

No. NSD1056 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

Energy Resources of Australia Ltd ABN 71 008 550 865

Applicant

Minister for Resources and Minister for Northern Australia (Commonwealth) and others
Respondents

Affidavit of: **Leon Chung**

Address: 161 Castlereagh Street, Sydney NSW 2000

Occupation: Solicitor

Certificate identifying Exhibit

This is the Certificate identifying Exhibit "LC-3" annexed to the Affidavit of Leon Chung dated 7 August 2024.


.....
Witness, Haiqiu Zhu

Date: 7 August 2024

Filed on behalf of (name & role of party) Energy Resources of Australia Ltd ABN 71 008 550865, Applicant
Prepared by (name of person/lawyer) Leon Chung
Law firm (if applicable) Herbert Smith Freehills
Tel 02 9225 5716 Fax _____
Email leon.chung@hsf.com
Address for service Level 34, 161 Castlereagh Street
(include state and postcode) Sydney NSW 2000

From: [Chung, Leon](#)
To: minister.king@industry.gov.au; laurence.coleman@industry.gov.au; Kym.Moore@industry.gov.au
Cc: [Scott, Nicholas](#); [Loughland, Amelia](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:46:41 PM
Attachments: [2024.08.06 ERA Interlocutory Application.pdf](#)
[2024.08.06 ERA Originating Application .pdf](#)
[2024.08.06 Affidavit of Leon Chung.pdf](#)
[2024.08.06 Confidential Affidavit Leon Chung.pdf](#)
[2024.08.06 NSD1056-2024 Orders of Justice Katzmann.pdf](#)

Dear Colleagues

We act for Energy Resources of Australia Ltd ABN 71 008 550 865, the Applicant in Federal Court Proceedings NSD1056/2024.

We refer to the orders of Justice Katzmann made this afternoon, a copy of which is **attached**.

Pursuant to order 3 of her Honour's orders, please see **attached** by way of service on the First Respondent the following sealed documents:

- Interlocutory Application filed 6 August 2024;
- Originating Application filed 6 August 2024;
- Affidavit of Leon Chung filed 6 August 2024; and
- Confidential Affidavit of Leon Chung filed August 2024.

The matter is listed for Thursday 8 August 2024, not before 3pm.

The exhibits to the affidavits will be sent by download link due to their size.

Yours sincerely

Leon Chung

Partner

Herbert Smith Freehills

T +61 2 9225 5716 M +61 407 400 291 E Leon.Chung@hsf.com

www.herbertsmithfreehills.com.au

From: [Chung, Leon](#)
To: processservice@ags.gov.au
Cc: [Scott, Nicholas](#); [Loughland, Amelia](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:48:01 PM
Attachments: [2024.08.06 ERA Interlocutory Application.pdf](#)
[2024.08.06 ERA Originating Application .pdf](#)
[2024.08.06 Affidavit of Leon Chung.pdf](#)
[2024.08.06 Confidential Affidavit Leon Chung.pdf](#)
[2024.08.06 NSD1056-2024 Orders of Justice Katzmann.pdf](#)

Dear Colleagues

We act for Energy Resources of Australia Ltd ABN 71 008 550 865, the Applicant in Federal Court Proceedings NSD1056/2024.

We refer to the orders of Justice Katzmann made this afternoon, a copy of which is **attached**.

Pursuant to order 3 of her Honour's orders, please see **attached** by way of service on the Second Respondent the following sealed documents:

- Interlocutory Application filed 6 August 2024;
- Originating Application filed 6 August 2024;
- Affidavit of Leon Chung filed 6 August 2024; and
- Confidential Affidavit of Leon Chung filed August 2024.

The matter is listed for Thursday 8 August 2024, not before 3pm.

The exhibits to the affidavits will be sent by download link due to their size.

