# NOTICE OF FILING

## Details of Filing

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| Document Lodged: | Non-Prescribed Pleading |
| Court of Filing | FEDERAL COURT OF AUSTRALIA (FCA) |
| Date of Lodgment: | 14/11/2025 2:27:21 PM AEDT |
| Date Accepted for Filing: | 14/11/2025 2:27:27 PM AEDT |
| File Number: | VID165/2025 |
| File Title: | CPSU, THE COMMUNITY AND PUBLIC SECTOR UNION & ORS v THE STATE OF VICTORIA |
| Registry: | VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA |

Registrar

## Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

**Rejoinder**[1]

Federal Court of Australia
District Registry: Victoria
Division: Fair Work

No. VID 165 of 2025

**CPSU, the Community and Public Sector Union**
First Applicant

**Patrick Wren**
Second Applicant

**Ben Powell**
Third Applicant

**The State of Victoria**
Respondent

To the Applicants' Amended Reply dated 5 September 2025, the Respondent says as follows:

1. Save for the admissions made therein, the Department joins issue with the allegations in the Amended Reply.

2. Further or in the alternative, as to paragraph 3A, the Department says that if it was not "*agreed*" (within the meaning of that term in the PPD Terms) as between the relevant Senior Grade employee and their supervisor or manager that the progression criteria reflected the expected normal requirements of the Senior Grade employee's position (the Department's position being that that matter was agreed) or, alternatively, that the progression criteria reflected higher performance standards consistent with the Performance and Progression Purpose, that absence of agreement as to that matter

[1] The Respondent continues the same defined terms as used in its Amended Defence.

**Filed on behalf of:** The Respondent
Prepared by: Justin L Bourke KC and Helen Tiplady of counsel
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Ref: 637/21721/81045724

had the consequence that the process of the development and/or assessment of the progression criteria was not effectively established under the 2016 and the 2020 Agreements.

3. Further or in the alternative, whether the progression criteria (or a goal within the progression criteria) reflected the expected normal requirements of the Senior Grade employee's position or, alternatively, that the progression criteria (or a goal within the progression criteria) reflected higher performance standards consistent with the Performance and Progression Purpose, was ultimately a matter for the evaluation of the Senior Grade employee's supervisor or manager when undertaking an evaluative assessment of whether that employee was entitled to progression.

4. Further, if a relevant Senior Grade employee's progression criteria reflected higher performance standards consistent with the Performance and Progression Purpose (which is denied), if such progression criteria was thereafter "*met*" (within the meaning of that term in the PPD Terms), in such circumstances, that employee would be entitled to an evaluative assessment of "*exceeding expectations*" as the employee would be exceeding the normal requirements of their position to a level consistent with the Performance and Progression Purpose.

**JUSTIN L BOURKE KC**

**HELEN TIPLADY**

**DATED** 14 November 2025

.....
Signed by Andrew Morrison

**CLAYTON UTZ**
Lawyers for the Respondent

**Certificate of lawyer**

I, Andrew Morrison, certify to the Court that, in relation to the rejoinder filed on behalf of the Respondent, the factual and legal material available to me at present provides a proper basis for:

(a) each allegation in the pleading; and

(b) each denial in the pleading; and

(c) each non admission in the pleading.

Date: 14 November 2025

.....

Signed by Andrew Morrison

Lawyer for the Respondent