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Document Lodged:	Outline of Submissions
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	23/06/2026 3:49:45 PM AEST
Date Accepted for Filing:	23/06/2026 3:49:46 PM AEST
File Number:	VID1357/2025
File Title:	FRIENDS OF AUSTRALIAN ROCK ART INC v MINISTER FOR ENVIRONMENT AND WATER & ANOR
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA

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FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
DIVISION: GENERAL

VID1357/2025

FRIENDS OF AUSTRALIAN ROCK ART INC
Applicant

MINISTER FOR THE ENVIRONMENT AND WATER
First Respondent

WOODSIDE ENERGY LTD (ACN 005 482 986)
Second Respondent

FIRST RESPONDENT'S OUTLINE OF SUBMISSIONS

PART A — INTRODUCTION

1. This is an application for judicial review of the decision made by the Minister for the Environment and Water (the **Minister**) to approve the taking of an action by the second respondent (the **proponent**, or **Woodside**) under ss 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) (the **Approval Decision**). The proposed action is the North West Shelf Extension Project (**NWS Extension Project**), which would extend the operation of an existing facility currently expected to run until around 2030 using existing source of gas, as well as expand that facility's operation so that it can process gas from other offshore areas near Western Australia.

2. Each of the grounds of review lack merit and the application should be dismissed. In summary:

   2.1 **Ground 1**: The Minister was not required to consider any particular claim in relation to adverse economic impacts when considering the category of "*economic and social matters*" pursuant to s 136(1)(b) of the EPBC Act. In any event, the

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applicant has not established that the Minister failed to take into account the claims about adverse economic impact.

2.2 **Ground 2**: The Minister was permitted to take into account the potential economic benefits of the Browse to North West Shelf (**NWS**) development, if that project were approved, when considering the category of "*economic and social matters*" pursuant to s 136(1)(b) of the EPBC Act.

2.3 **Grounds 3 and 4**: The grounds fail on their facts: the Minister's brief was updated between the proposed approval decision and the final decision, and the Minister's reasons disclose an intelligible justification for imposing each of the conditions.

2.4 **Ground 5**: In considering whether conditions are "*necessary or convenient*" pursuant to s 134 of the EPBC Act, it is open to the Minister to consider whether the conditions are "*feasible*".

2.5 **Grounds 6 and 7**: For the reasons given by the proponent, s 137A of the EPBC Act does not require the Court to determine for itself whether the Minister acted inconsistently with the National Heritage management principles, and the Minister's state of satisfaction pursuant to s 137A of the EPBC Act was reasonable.

3. Given the proponent is capably represented and has filed detailed submissions (**PS**) opposing the grant of relief, the first respondent has endeavoured to limit his submissions so as to avoid duplication.

PART B — BACKGROUND

4. The proponent has addressed the procedural history of the assessment and decision-making process (PS [23]-[32]) and the statutory scheme (PS [11]-[21]). It is not necessary to add to those summaries. The first respondent addresses any relevant construction issues in the course of submissions below.

5. In these submissions, the attachment numbers reflect the attachments to the Approval Decision brief signed by the Minister on 12 September 2025.[1] The Approval Decision brief incorporates an earlier brief signed 28 May 2025 and its attachments bundled together as "*Attachment F: Copy of proposed approval decision submission package*".[2]

6. No issue is taken with the applicant's standing: Applicant's submissions dated 13 April 2026 (**AS**) at [10].

PART C — SUBMISSIONS

C-1 Ground 1: Failure to consider adverse economic matters

7. The applicant contends that the Minister erred in failing to consider materials before him identifying adverse economic consequences of the NWS Extension Project: AS [64]-[73]. There are two responses:

   (a) *First*, the applicant's submissions proceed on an incorrect construction of s 136(1)(b). Properly construed, that provision does not require that every comment or submission dealing with economic matters must be taken into account and reflected in the Minister's reasons.

   (b) *Secondly*, and in any event, the applicant has not established that the Minister failed to take into account the claims about adverse economic impact. None of the particular matters identified by the applicant warranted specific mention in the reasons, and the brief otherwise made clear that appropriate consideration was given to the public submissions.

8. As the proponent's submissions explain, s 136(1)(b) marks out the "*broad categories of consideration to which the Minister was required to turn his mind*"[3] but allows the Minister latitude to determine what matters within that category might require consideration: see PS [42]. The applicant appears to accept as much: AS [65]. The case law regarding "*economic and social matters*" indicates the breadth of those terms and

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1 An index to the Approval Decision Brief was prepared in accordance with Order 1 of the Orders of Button J dated 17 November 2025 and served on the parties.