Yours sincerely

Leon Chung

Partner

Herbert Smith Freehills

T +61 2 9225 5716 M +61 407 400 291 E Leon.Chung@hsf.com

www.herbertsmithfreehills.com.au

From: [Chung, Leon](#)
To: minister.monaghan@nt.gov.au; Anne.Tan@nt.gov.au; kylie.nelson@nt.gov.au
Cc: [Scott, Nicholas](#); [Loughland, Amelia](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:45:04 PM
Attachments: [2024.08.06 ERA Interlocutory Application.pdf](#)
[2024.08.06 ERA Originating Application .pdf](#)
[2024.08.06 Affidavit of Leon Chung.pdf](#)
[2024.08.06 Confidential Affidavit Leon Chung.pdf](#)
[2024.08.06 NSD1056-2024 Orders of Justice Katzmann.pdf](#)

Dear Colleagues

We act for Energy Resources of Australia Ltd ABN 71 008 550 865, the Applicant in Federal Court Proceedings NSD1056/2024.

We refer to the orders of Justice Katzmann made this afternoon, a copy of which is **attached**.

Pursuant to order 3 of her Honour's orders, please see **attached** by way of service on the Third Respondent the following sealed documents:

- Interlocutory Application filed 6 August 2024;
- Originating Application filed 6 August 2024;
- Affidavit of Leon Chung filed 6 August 2024; and
- Confidential Affidavit of Leon Chung filed August 2024.

The matter is listed for Thursday 8 August 2024, not before 3pm.

The exhibits to the affidavits will be sent by download link due to their size.

Yours sincerely

Leon Chung

Partner

Herbert Smith Freehills

T +61 2 9225 5716 M +61 407 400 291 E Leon.Chung@hsf.com

www.herbertsmithfreehills.com.au

From: [Chung, Leon](#)
To: LegalServices.SFNT@nt.gov.au
Cc: [Scott, Nicholas](#); [Loughland, Amelia](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:47:26 PM
Attachments: [2024.08.06 ERA Interlocutory Application.pdf](#)
[2024.08.06 ERA Originating Application .pdf](#)
[2024.08.06 Affidavit of Leon Chung.pdf](#)
[2024.08.06 Confidential Affidavit Leon Chung.pdf](#)
[2024.08.06 NSD1056-2024 Orders of Justice Katzmann.pdf](#)

Dear Colleagues

We act for Energy Resources of Australia Ltd ABN 71 008 550 865, the Applicant in Federal Court Proceedings NSD1056/2024.

We refer to the orders of Justice Katzmann made this afternoon, a copy of which is **attached**.

Pursuant to order 3 of her Honour's orders, please see **attached** by way of service on the Fourth Respondent the following sealed documents:

- Interlocutory Application filed 6 August 2024;
- Originating Application filed 6 August 2024;
- Affidavit of Leon Chung filed 6 August 2024; and
- Confidential Affidavit of Leon Chung filed August 2024.

The matter is listed for Thursday 8 August 2024, not before 3pm.

The exhibits to the affidavits will be sent by download link due to their size.

Yours sincerely

Leon Chung

Partner

Herbert Smith Freehills

T +61 2 9225 5716 M +61 407 400 291 E Leon.Chung@hsf.com

www.herbertsmithfreehills.com.au

From: [Chung, Leon](#)
To: Gomezd@nlc.org.au
Cc: [Scott, Nicholas](#); [Loughland, Amelia](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:48:54 PM
Attachments: [2024.08.06 Confidential Affidavit Leon Chung.pdf](#)
[2024.08.06 ERA Originating Application .pdf](#)
[2024.08.06 Affidavit of Leon Chung.pdf](#)
[2024.08.06 ERA Interlocutory Application.pdf](#)
[2024.08.06 NSD1056-2024 Orders of Justice Katzmann.pdf](#)

Dear Colleagues

We act for Energy Resources of Australia Ltd ABN 71 008 550 865, the Applicant in Federal Court Proceedings NSD1056/2024.

