



HIGH COURT OF AUSTRALIA

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Details of Filing

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IN THE HIGH COURT OF AUSTRALIA
 SYDNEY REGISTRY

No. S174/2025

BETWEEN:

MACH ENERGY AUSTRALIA PTY LTD
ABN 34608495441

Appellant

and

DENMAN ABERDEEN MUSWELLBROOK SCONE
HEALTHY ENVIRONMENT GROUP INC

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First Respondent

INDEPENDENT PLANNING COMMISSION OF NSW

Second Respondent

**OUTLINE OF ORAL SUBMISSIONS OF MELBOURNE CLIMATE FUTURES
 GRANTED LEAVE TO BE HEARD AS *AMICUS CURIAE***

Part I. Form of submissions

1. This outline of oral submissions is in a form suitable for publication on the internet.

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Part II. Outline of propositions that MCF intends to advance orally

2. Ground 1: There is no dispute that s 4.15(1)(b) of the EPA Act requires a consent authority to consider all likely impacts of a development—local and non-local—to the extent relevant: **MCF [8]-[9], [19]-[22], [32]**. In relation to any residual dispute between the parties, MCF makes no submission.
3. Ground 2: Section 4.15(1)(b) requires consideration of “likely impacts of [the] development” on the “environment”. The “environment” includes the climate system, as well as other aspects of the natural environment: **MCF [26]-[30]**.
4. There is no dispute that it is “likely” there will be effects on the “environment”: (a) the Project’s coal will be combusted and release GHG emissions into the atmosphere; (b) those GHG emissions will affect the environment by interfering with the climate system; and (c) the altered climate system will result in further effects on other components of the environment, both globally and locally in NSW: **MCF [18], [25], [27]; AS [18], [54], [59], [61]-[62]; Reply [10]**.
5. Determining whether these effects are “impacts of the development” calls for a causal inquiry: what impacts are caused by the development? The answer encompasses direct

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impacts on the environment, as well as indirect impacts flowing from the development forming part of the “chain of likely consequences” (subject to issues of remoteness): **MCF [18], [33]-[35]; *Hoxton Park* at [44], [46] (JBA 5.22, p 1168).**

6. The Appellant submits that the inquiry should end at the first step in the causal chain (impacts on the climate system). That is inconsistent with *Hoxton Park* and with the objects of the EPA Act including facilitating ecologically sustainable development: **EPA Act ss 1.3, 1.4 (JBA 1.3, pp 30-39); POE Act s 6(2)(a) (JBA 2.11, p 502).**
7. Ground 3 (if it arises): The Appellant submits that, for local impacts to be “impacts of [the] development”, it must be possible to say that the particular Scope 3 emissions generated as a result of the Project will themselves have a particular local impact in NSW: **Reply [11]**. That is despite the parties’ agreement on the matters at [4] above.
8. That is an unduly strict approach to what is a risk-based, forward-looking assessment aimed at ascertaining a “real chance or possibility” of impacts informed by the precautionary principle: **MCF [18], [22], [41], [46]; EPA Act ss 1.3, 1.4 (JBA 1.3, pp 30-39); POE Act s 6(2)(a) (JBA 2.11, p 502); *Finch* at [72]-[73] (JBA 7.32, p 1908).**

Dated 13 May 2026



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