2 The page numbers in the footnotes refer to the internal document page numbering; these page numbers can be updated in annotated submissions once a Court Book is filed if that is convenient.

3 *Tarkine National Coalition Inc v Minister for the Environment* (2015) 233 FCR 254 (***Tarkine FC***) at [25] (Jessup J, Kenny J agreeing).

the latitude given to the Minister under s 136(1)(b): PS [43]-[44]. The applicant's argument fails at the threshold: the Minister was not required to consider any particular economic matter within this category.

9. The applicant is incorrect to say at AS [72], relying on cases concerning decisions under the *Migration Act 1958* (Cth), that material regarding economic detriments "*forms a necessary part of the content of the mandatory consideration of 'economic matters' where it is clearly articulated on the material that is before the Minister and because it is 'part of the legal framework in which the decision is made'*". For example, the applicant relies on *Plaintiff M1*,[4] which concerned a discretionary power exercisable only after a former visa holder made representations to the decision-maker: "*the decision-maker undertakes the assessment by reference to the case made by the former visa holder by their representations*".[5] That is very different to the statutory context here, where the Minister's is engaged in a polycentric and evaluative decision-making exercise and the material in question was propounded by members of the general public. The Minister's task under ss 130 and 133 required him to consider certain matters and then to exercise a discretion that involves a judgement incorporating "*all manner of environmental, biological and policy considerations*".[6]

10. Moreover, the Minister had not invited public comment on the proposal (under s 131A), and the claims in issue here were not raised by another Minister (s 131(2)(a)) and therefore the submissions contained in the Minister's brief[7] had no particular status under the statutory scheme (cf AS [72.2]; compare *Plaintiff M1*). The Minister was also not required to "*take into account*" the submissions by reason of s 136(2). In this regard, the language of s 136(2) is to be contrasted with provisions such as s 75(1A).

11. Even if the Minister was required to consider the claims made in the submissions, there is no basis in the evidence to find that the Minister did not consider the claim. Of course, the fact a matter was not mentioned in the reasons does not mean it was not

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4 *Plaintiff M1/2021 v Minister for Home Affairs* (2022) 275 CLR 582 (***Plaintiff M1***).

5 *Plaintiff M1* at [22].

6 *Tarkine FC* (2015) 233 FCR 254 at [67] (Jessup J, Kenny and Middleton JJ agreeing).

7 Attachments I01 and I02 to the Approval Decision Brief relate to submissions received between 28 May 2025 and 13 August 2025 and Attachment F117 and F118 relate to submissions received before the proposed decision.

considered. In *Blue Wedges Inc v Minister for Environment, Heritage and the Arts*, North J said:[8]

> *The mere fact that not every issue was addressed in the statement of reasons or in departmental advice contained in departmental briefs does not prove that the material was not considered by the Minister. There are other explanations for the absence of mention of the matters in the statement of reasons. The Minister may have excluded some on the basis that they were not sufficiently important, or that the environmental concern was not sufficiently in question to warrant express mention.*

12. This ground fails on its facts. *First*, none of the matters identified in the table at Annexure A to the applicant's submissions were significant such that they warranted mention in the reasons: see also PS [49]-[52]. *Secondly*, the Minister's reasons indicate he was aware of the submissions made by the community:[9] see also PS [56]. *Thirdly,* the decision package contained the submissions,[10] and the Minister expressly circled Recommendation 1, which confirmed that he had considered those materials.[11] *Fourthly*, some of the matters were dealt with and rejected, such as the submission about negative impacts on gas prices:[12] see also PS [58]. The ground should be dismissed.

C-2 Ground 2: Unreasonableness in relation to economic matters

13. This ground contains two allegations:

    13.1 *First*, that the Minister erred in failing to consider adverse economic consequences: AS [75]. This sub-ground fails, for the reasons just given in relation to ground 1.

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8 (2008) 167 FCR 463 at [123].

9 See in particular the Minister's reasons for the Approval Decision (**Approval Reasons**) at [44] stating that although the Minister did not invite public comment, he "*considered any relevant submissions received from the public in making my decision*"; Approval Reasons [47]-[48] summarise the Ministerial correspondence (including FARA's various submissions which are specifically discussed at [48]); Approval Reasons [244]-[246] summarise the community concerns raised during the assessment process regarding economic and social matters.

