



New South Wales

# Land and Environment Court Rules (Amendment No 1) 2009

under the

Land and Environment Court Act 1979

The following rules of court have been made under the *Land and Environment Court Act 1979*.

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 provision with respect to the neutral evaluation of proceedings and rules regarding contempt in Class 1, 2, 3, 4 or 8 of the Land and Environment Court's jurisdiction, and
- (b) to provide that notes in the rules do not form part of the rules, and
- (c) to make provision with respect to the entry of judgments and orders of the Land and Environment Court.

## **2009 No 274**

Rule 1 Land and Environment Court Rules (Amendment No 1) 2009

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## **Land and Environment Court Rules (Amendment No 1) 2009**

under the

Land and Environment Court Act 1979

### **1 Name of Rules**

These rules are the *Land and Environment Court Rules (Amendment No 1) 2009*.

### **2 Commencement**

These rules commence on the day on which they are published on the NSW legislation website.

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## Schedule 1      Amendment of Land and Environment Court Rules 2007

**[1] Rule 1.3 Definitions**

Insert at the end of rule 1.3:

(2) Notes included in these rules do not form part of these rules.

**[2] Rule 2.1 Seal of the Court**

Omit rule 2.1 (2).

**[3] Rules 3.8, 3.9, 4.4 and 4.5**

Omit the rules.

**[4] Rule 5.2 Application of other rules of court**

Insert “, other than rule 36.11” after “(Judgments and orders)” in rule 5.2 (2) (h).

**[5] Part 6**

Insert after Part 5:

### **Part 6      Neutral evaluation of proceedings and rules regarding contempt in Class 1, 2, 3, 4 or 8 of the Court’s jurisdiction**

**6.1 Application of Part**

This Part applies to proceedings in Class 1, 2, 3, 4 or 8 of the Court’s jurisdiction.

**6.2 Neutral evaluation**

(1) In this rule:

*evaluator* means a person to whom the Court refers a matter for neutral evaluation under this rule.

*neutral evaluation* means a process of evaluation of a dispute in which the evaluator seeks to identify and reduce the issues of fact and law in dispute, including by assessing the relative strengths and weaknesses of each party’s case and offering an opinion as to the likely outcome of the proceedings (including any likely findings of liability or the award of damages).

*neutral evaluation session* means a meeting arranged for the neutral evaluation of a matter under this rule.

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- (2) If it considers the circumstances appropriate, the Court may, by order, refer any matter for neutral evaluation, and may do so either with or without the consent of the parties to the proceedings.
- (3) The neutral evaluation is to be undertaken by an evaluator agreed to by the parties or, if the parties cannot agree, by an evaluator appointed by the Court.
- (4) It is the duty of each party to proceedings the subject of a referral to neutral evaluation to participate, in good faith, in the neutral evaluation.
- (5) The costs of neutral evaluation, including the costs payable to the evaluator, are payable:
  - (a) if the Court makes an order as to the payment of those costs, by one or more of the parties in such manner as the order may specify, or
  - (b) in any other case, by the parties in such proportions as they may agree among themselves.
- (6) Subject to any relevant practice notes, an evaluator may, by order, give directions as to the preparation for, and conduct of, the neutral evaluation.

### 6.3 Application of Supreme Court Rules regarding contempt

Part 55 (Contempt) of the *Supreme Court Rules 1970* applies, so far as applicable, to proceedings to which this Part applies.

### [6] Part 6 Miscellaneous

Renumber Part 6 as Part 7 and renumber rules 6.1–6.5 as rules 7.1–7.5.

### [7] Rule 7.6

Insert after clause 7.5 (as renumbered by item [6]):

#### 7.6 Entry of judgments and orders

- (1) This rule applies to the entry of judgments and orders in all classes of the Court's jurisdiction.
- (2) Despite rule 36.11 of the *Uniform Civil Procedure Rules 2005*, unless the Court orders otherwise, a judgment or order is taken to be entered when a document embodying the judgment or order is first sealed by the Registrar.

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- (3) In this rule, a reference to a judgment or order of the Court includes a reference to any judgment, order, determination, decree, adjudication or award that has been filed or registered in the Court, or of which a certificate has been filed or registered in the Court, as referred to in section 133 (2) of the *Civil Procedure Act 2005*.
  - (4) This rule does not limit the operation of rule 36.10 of the *Uniform Civil Procedure Rules 2005*.