We refer to the orders of Justice Katzmann made this afternoon, a copy of which is **attached**.

Pursuant to order 3 of her Honour's orders, please see **attached** by way of service on the Fifth Respondent the following sealed documents:

- Interlocutory Application filed 6 August 2024;
- Originating Application filed 6 August 2024;
- Affidavit of Leon Chung filed 6 August 2024; and
- Confidential Affidavit of Leon Chung filed August 2024.

The matter is listed for Thursday 8 August 2024, not before 3pm.

The exhibits to the affidavits will be sent by download link due to their size.

Yours sincerely

Leon Chung

Partner

Herbert Smith Freehills

T +61 2 9225 5716 M +61 407 400 291 E Leon.Chung@hsf.com

www.herbertsmithfreehills.com.au

From: [Moore, Kym](#)
To: [Chung, Leon](#)
Subject: Automatic reply: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:52:09 PM

Hi,

I'm away on travel from Tuesday 30 July 2024 to Friday 9 August 2024 (inclusive). Vanessa Higgins is acting for me during this period should you require assistance (0456 671 934; vanessa.higgins@industry.gov.au).

Your email has not been forwarded. I will attend to emails as I can throughout this time.

Kind regards, Kym

Kym Moore

A/ General Manager

Mining

Minerals and Resources Division

Ngunnawal Country, Industry House, 10 Binara Street (GPO Box 2013) Canberra ACT 2601
Australia

Department of Industry, Science and Resources

M 0456 795 291 | 02 6276 1763 | **E** kym.moore@industry.gov.au

Executive Assistant: Matthew Dowler | **E** matthew.dowler@industry.gov.au | **P** 02 6213 6559

Supporting economic growth and job creation for all Australians | We are collaborative, innovative, respectful and strive for excellence

Acknowledgement of Country

Our department recognises the First Peoples of this nation and their ongoing connection to culture and country. We acknowledge First Nations Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, present and emerging.

From: [Chung, Leon](#)
To: vanessa.higgins@industry.gov.au
Cc: [Scott, Nicholas](#); [Loughland, Amelia](#)
Subject: FW: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:55:15 PM
Attachments: [2024.08.06 ERA Interlocutory Application.pdf](#)
[2024.08.06 ERA Originating Application .pdf](#)
[2024.08.06 Affidavit of Leon Chung.pdf](#)
[2024.08.06 Confidential Affidavit Leon Chung.pdf](#)
[2024.08.06 NSD1056-2024 Orders of Justice Katzmann.pdf](#)

Dear Ms Higgins

I received an out of office message from Ms Moore indicating that you were acting for her during her period of leave. I have accordingly forwarded this email to you as well.

The download exhibits will follow separately.

Yours sincerely

Leon Chung

Partner

Herbert Smith Freehills

T +61 2 9225 5716 M +61 407 400 291 E Leon.Chung@hsf.com

www.herbertsmithfreehills.com.au

From: Chung, Leon <Leon.Chung@hsf.com>

Sent: Tuesday, August 6, 2024 4:46 PM

To: minister.king@industry.gov.au; laurence.coleman@industry.gov.au;

Kym.Moore@industry.gov.au

Cc: Scott, Nicholas <Nicholas.Scott@hsf.com>; Loughland, Amelia <Amelia.Loughland@hsf.com>

Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS

Dear Colleagues

We act for Energy Resources of Australia Ltd ABN 71 008 550 865, the Applicant in Federal Court Proceedings NSD1056/2024.

We refer to the orders of Justice Katzmann made this afternoon, a copy of which is **attached**.

Pursuant to order 3 of her Honour's orders, please see **attached** by way of service on the First Respondent the following sealed documents:

- Interlocutory Application filed 6 August 2024;
- Originating Application filed 6 August 2024;
- Affidavit of Leon Chung filed 6 August 2024; and
- Confidential Affidavit of Leon Chung filed August 2024.

