

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating Application for Judicial Review - Form 66 - Rule 31.01(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
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File Title: AUSTRALIAN CONSERVATION FOUNDATION INC. v MINISTER FOR
THE ENVIRONMENT AND WATER & ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



Sia Lagos

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.



Originating application for judicial review

No. of 2025

Federal Court of Australia
District Registry: Victoria
Division: General

Australian Conservation Foundation Inc.

Applicant

Minister for the Environment and Water and another named in the schedule

Respondents

To the First and Second Respondents

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing: [Registry will insert time and date]

Place: [address of Court]

The Court ordered that the time for serving this application be abridged to [Registry will insert date, if applicable]

Date:

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of (name & role of party) Australian Conservation Foundation Inc., Applicant

Prepared by (name of person/lawyer) Cecile Bester

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The application

The Applicant applies to the Court, pursuant to s 5(1) of the *Administrative Decisions (Judicial Review) Act 1977* (Cth) and ss 39B(1) and (1A)(c) of the *Judiciary Act 1903* (Cth) to review the decision of the First Respondent (**Minister**) dated 20 May 2025, made pursuant to ss 78 and 78C of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**Reconsideration Decision**), being a decision to confirm the controlled action decision dated 3 May 2019 in respect of the Second Respondent's proposal to continue and extend the operating life of the North West Shelf Project (**NWS Project Extension**), and for which reasons were published on 29 September 2025 (**Reconsideration Reasons**).

Details of claim

Standing

1. The Applicant is a person aggrieved by the decision pursuant to s 487(3) of the EPBC Act in that:
 - a. The Applicant is Australia's national environmental organisation. It is an incorporated association under the *Associations Incorporation Act 1991* (ACT) and a registered charity (ABN 22 007 498 482).
 - b. Since 1965, and in the 2 years immediately preceding the decision, the Applicant has engaged in a series of activities for protection or conservation of the environment.
 - c. In particular, in relation to the Reconsideration Decision and the history of the NWS Project Extension decision-making process:
 - i. In November 2022, the Applicant made a submission in response to an invitation for public comment, concerning the request for reconsideration.
 - ii. In that submission, and in other letters to the Minister, the Applicant expressed its serious concerns about the proposed action's contribution to climate change.
 - d. At the time of the Reconsideration Decision, the Applicant's objects and purpose, as set out in cl 2 of its Constitution, included protection and conservation of the environment.

Grounds of application

2. The Minister erred in failing to take into account information he had about the physical effects of climate change on relevant protected matters.



Particulars

- a. In making the Reconsideration Decision, the Minister was required to consider whether revocation of the original controlled action decision was warranted by “substantial new information about the impacts that the action has, will have, or is likely to have” on matters protected by Part 3: EPBC Act ss 78(1)(a) and 75(2).
- b. The Minister had before him detailed information about the physical effects of climate change on the following protected matters (Reconsideration Reasons at [147]):
 - i. the world heritage values of declared World Heritage properties (ss 12 and 15A);
 - ii. the National Heritage values of National heritage places (ss 15B and 15C);
 - iii. the ecological character of declared Ramsar wetlands (ss 16 and 17B);
 - iv. listed threatened species and ecological communities (ss 18 and 18A);
 - v. listed migratory species (s 20 and 20A);
 - vi. the environment in Commonwealth marine areas (ss 23 and 24A); and
 - vii. the environment in the Great Barrier Reef Marine Park (ss 24B and 24C).
- c. The Minister refused to take that information into account, because he found that the information was not “about the impacts the proposed action has or will have, or is likely to have, on one or more of the relevant protected matters”:
Reconsideration Reasons at [156], [157].
- d. The Minister made that finding on the basis that the proposed action is not a “substantial cause” (within the meaning of s 527E(1)(b) of the EPBC Act) of the physical effects of climate change on the identified protected matters:
Reconsideration Reasons at [163].
- e. The Minister made that finding on two bases:
 - i. That the proposed action would not be likely to result in a “net increase” in greenhouse gas emissions and global average temperature and thus make a “net” contribution to the physical effects of climate change:
Reconsideration Reasons at [163(a)] and [174]; and
 - ii. Even if the proposed action would result in a net increase in global greenhouse gas emissions and global average temperature, any net contribution would be “very small” as a proportion of global greenhouse



gas emissions and as a matter of raw global temperature increase:
Reconsideration Reasons at [163(b)] and [178]-[183].

- f. Each basis was flawed in that each assumed that the phrase “substantial cause” within in s 527E(1)(b) required nothing more than an arithmetical analysis of (1) the gross amount of greenhouse gas emissions relevant to the proposed action; and (2) whether that amount was likely to be “netted off” by equivalent emissions from other sources or was simply “very small” as a proportion of global greenhouse gas emissions or as a matter of raw global temperature increase: cf *Environment Council of Central Queensland Inc v Minister for the Environment and Water* [2024] FCAFC 56 at [132].
- g. Properly construed, the phrase “substantial cause” in s 527E(1)(b) has a qualitative meaning that cannot be reduced to arithmetical analysis.
- h. In the premises, the Minister erred:
 - i. in finding that the proposed action was not a “substantial cause” of the physical effects of climate change on the identified protected matters; and, therefore
 - ii. in refusing to take into account the physical effects of climate change on the identified protected matters.

Orders sought

1. An order quashing or setting aside the Reconsideration Decision.
2. An order remitting the matter for reconsideration according to law.
3. Costs.
4. Any other order the Court considers appropriate.

Applicant’s address

The Applicant’s address for service is:

Place: c/o Environmental Justice Australia, solicitor, of Suite 301, Level 3, 60 Leicester Street, Carlton VIC 3053

Email: cecile.bester@envirojustice.org.au

The Applicant’s address is Level 1, 60 Leicester Street, Carlton VIC 3053



Service on the Respondents

It is intended to serve this application on all Respondents.

Date: 27 October 2025

A handwritten signature in blue ink that reads "C Bester".

Signed by Cecile Bester
Lawyer for the Applicant



Schedule

No. of 2025

Federal Court of Australia
District Registry: Victoria
Division: General

Respondents

Second Respondent: **Woodside Energy Ltd**
(ABN 63 005 482 986)

Date: 27 October 2025