10 Decision Brief at [31] and [34], Attachments E1-3, E5, E20, E23, E24, I01, and I02.

11 Decision Brief, Page 1, Recommendation 1.

12 See Approval Reasons [251]; cf AS [67.1] and [67.3], summarising FARA's submission to the Minister dated 27 February 2025.

13.2 *Secondly*, that the Minister erred in taking into account the economic benefits of a separate action, being the Browse to NWS project: AS [76]. The balance of the submissions on ground 2 below deal with this sub-ground.

14. The Minister's reasoning in relation to the potential economic benefits of the Browse to NWS development was not unreasonable or irrational. In an attempt to demonstrate unreasonableness, the applicant's argument misconstrues the Minister's reasons and seeks to impose constraints that do not appear in the language of s 136(1)(b) of the EPBC Act.

15. The Minister's reasons make clear that he was aware that the Browse to NWS project was a separate project that was not approved and may never be approved: see Approval Reasons at [17], [249], [251]; cf AS [77], [79] and [80]. The Minister understood that the projects were separate and contingent: the caveated and conditional language in these paragraphs makes clear that the Minister was noting the potential benefits of the NWS Extension Project plus the Browse to NWS project, if that latter project were approved. The Minister did not reason as though the proposal or its benefits involved "*effective certainty*" (cf AS [80]).

16. The applicant focusses on the Minister's reasoning at [250(c)] and [251] (AS [76]), but immediately prior to those impugned paragraphs, the Minister said at [249]:

> *I note the proponent provided economic information under two scenarios: the current operation of NWS Project processing NWS resources only; and the economic impacts from developing the Browse fields (EPBC 2018-8319 under assessment) and processing via North West Shelf Project infrastructure and the North West Shelf Project Extension.*

17. The Minister then stated that "*the proposed action would result in significant economic benefits to the regional, State and National communities*", before setting out several matters under [250(a)-(c)] and [251]. The material before the Minister regarding economic matters, which supported the statements in each of those impugned paragraphs, clearly distinguishes between the two relevant scenarios (in which the NWS Extension Project processed only existing approved resources, or, where the project secured a new source of gas from the Browse to NWS development): see the summary of the underlying material in PS [73]-[75].

18. Moreover, reading the Minister's reasons as a whole, the Minister evidently understood that the factual premise of the NWS Extension Project was that, in order to be viable for its long term operation, it would need to process gas from third-party sources after 2030, where one of those potential sources was the Browse to NWS project.[13] This interdependency was an inherent aspect of the action to which the decision related. For that reason, it was entirely logical for the Minister to refer to any future economic benefits by reference to these other sources of gas, given those sources are in effect pre-requisites for the project to proceed in the long term.

19. In that context, AS [77] is factually incorrect to suggest that "*the Browse Development is ... non-essential to, the NWSx Project*": that was one of the identified sources which would enable the operation of the proposal beyond 2030, if approved. For example, the Minister observed that "*[w]ithout new gas and fluids sources, the existing action (and associated emissions and discharges) would be expected to decline over the next 10 years as the [North West Shelf Joint Venture] NWSJV fields deplete*".[14] The Minister was conscious that the NWSJV resources are expected to run out by around 2030.[15] In the section of the reasons dealing with economic matters, the Minister referred to the proponent's statement that, with "*NWS reserves in decline, and without long-term third-party gas supply being secured, it may not be economically viable to continue operating all domestic gas and LNG processing infrastructure at the [Karratha Gas Plant] KGP*".[16] More generally, the impacts assessed by the Minister implicitly assume that new sources of gas will be available, including third-party sources (for otherwise there would be no emissions after 2030). Similarly, the conditions assume that third-party gas will be processed, because otherwise the caps on air emissions beyond 2030 would be meaningless.

20. Accordingly, there was plainly a logical basis for the Minister to reason that the facility would not operate beyond 2030 without a new source of gas, that one potential new

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13 In addition to the Browse to NWS project, there were other third-party sources which were not able to be identified at the time of referral: see Attachment F15 at p 5: "*the proponent has stated that the development of [the other] gas fields cannot be referred or assessed at this time because the commercial arrangements to identify and agree the relevant gas field sources are not complete*".

14 Approval Reasons at [15].

15 Approval Reasons at [7], [15], [158].

16 Approval Reasons at [252].

source of gas was the Browse to NWS project, and that there could be future economic benefits in that scenario (as well as future impacts).

