



New South Wales

Land and Environment Court Rules (Amendment No 1) 2008

under the

Land and Environment Court Act 1979

The following rules of court were made under the *Land and Environment Court Act 1979* on 17 July 2008.

The Honourable Justice B J Preston
Chief Judge

Explanatory note

The object of these Rules is to amend the *Land and Environment Court Rules 2007* so as:

- (a) to omit a provision that prescribes the matters to be included in the originating process for proceedings in Class 1, 2 or 3 of the Land and Environment Court's jurisdiction (those matters are already set out in the approved form for originating processes), and
- (b) to prescribe certain functions of the Land and Environment Court that are not exercisable by a Commissioner exercising the functions of the Court under section 36 of the *Land and Environment Court Act 1979*, and
- (c) to correct certain references to provisions of the *Uniform Civil Procedure Rules 2005* that are to apply to proceedings in Class 5, 6 or 7 of the Land and Environment Court's jurisdiction.

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Rule 1 Land and Environment Court Rules (Amendment No 1) 2008

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Land and Environment Court Act 1979

1 Name of Rules

These Rules are the *Land and Environment Court Rules (Amendment No 1) 2008*.

2 Amendment of Land and Environment Court Rules 2007

The *Land and Environment Court Rules 2007* are amended as set out in Schedule 1.

Schedule 1 Amendments

(Rule 2)

[1] Rule 3.2 Originating process

Omit rule 3.2 (2).

[2] Rule 3.10

Insert after rule 3.9:

3.10 Court functions not exercisable by Commissioners

The following functions of the Court are not exercisable by a Commissioner dealing with proceedings pursuant to a direction under section 36 of the Act:

- (a) the functions conferred on the Court by any of the following provisions of the *Civil Procedure Act 2005*:
 - (i) section 61 (3) (f) (the power to order a party that has failed to comply with a direction given by the Court to pay the whole or any part of another party's costs),
 - (ii) section 71 (the power to order that proceedings be conducted in the absence of the public),
 - (iii) section 97 (the power to issue a warrant for the arrest of a person who has failed to comply with an order for the person's attendance at court or for the production of any document or thing),
 - (iv) section 98 (the power to make general orders as to costs),
 - (v) section 99 (the power to make orders as to costs in relation to a legal practitioner's neglect, incompetence or misconduct),
 - (vi) section 149C (the power to vary or revoke an order made by the Supreme Court in relation to proceedings transferred from that Court to the land and Environment Court),
- (b) the functions conferred on the Court by any of the following provisions of the *Uniform Civil Procedure Rules 2005*:
 - (i) rule 1.8 (the power to determine any question arising under the rules),
 - (ii) Part 24 (the power to take evidence otherwise than at trial),

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Schedule 1 Amendments

- (iii) Part 25 (the power to make orders with respect to the preservation of property),
- (iv) Part 42 (the power to make orders as to costs),
- (v) Part 43 (the power to hear interpleader proceedings),
- (vi) Divisions 4 and 5 of Part 49 (the power to review decisions of the Registrar).

[3] Rule 5.2 Application of other rules of court

Omit “31.32 and 31.33” from rule 5.2 (2) (f). Insert instead “31.21 and 31.22”.

BY AUTHORITY
