



New South Wales

Uniform Civil Procedure Rules (Amendment No 20) 2007

under the

Civil Procedure Act 2005

The Uniform Rules Committee made the following rules of court under the *Civil Procedure Act 2005* on 3 December 2007.

Jennifer Atkinson
Secretary of the Rules Committee

Explanatory note

The object of these Rules is to amend the *Uniform Civil Procedure Rules 2005* in connection with the application of Parts 3–9 of the *Civil Procedure Act 2005* to the Land and Environment Court.

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1 Name of Rules

These Rules are the *Uniform Civil Procedure Rules (Amendment No 20) 2007*.

2 Commencement

These Rules commence on the commencement of Schedule 2 [9] to the *Courts Legislation Amendment Act 2007*.

3 Amendment of Uniform Civil Procedure Rules 2005

The *Uniform Civil Procedure Rules 2005* are amended as set out in Schedule 1.

Schedule 1 Amendments

(Rule 3)

[1] Rule 3.4 Electronic filing of documents

Omit rule 3.4 (1). Insert instead:

- (1) This rule applies:
 - (a) in relation to proceedings in any court other than the Land and Environment Court, to documents of a kind referred to in Part 1 of Schedule 4, and
 - (b) in relation to proceedings in the Land and Environment Court, to documents of a kind referred to in Part 2 of Schedule 4.

[2] Rule 6.10 Time for appearance

Insert at the end of the rule:

- (2) A reference in subrule (1) (b) to a summons extends, in relation to the Land and Environment Court, to an application that, in accordance with the rules of that Court, commences proceedings in Class 1, 2 or 3 of that Court's jurisdiction.

[3] Rule 12.8 Additional grounds for dismissal of proceedings by Supreme Court or Land and Environment Court

Insert "or the Land and Environment Court" after "Supreme Court" in rule 12.8 (1).

[4] Rule 12.8

Omit "Supreme Court", "Court's" and "Supreme Court's" wherever occurring in rule 12.8 (2)–(6).

Insert instead "court" and "court's", as the case requires.

[5] Part 40, Division 2 heading

Insert ", Land and Environment Court" after "Supreme Court".

[6] Rule 40.5 Application of Division

Insert ", the Land and Environment Court" after "the Supreme Court".

[7] Rule 42.3 Powers of the court generally

Insert after rule 42.3 (2) (e):

- (e1) in the case of proceedings in the Land and Environment Court, to make an order for costs against a person who carries on proceedings as a party's agent, or

[8] Part 49, heading

Omit the heading. Insert instead:

**Part 49 Reference and removal of proceedings,
and appeals and reviews, within the court**

[9] Rule 49.1 Construction of certain references

Insert at the end of the rule:

Note. See section 36 of the *Land and Environment Court Act 1979*, which provides that proceedings that are before a Commissioner of the Land and Environment Court under that section, or under section 34 of that Act, may be referred or removed for hearing by a Judge of the Land and Environment Court in the same way as proceedings before an associate Judge of the Supreme Court may be referred or removed for hearing by a Judge of the Supreme Court.

[10] Rule 50.2 Definitions

Insert at the end of the rule:

- (2) For the avoidance of doubt, it is declared that, for the purposes of this Part:
 - (a) a Commissioner of the Land and Environment Court, when exercising the functions of that Court under the *Land and Environment Court Act 1979*, is taken to be the ***court below***, and
 - (b) the Land and Environment Court, when hearing an appeal under section 56A of the *Land and Environment Court Act 1979* against a decision made by a Commissioner of that Court in the exercise of those functions, is taken to be the ***higher court***.

[11] Schedule 1 Application of rules

Insert after the matter relating to the Supreme Court, in Columns 1, 2, 3 and 4, respectively:

Land and Environment Court	Proceedings in Class 1, 2 or 3 of its jurisdiction	Part 6, Divisions 2 and 4 Part 20, Division 4, and Part 42, Division 3, in relation to all proceedings other than those referred to in: (a) section 19 (a), (c), (c1), (e), (e2), (e3), (f), (f1) or (g) or 40 of the <i>Land and Environment Court Act 1979</i> , or (b) section 179, 181, 677 or 730 of the <i>Local Government Act 1993</i> , or (c) section 44 of the <i>Fisheries Management Act 1994</i> Rules 42.1, 42.6, 42.8, 42.9, 42.18, 42.19 and 42.20
	Proceedings in Class 4 of its jurisdiction	

[12] Schedule 2 Local rules that prevail over these rules

Insert after the matter relating to the *Supreme Court (Corporations) Rules 1999*:

Land and Environment Court Rules 2007

Part	Provision
All Parts	All rules in those Parts

[13] Schedule 4 Documents to be filed by means of ECM system

Insert at the beginning of the Schedule:

Part 1 Documents relating to proceedings in courts other than the Land and Environment Court

[14] Schedule 4, Part 2

Insert at the end of the Schedule:

Part 2 Documents relating to proceedings in the Land and Environment Court

Affidavit
Application
Cross-claim
Cross-summons
Defence
Draft conditions of development consent
Draft conditions of other approvals
Minutes of order
Notice of appearance
Notice of motion
Points of claim
Points of defence
Points of reply
Reply
Statement identifying issues for separate determination
Statement of agreed facts
Statement of claim

Statement of cross-claim
Statement of fact and contentions
Statement of preliminary points of law
Submission
Subpoena
Summons