21. In that context, the construction question that arises is whether the Minister was permitted to take into account the economic benefits of the NWS Extension project plus the potential economic benefits of the Browse to NWS project if that latter project were approved.

22. None of the points raised by the applicant provide a basis to limit s 136(1)(b) to exclude consideration of the potential benefits at issue. *First*, the use of the definite article in ss 130(1) and 133(1) raises no higher than the applicant's point that "*matters' required or permitted to be considered must therefore bear sufficient connection to the proposed action*" (AS [77]); it does not explain why the Minister is precluded from considering separate actions that are subject to approval. In any event, even applying the applicant's proposed statutory gloss on the language of s 136(1)(b), the Browse to NWS development does have a sufficient connection to the NWS Extension Project. *Secondly*, to the extent there are remarks in the case law (AS [77], citing *Tarkine FC* at [43]) regarding whether the Minister is *required* to take into account the impacts of other actions, those comments do not answer the question whether the Minister was *permitted* to take into account the benefits of other actions. As the proponent says at PS [90], the language used in the EPBC Act that governs the predictive exercise required in relation to impacts has no resemblance to the wide language in s 136(1)(b). *Thirdly*, s 136(5) of the EPBC Act does not assist the applicant: cf AS [78]. The "*category*" of economic matters was clearly required to be taken into account, and the debate is instead whether the potential economic benefits of another project are properly within that category. There could be no suggestion that the related economic benefits at issue were not an "*economic matter*".

23. For these reasons, the phrase "*economic and social matters*" is of sufficient width that it entitles the Minister to consider the potential economic benefits of an unapproved project in the manner he saw fit. And in the context of this project, it was wholly logical for the Minister to consider the economic benefits of the NWS Extension Project if that project secures a third-party gas source (such as the Browse to NWS project).

C-3 Grounds 3 and 4: Changes between proposed approval and final decision

24. The applicant's third and fourth grounds (AS [98]-[121]) are similar. The crux of the grounds seems to be that the Minister relied on "*outdated*"[17] information. This is said to have impacted the Minister's satisfaction under ss 130 and 133, and/or the satisfaction under s 134. The arguments raised in relation to these grounds are wholly factual, and in truth, appear to be concerned with the merits of the changes between the proposed conditions and the final conditions in the Minister's decision.

25. The context is as follows. The Minister stated that he had proposed to attach to the approval Proposed Condition 3 "*requiring the proponent to achieve the outcome of no emissions above the detectable limit of air emissions that impact rock art by 31 December 2030*".[18] "*Air emissions that impact rock art*" were defined as including acid forming emissions (NO_x, SO_x, VOCs, CO, CO_2, CH_4, NH_3 and O_3).[19] The Minister noted that the proposed conditions were "*developed in the context of uncertainty regarding the details of and appropriateness of the proponent's emissions reduction approach and uncertainty in the likelihood and scale of impacts of emissions on rock art as a result of the proposed action*".[20]

26. Consultation with the proponent regarding the conditions then occurred, as required by the Act,[21] and the Minister took into account the comments provided, again as required by the Act.[22]

27. Following that consultation, the Department decided (and the Minister agreed) that achieving Proposed Condition 3 was not feasible.[23] The Minister decided to impose conditions on the following basis:[24]

> — *gases arising from the action are likely to impact rock art,*

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[17] See headings and summaries at F.1 and F.2 in AS.
[18] Approval Reasons at [158].
[19] Approval Reasons at [158].
[20] Approval Reasons at [173].
[21] Section 131AA.
[22] Section 134(4)(aa).
[23] Approval Reasons at [175].
[24] Approval Reasons at [176].

— *while the precise relationship between emissions and damage is not well understood, less emissions are likely to have a lower impact on the rock art, and*

— *the conditions should impose the lowest volume of emissions which can feasibly be set while still allowing the action to occur and without permitting an unacceptable impact on the [National Heritage Place] to occur.*

28. The Minister explained that "*Proposed Condition 3 has been split into five separate conditions, with Conditions 5, 6, 7 and 8 specific to each emission type which are likely to have an impact on rock art as follows*",[25] before addressing those conditions in turn.[26] The Minister stated that he considered that these conditions were "*necessary and convenient to protect the National Heritage Values of the National Heritage place*".[27] The Minister found that, notwithstanding the conditions, the proposed action "*is likely to result in residual impacts to the values of the Dampier Archipelago*".[28] The Minister went on, in the balance of his reasons, to consider the acceptability of the residual impact, concluding that the "*application of stringent emissions reductions conditions means that the action will not have an unacceptable impact on the National Heritage values of the National Heritage place*".[29]

29. The applicant's submissions in relation to grounds 3 and 4 do not identify errors in any particular parts of the Minister's reasons relating to his assessment of impacts or the imposition of conditions. Instead, the applicant's submissions proceed by reference to a number of factual points, all of which are apparently concerned with the "*inadequacy*" of material before the Minister. These are discussed in turn below.

