

NOTICE OF FILING

Details of Filing

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File Title:	FRIENDS OF AUSTRALIAN ROCK ART INC v MINISTER FOR ENVIRONMENT AND WATER & ANOR
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



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.

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IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
DIVISION: GENERAL

VID1357/2025

FRIENDS OF AUSTRALIAN ROCK ART INC

Applicant

MINISTER FOR ENVIRONMENT AND WATER

First Respondent

WOODSIDE ENERGY LTD (ACN 005 482 986)

Second Respondent

**SUBMISSIONS OF THE APPLICANT IN SUPPORT OF LEAVE FOR THE AMICUS
CURIAE**

1. The Applicant supports a grant of leave to the United Nations Special Rapporteur on the human right to a clean, healthy and sustainable environment (**Special Rapporteur**) to be heard as *amicus curiae* and provide written, and if required, oral, submissions.
2. The submissions of the Special Rapporteur offer the Court the “benefit of a larger view of the matter before it” than the parties to the proceedings are in a position to offer.¹ Specifically, the Special Rapporteur would provide significant assistance to the Court as to the broader context around how international law obligations, including as explained by the International Court of Justice in its Advisory Opinion on the Obligations of States in Respect of Climate Change of 23 July 2025, inform the proper construction of ss 134, 136 and 137A of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**). That is of assistance to the Court in determining these proceedings in circumstances where:
 - 2.1 the EPBC Act is largely supported by s 51(xxix) of the *Constitution* as it implements Australia’s international environmental responsibilities, including its obligations under international agreements such as the *Convention Concerning the Protection of the World Cultural and Natural Heritage*; and

¹ *Wurridjal v Commonwealth* (2009) 237 CLR 309 at 312 (French CJ).

- 2.2 there is limited domestic case law on the National Heritage Management principles in the EPBC Act generally² and on the principles of ecologically sustainable development (particularly the principle of inter-generational equity and the precautionary principle) and the protection of national heritage specifically: see **Amicus [51]-[55], [57]-[59]**.³
3. It would not be novel to grant leave to appear as *amicus curiae*. The Applicant notes that the High Court has granted leave to appear to three *amicus curiae* in *Mach Energy Australia Pty Ltd v Denman Aberdeen Muswellbrook Scone Healthy Environment Group Inc* (Case No S174/2025) (an appeal from the NSW Court of Appeal concerning the construction of a provision of the *Environmental Planning and Assessment Act 1979* (NSW)). Two of the *amici* (the Union of Concerned Scientists and Melbourne Climate Futures) have been granted leave to make oral submissions at the hearing of the appeal.⁴
4. If the Special Rapporteur is granted leave to make oral submissions in these proceedings, the Applicant accepts that the Special Rapporteur’s time should be taken from the time that would otherwise have been allocated to the applicants across proceedings VID1357/2026, and VID1356/2025 and VID1400/2025. That time allocation can be left to the parties to agree on that basis.

Date: 4 May 2026

**Sashi Maharaj KC
Christopher Tran
Selena Bateman
Priyanka Banerjee**

² The only case in which there has been judicial consideration of any of the National Heritage provisions in the EPBC Act is *Secretary, Department of Primary Industries, Parks, Water and Environment v Tasmanian Aboriginal Centre Inc* [2016] FCAFC 129; (2016) 244 FCR 21 (concerning the meaning of the expression “National Heritage values”). In *Australian Conservation Foundation Inc v Minister for the Environment and Energy* [2017] FCAFC 134; (2017) 251 FCR 359, there was only a brief comment about whether “increased ocean temperature, ocean acidification or more extreme weather events” could be impacts on National Heritage values: at [42]. Neither of these cases is directly relevant to the present proceedings before the Court.

³ Affidavit of David Burke affirmed 27 April 2026, Annexure DB-6 at pp 21-23.

⁴ See also, Special Rapporteur’s Submissions in Support of the Interlocutory Application dated 27 April 2026 at [6]-[7].