



New South Wales

Land and Environment Court Rules (Amendment No 2) 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 23 October 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 make further provision with respect to the functions of the Land and Environment Court that may be exercised by a Commissioner under section 36 of the *Land and Environment Court Act 1979*, and
- (b) to insert a provision with respect to the procedure to be followed in relation to certain proceedings under the *Protection of the Environment Operations Act 1997*.

The provision referred to in paragraph (b) above replicates a provision that was previously contained in Schedule J to the *Supreme Court Rules 1970*.

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Rule 1 Land and Environment Court Rules (Amendment No 2) 2008

Land and Environment Court Rules (Amendment No 2) 2008

under the

Land and Environment Court Act 1979

1 Name of Rules

These Rules are the *Land and Environment Court Rules (Amendment No 2) 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 3.10 Court functions not exercisable by Commissioners

Renumber subparagraphs (iv)–(vi) of rule 3.10 (b) as subparagraphs (v)–(vii), and insert before subparagraph (v), as renumbered:

- (iv) Division 2 of Part 40 (enforcement of judgments and orders),

[2] Rule 3.10 (c)

Insert after rule 3.10 (b):

- (c) the functions of the Court under Part 55 of the *Supreme Court Rules 1970*, as applied by rule 3.9 (powers in relation to contempt).

[3] Rule 3.10 (2)

Insert at the end of rule 3.10:

- (2) Nothing in this rule prevents a Commissioner from making an order as to costs pursuant to the requirements of section 97B (2) of the *Environmental Planning and Assessment Act 1979*.

[4] Rule 5.4

Insert after rule 5.3:

5.4 Procedure under particular Acts

- (1) The provisions of Schedule 1 apply to proceedings under the Acts referred to in that Schedule.
- (2) A reference in any such provision to “the Act” is a reference to the Act referred to in the heading beneath which that provision appears.

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Schedule 1 Amendments

[5] Schedule 1

Insert at the end of the Rules:

Schedule 1 Provisions regarding procedure under particular legislation

(Rule 5.4)

Protection of the Environment Operations Act 1997

1 Statement in support of application

The applicant for an order under section 232 (1), 235 (3), 238 (2) or 239 (1) of the Act must file with the summons or notice of motion a statement in summary form of the general nature of the facts and circumstances relied on.

2 Prescribed officer: section 235 (2) (a)

For the purposes of section 235 (2) (a) of the Act, a registrar is a prescribed officer.

BY AUTHORITY
