

Communication



Subject: *Cost Assessments in the Land Court*

Audience: Land Court Users

Commencing: Effective as of 29 August 2017

Legislation: *Clarification of costs Assessment Process*

BACKGROUND

There appears to be uncertainty among some Land Court users as to the correct procedure to observe for the assessment of costs orders made by the Land Court in judicial proceedings. This is evidenced by parties recently unnecessarily filing a costs statement and objections to costs statement in this jurisdiction.

RELEVANT LEGISLATION

- The *Land Court Act 2000* was amended on 29 August 2013 to insert new provision section 7B, which made general provision for orders of the Land Court to be filed and enforced in the Supreme Court.
- This amendment, along with the repeal of other cost provisions under s34 of the *Land Court Act 2000* at that time, had the effect of making Chapter 17A of the *Uniform Civil Procedure Rules 1999* (“UCPR”) the relevant costs assessment framework to be applied to costs orders made by the Land Court.
- Accordingly, where the Land Court has made a costs order in a proceeding, parties who cannot agree on costs should proceed to file their Land Court costs order in the Supreme Court pursuant to s7B(2) of the *Land Court Act 2000*. The process prescribed by Chapter 17A, Division 3, UCPR, will then apply to the assessment of costs and any relevant enforcement process, as if the costs order was an order of the Supreme Court.
- This process, at present, does not apply to costs orders made by the Land Court in the exercise of its functions under recommendatory provisions (as defined by s52A *Land Court Act 2000*). Land Court Practice Direction 6 of 2017 currently prescribes the process for the assessment of costs in recommendatory matters.

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