The matter is listed for Thursday 8 August 2024, not before 3pm.

The exhibits to the affidavits will be sent by download link due to their size.

Yours sincerely

Leon Chung

Partner

Herbert Smith Freehills

T +61 2 9225 5716 M +61 407 400 291 E Leon.Chung@hsf.com

www.herbertsmithfreehills.com.au

From: [Zhu, Haiqiu](#)
To: laurence.coleman@industry.gov.au; minister.king@industry.gov.au; kym.moore@industry.gov.au
Cc: [Chung, Leon](#); [Loughland, Amelia](#); [Scott, Nicholas](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:51:13 PM



haiqiu.zhu@hsf.com sent you a secure message

[Access message](#)

Dear Colleagues

Further to the email from Leon Chung, please find **attached** by way of service:

- Exhibit LC-1 to the Affidavit of Leon Chung affirmed 6 August 2024; and
- Confidential Exhibit LC-2 to the Confidential Affidavit of Leon Chung affirmed 6 August 2024

Kind regards

Haiqiu



Attachments expire on Aug 13, 2024



2 PDFs

Exhibit LC-1.pdf, Confidential Exhibit LC-2.pdf

This message requires that you sign in to access the message and any file

attachments.



From: [Zhu, Haiqiu](#)
To: processservice@ags.gov.au
Cc: [Chung, Leon](#); [Loughland, Amelia](#); [Scott, Nicholas](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:53:46 PM



haiqiu.zhu@hsf.com sent you a secure message

[Access message](#)

Dear Colleagues

Further to the email from Leon Chung, please find **attached** by way of service:

- Exhibit LC-1 to the Affidavit of Leon Chung affirmed 6 August 2024; and
- Confidential Exhibit LC-2 to the Confidential Affidavit of Leon Chung affirmed 6 August 2024

Kind regards

Haiqiu



Attachments expire on Aug 13, 2024



2 PDFs

Exhibit LC-1.pdf, Confidential Exhibit LC-2.pdf

This message requires that you sign in to access the message and any file

attachments.



From: [Zhu, Haiqiu](#)
To: anne.tan@nt.gov.au; minister.monaghan@nt.gov.au; kylie.nelson@nt.gov.au
Cc: [Chung, Leon](#); [Loughland, Amelia](#); [Scott, Nicholas](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:49:20 PM



haiqiu.zhu@hsf.com sent you a secure message

[Access message](#)

Dear Colleagues

Further to the email from Leon Chung, please find **attached** by way of service:

- Exhibit LC-1 to the Affidavit of Leon Chung affirmed 6 August 2024; and
- Confidential Exhibit LC-2 to the Confidential Affidavit of Leon Chung affirmed 6 August 2024

Kind regards

Haiqiu



Attachments expire on Aug 13, 2024



2 PDFs

Exhibit LC-1.pdf, Confidential Exhibit LC-2.pdf

This message requires that you sign in to access the message and any file attachments.



From: [Zhu, Haiqiu](#)
To: legalservices.sfnt@nt.gov.au
Cc: [Chung, Leon](#); [Loughland, Amelia](#); [Scott, Nicholas](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:52:25 PM



haiqiu.zhu@hsf.com sent you a secure message

[Access message](#)

Dear Colleagues

Further to the email from Leon Chung, please find **attached** by way of service:

- Exhibit LC-1 to the Affidavit of Leon Chung affirmed 6 August 2024; and
- Confidential Exhibit LC-2 to the Confidential Affidavit of Leon Chung affirmed 6 August 2024

Kind regards

Haiqiu



Attachments expire on Aug 13, 2024



2 PDFs

Exhibit LC-1.pdf, Confidential Exhibit LC-2.pdf

This message requires that you sign in to access the message and any file

attachments.



