

I certify that the Appellant's grounds of appeal are suitable for publication in accordance with paragraph 27 of Practice Note SC CA 01.

This document was eFiled on 15 Oct 2025. Final acceptance has been given.



Annabel Anderson

Annabel Anderson, Solicitor,

on behalf of Karen Smith, Crown Solicitor, solicitor for the Appellant

Form 105 (version 7)

UCPR 51.16, 51.18, 51.20

R.H Kenna (L.S.)

Principal Registrar &
Chief Executive Officer

NOTICE OF APPEAL

COURT DETAILS

Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	2025/00396912

TITLE OF PROCEEDINGS

Appellant	Attorney-General for New South Wales
Respondent	Dale Haines

PROCEEDINGS IN THE COURT BELOW

Title below	Attorney-General for New South Wales v Dale Haines (BHT Barbara Ramjan) (Final)
Court below	Supreme Court of New South Wales
Case number below	2025/00143637
Date of hearing	1 September 2025
Material date	26 September 2025
Decision of	Justice Coleman

FILING DETAILS

Filed for	Attorney-General of New South Wales , appellant
Filed in relation to	Whole decision below
Legal representative	Karen Smith, Crown Solicitor for NSW
Legal representative reference	202503437 T21
Contact name and telephone	Aleksandra Jez (02) 9474-9206
Contact email	aleksandra.jez@csso.nsw.gov.au

HEARING DETAILS

This notice of appeal is listed for directions at 05Nov2025 09:00 AM - Directions

TYPE OF APPEAL

Statutory interpretation – an appeal against the dismissal of an application for an order for the extension of a person's status as a forensic patient pursuant to the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (NSW).

DETAILS OF APPEAL

- 1 This appeal is brought under s 135 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (NSW).
- 2 This notice of appeal is not filed pursuant to leave to appeal.

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3 The appellant has not filed a notice of intention to appeal.

4 The appellant appeals from the whole of the decision below.

APPEAL GROUNDS

1 The Court erred in:

- a. holding at paragraph 37 of the primary judgment that “ordinarily” Court-appointed experts should be called to give oral evidence where they have a difference of opinion; and/or
- b. placing weight on the fact that the appellant did not call the Court-appointed experts (see paragraphs 103-104 and 111-112) to give oral evidence in circumstances where:
 - i. neither party required either expert for examination or cross-examination;
 - ii. the Court did not indicate during the hearing that it would be assisted by oral evidence from the experts;
 - iii. the experts were appointed by the Court to assist the Court in exercising a power that is protective of the community; and
 - iv. the ultimate task of the Court was to make its own assessment of whether there was an unacceptable risk and whether that risk could be adequately managed by less restrictive means.

2 The Court erred in its approach to the statutory test in s 122(1)(b) of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (NSW) (**the Act**) when asking whether the risk posed by the respondent “cannot be adequately managed by other less restrictive means”, in that it confined its attention to whether a particular less restrictive means (being a Community Treatment Order) was available under applicable legislation, without considering whether that alternative means was adequate to manage the respondent’s risk in light of evidence providing reason to doubt that the means would be implemented effectively or at all (see paragraphs 113 to 115 of the primary judgment).

ORDERS SOUGHT

1 Appeal allowed.

2 Orders 1 and 2 made by Coleman J on 26 September 2025 be set aside.

- 3 Remit the proceedings to the Supreme Court to be redetermined on an expedited basis according to law or in the alternative make an order pursuant to s 127 extending the status of the respondent as a forensic patient within the meaning of the Act for a period of two (2) years.

UCPR 51.22 CERTIFICATE

The right of appeal is not limited by a monetary sum.

SIGNATURE OF LEGAL REPRESENTATIVE

This notice of appeal does not require a certificate under clause 4 of Schedule 2 to the [Legal Profession Uniform Law Application Act 2014](#).

Signature	Karen Smith, Crown Solicitor for New South Wales Solicitor for the appellant
Capacity	Signed in my capacity as a solicitor employer in the office of the said Karen Smith



Date of signature

15 October 2025

NOTICE TO RESPONDENT

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the orders sought in the notice of appeal and for the appellant's costs of bringing these proceedings.

Before you can appear before the court, you must file at the court an appearance in the approved form.

HOW TO RESPOND

Please read this notice of appeal very carefully. If you have any trouble understanding it or require assistance on how to respond to the notice of appeal you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the notice of appeal from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.

- The court registry for limited procedural information.

Court forms are available on the UCPR website at www.ucprforms.nsw.gov.au or at any NSW court registry.

REGISTRY ADDRESS

Street address	Supreme Court of New South Wales, Court of Appeal Law Courts Building Queen's Square Level 5, 184 Phillip Street Sydney NSW 2000
Postal address	GPO Box 3 Sydney NSW 2001
Telephone	1300 679 272

PARTY DETAILS

A list of parties must be filed and served with this notice of appeal.

[on separate page]

FURTHER DETAILS ABOUT APPELLANT[S]**Appellant**

Name	Attorney General for NSW
Address	C/- Crown Solicitor's Office Level 4, 60-70 Elizabeth Street Sydney NSW 2000
Frequent user identifier	STATENSW

Legal representative for appellant

Name	Karen Smith, Crown Solicitor for NSW		
Practising certificate number	24565		
Firm	Crown Solicitor's Office		
Contact solicitor	Aleksandra Jez		
Address	Level 4		
	60-70	Elizabeth Street	
	Sydney	NSW	2000
Telephone	(02) 9474-9206		
Fax	(02) 9474-9419		
Email	crownsol@csso.nsw.gov.au		
Electronic service address	Not applicable		

Contact details for appellant acting in person or by authorised officer

Name of authorised officer	Karen Smith, Crown Solicitor for NSW
Capacity to act for appellant	Legal Representative
Address for service	As above
Telephone	(02) 9474-9000
Fax	(02) 9474-9419
Email	crownsol@csso.nsw.gov.au

DETAILS ABOUT RESPONDENT**Respondent**

Name	Dale Haines
Address	C/- Legal Aid NSW 323 Castlereagh Street Haymarket NSW 2000