

NOTICE OF FILING

Details of Filing

Document Lodged:	Submissions
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	9/06/2026 5:05:57 PM AEST
Date Accepted for Filing:	9/06/2026 5:05:58 PM AEST
File Number:	VID1400/2025
File Title:	AUSTRALIAN CONSERVATION FOUNDATION INC. v MINISTER FOR THE ENVIRONMENT AND WATER & ANOR
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "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.



FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
DIVISION: GENERAL

No VID1400/2025

AUSTRALIAN CONSERVATION FOUNDATION INC.
Applicant

MINISTER FOR ENVIRONMENT AND WATER
First Respondent

WOODSIDE ENERGY LTD (ACN 005 482 986)
Second Respondent

OUTLINE OF SUBMISSIONS OF THE SECOND RESPONDENT

1. On 3 May 2019, under s 75(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**Act**), a delegate of the First Respondent decided that the proposed action by the Second Respondent to continue and extend the operating life of the North West Shelf Project through the long term processing of third party gas and fluids and North West Shelf Joint Venture field resources through the North West Shelf Project facilities was a controlled action (**Controlled Action Decision**).
 2. On 20 May 2025, under ss 78(1) and 78C of the Act, in relation to a request made by Environmental Justice Australia (**EJA**) on behalf of the Environment Council of Central Queensland (**ECCQ**), the Minister decided to confirm the Controlled Action Decision (**Reconsideration Decision**).
 3. On 12 September 2025, under ss 130(1) and 133(1) of the Act, the Minister decided to approve the taking of the proposed action by Woodside (**Approval Decision**).
 4. The Applicant (**ACF**) has commenced proceedings seeking judicial review of the Approval Decision (VID1356/2025) and of the Reconsideration Decision (this proceeding, being VID1400/2025).
 5. In this proceeding, ACF seeks judicial review of the Reconsideration Decision on the basis of one ground, which is that, in making the Reconsideration Decision, the “Minister erred in failing to take into account information he had about the physical effects of climate change on relevant protected matters”.
-

6. ACF relies on the submissions filed in proceeding VID1356/2025 to submit that the Minister erred in his reasoning in paragraph 163 of his **Reasons** in respect of the Reconsideration Decision, and, as a consequence, wrongly concluded that:
 - 6.1 the proposed extension of the life of the North West Shelf Project was “*not a substantial cause of the stated physical effects of climate change on the world heritage values of a declared World Heritage properties*”; and
 - 6.2 the information provided to him with the reconsideration request was “*not about impacts the proposed action has or will have, or is likely to have, on the world heritage values of declared World Heritage properties*”.¹
7. For the reasons set out in Woodside’s submissions in VID1356/2025 at paragraphs 117-154 and 159-194, those submissions should be rejected (and have been addressed in Woodside’s submissions in VID1356/2025 to reflect the approach taken by ACF).
8. There is, however, an important threshold issue which ACF has not addressed. While s 78(1) of the Act empowers the Minister to revoke a controlled action decision in certain circumstances, s 78(3) relevantly provides that the Minister must not revoke a controlled action decision under s 75(1) after the Minister has granted an approval of the taking of the action (under s 133). The statute provides no scope for discretion in this respect.
9. As the Minister made the Approval Decision on 12 September 2025, it follows that, even if this Court were to conclude that the Minister had erred in the making of the Reconsideration Decision, the Minister would be precluded by s 78(3) from re-exercising the power in s 78(1) to achieve a different outcome.

¹ The Minister’s principal reasoning occurred in the section of his reasons dealing with world heritage values of declared World Heritage properties. The Minister then confirmed and carried that reasoning into the sections of his reasons dealing with other MNES: see Reasons at [196], [207], [221], [230], [241] and [251].

11. The significance of this is that, if ACF is not successful on any of its grounds in VID1356/2025 and Friends of Australian Rock Art Inc is not successful on any of its grounds in VID1357/2025, the Court should decline to grant any relief in this application on the ground that any grant of relief would be futile.

Date: 9 June 2026

D G CLOTHIER

F I GORDON

J D WATSON

G R CLOUGH