30. AS [99] suggests that the Minister was not provided with updated material between the proposed decision and the final decision. The Minister did receive a detailed briefing in the form of the decision brief provided to his office on 9 September 2025 and signed on 12 September 2025. The fact that the Minister's brief for the final decision contained a copy of his entire brief for the proposed approval decision goes nowhere; this does not

[25] Approval Reasons at [177].
[26] Condition 4 is discussed in the Approval Reasons at [178]-[182], Condition 5 at [183]-[195], Condition 6 at [196]-[198], Condition 7 at [199]-[209], and Condition 8 at [210]-[213].
[27] Approval Reasons at [234].
[28] Approval Reasons at [235].
[29] Approval Reasons at [309].

suggest the brief was misdirected to a "*materially different decision*": AS [99]. Rather, the Minister was following the sequence of decision-making contemplated by the Act.

31. AS [100.1] argues that the conditions attached to the proposed decision were more stringent than the final conditions. This complaint pays no regard to the language of s 134(1) and the Minister's discretion to impose conditions. It is not to the point whether the conditions are described as more or less stringent; the statutory test is whether the conditions are "*necessary or convenient*". The applicant's position seems to proceed on an unstated and incorrect premise that there can only be one set of conditions that is "*necessary or convenient*". How that can be the case when the Act contemplates consultation on conditions is not explained. In any event, the brief did address in detail the nature of, and rationale for, the changes from the air emissions conditions in the proposed approval to the final approval.[30] The Department informed the Minister that, in their view, "*the application of stringent emissions reductions conditions means that the action will not have an unacceptable impact on the National Heritage values of the National Heritage place*".[31] And as set out above, the Minister's reasons clearly expose the changes between the proposed conditions and the final conditions, and explain the basis on which he decided the final condition set was "*necessary or convenient*".

32. AS [100.2] says that there was scientific evidence regarding the impacts of air emissions on rock art that was not before the Minister when he made the proposed decision but was before him by the time of the final decision. That is correct. The Minister expressly took that new information into account when assessing impacts.[32] The brief also expressly referred to the new research including the PhD dissertation to which the applicant refers.[33] It is unclear where this complaint goes.

33. AS [106] (together with AS [102]-[105]) suggests that the Legal Considerations Report should have been updated. There is no basis in the statute for such an assertion. The power to grant approval in s 133(1) of the EBPC Act is conditioned on, relevantly, the receipt of the assessment documentation (defined in s 133(8), here being the assessment

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30 Approval Decision Brief at [69]-[100].
31 Approval Reasons at [117].
32 Approval Reasons at [49] and [120].
33 Approval Decision Brief at [33].

report produced following the accredited assessment process). The Legal Considerations Report does not form part of the assessment documentation. Nor is the Legal Considerations Report one of the documents mentioned in s 136(2). It does not have any particular statutory significance and is not required to be updated.

34. AS [107]-[108] suggests that the Department's brief was misleading insofar as it said the changes to conditions were to "*clarify*" conditions. The Department stated at [5] of the brief under the heading 'Key Points' that *"[i]n response to comments received, several changes were made to the decision notice to clarify conditions and to further align with the Western Australian approval*". Moreover, the brief as a whole clearly sets out the substance of the changes from proposed condition 3 to the final air emissions conditions 4-8. There is no basis to conclude that the brief was misleading.

35. There is accordingly no basis for the conclusion at AS [109] that the Minister's brief was "*materially deficient*". The applicant makes no attempt to identify error in the Minister's actual reasons as to how he formed a state of satisfaction under ss 130 and 133 (to approve the action), and/or under s 134 (to impose conditions). These grounds lack merit.

C-4 Ground 5: Practicability of conditions

36. The applicant argues that the Minister asked himself the wrong question, or acted unreasonably, by asking whether he was satisfied each condition is feasible for Woodside such that attaching the condition would not prevent the action from occurring: AS [122]-[129]. This amounts to an allegation that the Minister was not entitled to consider the practicability of compliance with the conditions. The contention appears to involve a factual argument and a statutory construction argument.

