, much of the factual background is irrelevant to the application.
3. It is helpful to revisit the relevant provisions of *Contractors Debt Act 1997* (NSW) (**CD Act**). The following is noteworthy:
 - (a) the "*unpaid person*" (in this case, the Subcontractor) can obtain payment from the principal (in this case, the Club) if there was a contract between the principal and the defaulting contractor (in this case, the Builder). There is no requirement that the "*unpaid person*" be a party to any contract. It is therefore sufficient if the "*unpaid person*" entered into an arrangement or money is otherwise owed to the "*unpaid person*": s5(1) CD Act;
 - (b) an adjudication certificate (s24(1)(a) SOP Act) may be filed as a judgment for a debt in accordance with s25(1) of the SOP Act and a court may issue a debt certificate in respect the debt: s7(1A) CD Act;
 - (c) service of a notice of claim on the principal operates as an assignment of the principal's obligation to pay the money owed (i.e. the debt) and is treated as an obligation to pay under contract even if the obligation arose via s7(1A) of the CD Act: s8(1) CD Act;
 - (d) that the debt created by force of the SOP Act is capable of being treated as payable under contract is confirmed by s9(2) of the CD Act;

- (e) if the debt is assigned to the unpaid person, the unpaid person may sue for the debt is 11(2) CD Act;
 - (f) the unpaid person may sue for the debt in the same manner in which the defaulting contractor may have sued had there been no assignment: s11(3) CD Act;
 - (g) an unpaid person's right to sue for the debt is subject to any defence that the principal would have had against the recovery of the debt by the defaulting contractor had there been no assignment: s11(4) CD Act;
 - (h) the CD Act does not affect any rights a defaulting contractor or principal may have: s19(b) CD Act.
4. The applicant Subcontractor was entitled to sue the Club for the debt, as it did (s11(3)) and the Subcontractor's right to sue for the debt was subject to any defence that the Club would have against the recovery of the debt by the Builder had there been no assignment (s11(4)).
 5. The Club would not have had any defence against the recovery of the debt by the Builder had there been no assignment.
 6. The analysis of Rees J at J34 is, with respect, correct.
 7. On one view, s25(4) of the SOP Act is irrelevant to the analysis.
 8. CS 4.11 misstates the Subcontractor's argument. An assignee is not placed in a better position. In either event, i.e. whether there is an assignment or not, the principal retains its rights against the head contractor and the head contractor retains its rights against the subcontractor. The position is, as if the principal paid the head contractor and the head contractor paid the subcontractor in the ordinary course or absent the intervention of the CD Act.
 9. That is not to say that s11(4) has no work to do. If, for example, a debt obtained by the operation of a contract is assigned, contractual defences would be available in such circumstances.

10. Contrary to J30, s19(b) of the CD Act operates harmoniously with s32 of the SOP Act. Section 19(b) does not trespass on the assignment in the sense that it does not put the assignor in a better position – it does not permit the assignor to raise contractual defences which it would not have been entitled to raise absent an assignment.
11. The applicant embraces CS 4.12: the Club had no defence to the Builder's attempt to recover the debt. It is for that reason that on 3 February 2025 judgment was entered in favour of the Builder against the Club for \$2,141,780.73: Stevenson J at [12], i.e. the Club had no defence to the Builder's claim.

29 September 2025

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