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# Update Summary

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**UPDATE 241**

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## **ENVIRONMENTAL RESPONSIBILITIES LAW NEW SOUTH WALES**

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Hon. Justice Brian Preston**

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## Environmental Responsibilities Law NSW

### Update Summary

Legislation in this service has been updated.

Annotations in the following chapters have been reviewed and updated by **Jeff Kildea**.

### Land and Environment Court Act 1979

Added reference to *Save Bungendore Park Inc v Minister for Education and Early Learning* [2023] NSWLEC 140, in relation to orders of conditional validity for certain development consents. See [LECA.PT3.DIV3.10].

### Civil Procedure Act 2005

Added reference to *Ajvadi v Wicks* [2023] NSWLEC 145, in relation to applications for an adjournment or a stay of Class 4 proceedings pending determination of a development application. See [CPA.PT6.DIV3.10].

### Uniform Civil Procedure Rules 2005

Added reference to cases *Filetron Pty Ltd v Innovate Partners Pty Ltd (No 3)* [2023] NSWLEC 104, *Verde Terra Pty Ltd v Central Coast Council (No 11)* [2023] NSWLEC 110 and *Lahoud v Willoughby City Council* [2023] NSWLEC 117, in relation to the general rule that “costs follow the event”. See [UCPR.PT42.DIV1.10].

Annotations in the following chapter have been reviewed and updated by **Guy Dwyer**.

### National Parks and Wildlife

In *National Parks Association of NSW Inc v Minister for Environment and Heritage* [2023] NSWLEC 149, Preston CJ of LEC considered the proper construction of the provisions contained in ss 72AA and 73 of the NPW Act in response to judicial review proceedings commenced by the applicant that contested breach of these two provisions by the respondent in the amendment of a plan of management. See [NPWA.72AA.10].

In *Neilson v Secretary, Department of Planning and Environment* [2023] NSWLEC 32, the applicant was the holder of an oyster lease over a lagoon. To access the area of the lagoon subject to the oyster lease, it was necessary for the applicant to have access to the Park to drive a four wheel drive vehicle towing a boat trailer. See [NPWA.81.10].

In *Aerotropolis Pty Ltd v Secretary, Department of Planning and Environment* [2023] NSWCCA 195, the applicant faced criminal proceedings relating to alleged environmental offences, several of which were offences alleged to be committed

against the NPW Act. Evidence of these offences first came to the attention of an authorised investigator on 11 June 2020, meaning that the prosecutor had 2 years to commence the proceedings from that date. The proceedings were commenced on 14 June 2022. See [NPWA.190.10].

Annotations in the following chapter have been reviewed and updated by **Olia Koudrina**.

## **Water Management**

Added commentary in relation to Water Sharing Plans (WSPs). See [WMA.20].

Significant updates made to commentary on environmental water, particularly concerning Commonwealth Environmental Water Holder (CEWH) and constraints management. See [WMA.8.10].