37. As to the factual argument, the applicant says at AS [124] that "*the Minister's reasons for attaching Conditions 4-8 demonstrate he attached them because he was satisfied that they were feasible (in the sense of practicable and achievable) for Woodside to comply with such that their attachment to his approval would not prevent the NWSx Project from occurring*". This is not a correct characterisation of the Minister's reasons. The Minister's reasons explain that he formed the ultimate conclusion that the conditions were necessary and convenient for protecting a matter protected; the

practicability of compliance was a factual matter discussed along the way to forming that conclusion.

38. As to the construction argument, the applicant submits at AS [126] that the text of s 134 does not permit the Minister to consider whether a proposed condition is "*feasible*", "*practicable*" or "*achievable*". That involves imposing limits on the EPBC Act that do not arise from the text, context or purpose, and are in tension with other important aspects of the statutory scheme.

39. *First*, the language of s 134(1) is wide. It has been said that "*[t]he power of the Minister to impose conditions on an approval of a controlled action is very wide*".[34] It is clear from the text of the EPBC Act that a condition might be "*necessary*", or "*convenient*", or both. Concepts such as "*feasibility*", "*practicability*" or "*achievability*" fall comfortably within the language of "*convenient*", and likely also within the term "*necessary*".

40. *Secondly,* s 134(4)(b) of the EPBC Act provides that, in deciding whether to attach a condition, the Minister must consider "*the desirability of ensuring as far as practicable that the condition is a cost-effective means for the Commonwealth and a person taking the action to achieve the object of the condition*". This suggests that there is a balancing act involved in imposing conditions, which can include the cost effectiveness to a proponent, and not that environmental objectives are pursued at all costs.

41. *Thirdly,* the EPBC Act makes express provision for the proponent to comment on the proposed decision and the proposed conditions, and provides that any such response is a mandatory relevant consideration: ss 131AA(1) and 131AA(6); see also s 134(4)(aa). It would be surprising if the proponent's comments on the proposed conditions were to be disregarded, when those comments concern feasibility or practicability of the proposed conditions.

42. *Fourthly*, if the Minister is aware following such consultation that a condition is incapable of compliance, it is difficult to see how that condition could be "*necessary or convenient*" for one the specified purposes in s 134(1) of the EPBC Act, being either

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34 *Buzzacott v Minister for Sustainability, Environment, Water, Population and Communities (No 2)* (2012) 187 LGERA 161 at [58] (Besanko J) (upheld on appeal).

"*protecting a matter protected by a provision of Part 3*" or "*repairing or mitigating damage to a matter protected by a provision of Part 3*".

43. The applicant's construction argument fails (AS [126]). The reasonableness argument at AS [127] appears to be little more than a thinly veiled attack on the merits of the amendments to the conditions between the proposed approval decision and the final decision, which fails for the reasons outlined above. Ground 5 should be dismissed.

C-5 Grounds 6 and 7: National Heritage Management principles

44. By grounds 6 and 7 of FARA's application (AS [130]-[151]), the applicant puts forward two arguments as to why the Minister's assessment of s 137A of the EPBC Act was erroneous. The grounds are put in the alternative, as they advance mutually exclusive constructions of s 137A.

45. The first respondent has nothing to add to the proponent's submissions in respect of ground 6; the construction advanced by the applicant is contrary to established authority and unsupported in principle: PS [149]-[174].

46. As to ground 7, the first respondent notes that this ground relies on the earlier grounds.[35] The first respondent repeats its submissions above and otherwise adopts the proponent's submissions in relation to ground 7: PS [179]-[186].

PART D — CONCLUSION

47. The application should be dismissed with costs.

Date: 23 June 2026

Stephen Lloyd
Matt Sherman
Melinda Jackson
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[35] The particulars put the ground on the same bases as earlier grounds: the complaints appear to concern (1) the change between the proposed conditions and the final conditions (see particular (e), cross referencing particular (f)(v) to ground 3); and (2) the alleged inadequacy of air emissions conditions (see particular (c)). In written submissions, the applicant does not advance any separate basis on which this ground would be upheld, merely reiterating that the Minister "*relied upon the [Legal Considerations Report] which was based on the proposed conditions for the Proposed Decision rather than the (materially different) Final Conditions*"*:* AS [148].