

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 8/03/2017 12:07:42 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged:	Submissions
File Number:	VID333/2015
File Title:	Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union & Ors
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads 'Warwick Soden'.

Dated: 8/03/2017 4:55:13 PM AEDT

Registrar

Important Information

As required by the Court's Rules, 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.

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**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
DIVISION: FAIR WORK**

NO VID 333 OF 2015

**AUSTRALIAN BUILDING AND CONSTRUCTION
COMMISSIONER**

Applicant

**CONSTRUCTION, FORESTRY, MINING AND
ENERGY UNION**

and others
Respondents

CORRIGENDA TO APPLICANT'S SUBMISSIONS

The Applicant seeks to correct the following matters from his:

- (a) Outline of Closing Submissions on Liability filed 3 February 2017 (**Submissions in chief**); and
- (b) Closing Submissions in Reply filed 27 February 2017 (**Reply submissions**).

Submissions in chief at [42]

Existing paragraph 42 is not relied upon and instead the Applicant seeks to rely upon the following paragraph and footnotes:

- 42. White then phoned Edwards. White's purpose for doing so was to try to get Edwards to speak to Travers and avoid an unnecessary confrontation.¹ The substance of what Edwards said to White was to the following effect:
 - (a) Edwards said that he wouldn't be telling Travers to leave. He asked why MacDow were making a show of it when Travers was able to go and access other contractors' compounds such as Leighton and Fulton Hogan.²
 - (b) Edwards said that MacDow should turn a blind eye to this and let them [Travers and Duggan] chat and then leave when they were ready.³
 - (c) Edwards thought that Travers should be able to speak to the union rep [ie, Duggan].⁴

¹ Exhibit 6 at [15]; T 52.18-21 (White).

² T 52:28-31 (White).

³ T 52:38-40 (White).

⁴ Exhibit 6 at [16].

Submissions in chief at footnote 50 in paragraph 49

The reference in footnote 50 to page 69 of the transcript should be to page 70. The line references are correct.

Submissions in chief at [85]

The Applicant does not rely upon the words struck through below:

85. Alternatively, if a permit holder cannot be exercising ~~or seeking to exercise~~ a right under s 484 in circumstances where she or he did not provide notice pursuant to s 487, Travers and Hall were seeking to hold discussions within the meaning of s 484 and therefore were seeking to exercise that right. If there is no subjective mental element to “exercise”, all that “seeking to exercise” a right requires is that the person is seeking to do the thing which the right entitles them to do.

Submissions in chief at [105]

As noted in the Applicant’s Reply Submissions at footnote 41 in paragraph 50, the reference to s 9(6) should be to s 9(1)(f).

Submissions in chief at footnote 96 in paragraph 130.3

In addition to [110], the footnote should refer to [91] and [109] of the judgment in the *Red and Blue Case* [2015] FCA 1125.

Reply submissions, footnotes 38 and 39 in [49]

The content of each footnote should be swapped.

Dated: 8 March 2017