From: [Zhu, Haiqiu](#)
To: gomezd@nlc.org.au
Cc: [Chung, Leon](#); [Loughland, Amelia](#); [Scott, Nicholas](#)
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 4:54:45 PM



haiqiu.zhu@hsf.com sent you a secure message

[Access message](#)

Dear Colleagues

Further to the email from Leon Chung, please find **attached** by way of service:

- Exhibit LC-1 to the Affidavit of Leon Chung affirmed 6 August 2024; and
- Confidential Exhibit LC-2 to the Confidential Affidavit of Leon Chung affirmed 6 August 2024

Kind regards

Haiqiu



Attachments expire on Aug 13, 2024



2 PDFs

Exhibit LC-1.pdf, Confidential Exhibit LC-2.pdf

This message requires that you sign in to access the message and any file attachments.



From: [Zhu, Haiqiu](#)
To: vanessa.higgins@industry.gov.au
Cc: [Chung, Leon](#); [Loughland, Amelia](#); [Scott, Nicholas](#)
Subject: FW: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) & ORS
Date: Tuesday, 6 August 2024 5:21:58 PM



haiqiu.zhu@hsf.com sent you a secure message

[Access message](#)

Dear Ms Higgins

I refer to the email of Leon Chung regarding the out of office message from Ms Moore. Please see below forwarded message.

Kind regards
Haiqiu

From: haiqiu.zhu@hsf.com
Sent: Tuesday, August 6, 2024 4:50 PM
To: minister.king@industry.gov.au
<minister.king@industry.gov.au>; kym.moore@industry.gov.au
<kym.moore@industry.gov.au>; laurence.coleman@industry.gov.au
<laurence.coleman@industry.gov.au>
Cc: leon.chung@hsf.com
<leon.chung@hsf.com>; nicholas.scott@hsf.com
<nicholas.scott@hsf.com>; Amelia.Loughland@hsf.com
<amelia.loughland@hsf.com>
Subject: NSD1056/2024 ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN AUSTRALIA (COMMONWEALTH) &

ORS

Dear Colleagues

Further to the email from Leon Chung, please find **attached** by way of service:

- Exhibit LC-1 to the Affidavit of Leon Chung affirmed 6 August 2024; and
- Confidential Exhibit LC-2 to the Confidential Affidavit of Leon Chung affirmed 6 August 2024

Kind regards

Haiqiu



Attachments expire on Aug 13, 2024



2 PDFs

Exhibit LC-1.pdf, Confidential Exhibit LC-2.pdf

This message requires that you sign in to access the message and any file attachments.



From: [Ng, Grace](#)
To: [Chung, Leon](#); [Loughland, Amelia](#); [Laird, Kayla](#)
Cc: [Scott, Nicholas](#); [Nance, Emily](#); [Plitsch, Max](#); [Scott, Madisen](#); [Griffin, Brooke](#)
Subject: NSD1056/2024 Energy Resources of Australia Ltd v Minister for Resources and Minister for Northern Australia (Cth) and Ors
Date: Wednesday, 7 August 2024 11:11:10 AM

Dear Mr Chung,

AGS has instructions to act in this matter. We are arranging for a NOAS to be filed, but noting the listing tomorrow, please urgently provide a copy of your confidential affidavit dated 6 August 2024 and confidential exhibit LC-2.

Regards

Grace Ng

Senior Executive Lawyer
Australian Government Solicitor
T 02 9581 7320 M 0417 991 508
grace.ng@ags.gov.au

Find out more about AGS at <http://www.ags.gov.au>

Important: This message may contain confidential or legally privileged information. If you think it was sent to you by mistake, please delete all copies and advise the sender. For the purposes of the *Spam Act 2003*, this email is authorised by AGS.

If you have received this transmission in error please notify us immediately by return e-mail and delete all copies. If this e-mail or any attachments have been sent to you in error, that error does not constitute waiver of any confidentiality, privilege or copyright in respect of information in the e-mail or attachments.