

Capability Statement Environment



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RENEWABLE ENERGY, CLIMATE
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GLEN McLEOD LEGAL

ENVIRONMENTAL APPROVALS

We advise and assist our clients in obtaining all manner of environmental approvals. We have helped clients obtain clearing permits, water licences, works approvals and licences for prescribed premises. We can help clients to navigate through the Environmental Impact Assessment process for projects that may have a significant effect on the environment.

Environmental approvals are key to the ability of a business to operate. Because there are limited appeal rights, it is necessary to engage with decision-making authorities, bearing in mind the legal framework and how to navigate it.

- Advised a large winery on proposed amendments to its licence and a strategy for it to obtain necessary works approvals.
- Represented private individuals in relation to amendments to their water licence to increase their annual water entitlement which intersected with the regulatory authority's requirement for a clearing permit application to be lodged.
- Disputed a prevention notice issued to a mixed waste recycling facility, which required all receipt and sorting of waste to be stopped until a waste processing shed had been constructed.
- Negotiated with the regulatory authority as to why a prescribed premises licence for the disposal of controlled waste remains valid.
- Advised an indigenous land corporation as to whether an extractive industry licence can be issued with an option to renew and what activities could be carried out on land in the absence of the extractive industry licence being granted.
- Assisted commercial orchard growers to appeal the refusal of a clearing permit application and engaging a plant ecologist to assist with the appeal.
- Advised a state government department on the meaning of an approval granted by the Commonwealth Department of the Environment under the Environment Protection and Biodiversity Conservation Act 1999 for a proposed 'action' involving the clearing of native vegetation for a school and residential development.
- Advised a developer as to whether it is required to refer the development of a strategic employment area under the Environment Protection and Biodiversity Conservation Act 1999 and subsequently developing a legal framework for the revegetation of lots in conjunction with the Department of Biodiversity, Conservation and Attractions and the Department of Planning, Lands and Heritage.
- Represented a company in the State Administrative Tribunal proceedings after its development application for a dam and orchard was refused on environmental grounds relating to water allocation and clearing of native vegetation.
- Advised an independent not-for-profit organisation as to its legal rights under a pastoral lease and environmental obligations under the Environmental Protections Act 1986, especially as they relate to the ownership of stock.
- Developed a comprehensive register of State and Commonwealth legislation which applies to a local government, including obligations relating to waste, contamination, coastal development, climate change, native vegetation, pest management, bushfire protection, heritage and water management.

ENVIRONMENTAL PROSECUTIONS AND ENFORCEMENT

Glen McLeod Legal can represent you if are being investigated for or have been charged with a prosecution notice for an environmental offence. We have significant experience in representing clients working in the agriculture sector, who may have been charged with unlawfully clearing native vegetation or rare flora species. We regularly defend clients charged with pollution offences and non-compliance with environmental conditions on licences or approvals.

Glen McLeod Legal has also advised clients on vegetation conservation notices, environmental protection notices, closure notices and prevention notices both at the negotiation stage and to mount challenges with the Appeals Convenor or Court.

- Appealed the requirements of a vegetation conservation notice, including liaising with the Office of the Appeals Convenor and defending the client in prosecution proceedings in the Magistrates Court.
- Advised a private individual in relation to a prosecution by the local government for the clearing of a verge tree.
- Represented a client in prosecution proceedings for the alleged taking of rare flora in contravention of the *Wildlife Conservation Act 1950* and subsequently making a plea in mitigation for the purposes of the sentencing proceedings.
- Appealed a Commonwealth remediation determination as a result of a State prosecution for clearing native vegetation without a clearing permit, including instructing an expert to prepare a remediation plan.
- Liaised with the Department of Water and Environmental Regulation to negotiate the withdrawal of possible prosecution proceedings for the clearing of native vegetation on the ground that it was not in the public interest.
- Provided strategic advice to a construction and demolition materials recycler in relation to its potential liability and available defences in relation to an alleged contravention of an environmental protection notice. The contravention related to allegedly no separating stockpiles awaiting testing for asbestos containing material.
- Acted in District Court proceedings in relation to a Prevention Notice which was issued to a compost manufacturing and soil blending facility over concerns that it was supplying mulch contaminated with asbestos containing material.



CONTAMINATED SITES

We can help guide you through the complex legal and regulatory issues that arise in contaminated sites. This includes conducting due diligence on site selection, undertaking searches on the contaminated sites register and advising on the risks of developing a suspected or confirmed contaminated site. We have helped clients obtain damages and compensation in commercial disputes where their land has been contaminated by a third party and requires remediation.

- Advised a large scale organic carbon recycler on its liability for the remediation of Per- and polyfluoroalkyl substances (PFAS) on land which it subleases.
- Reviewed and commented on an expert report which outlined a strategic approach for the remediation of PFAS contamination in holding ponds.
- Acted for a recycling facility operator in an enforcement dispute (licensing) with the DWER regarding receipt and storage of contaminated material.
- Represented a recycling company in civil proceedings relating to the supply of asbestos-contaminated materials (predominantly due to alleged negligence and misleading and deceptive conduct).
- Advised a landowner in prosecution proceedings by a local government authority for contamination of land and groundwater through illegal storage of construction and demolition material, as well as green waste, on a property occupied by a number of lessees who were suspected of having contributed to the contamination.
- Advised numerous service station owners in relation to the liability and responsibility for remediating soil and possible groundwater contamination caused by a lessee.
- Advised a listed mining company on the transfer of liability for remediation and negotiated lease arrangements to manage tailings dams.
- Instructed and worked together with an environmental consultant to advise on the steps necessary to address suspected asbestos - containing material contamination in order to allow a subdivision to proceed.
- Advised on the ability of a landowner to sell land which had been classified as 'possibly contaminated - remediation required', including what would be necessary to notify potential purchasers of the possible contamination.
- Represented private landowners in negotiating a settlement and a remediation program with a construction company who had stored contaminated fill on their land, without their knowledge of the contamination.
- Assisted a not-for-profit organisation with contractual negotiations after it purchased a property on the understanding that the existing contamination would be remediated prior to the sale, but which did not occur.
- Advised and represented a service station owner in relation to hydrocarbon contamination caused by a lessee.
- Advised a local government on contaminated former landfill site and the leasing of it to a recycler.
- Advised a commercial investment company in relation to the statutory powers of a government agency to direct a party to undertake specific work for the purposes of monitoring a remediated site.
- Glen McLeod in previous firms has advised banks and various businesses on contaminated sites issues for over 30 years.
- In addition to contaminated site related litigation we have conducted major nuisance and negligence litigation in matters relating to pollution and conservation.

RENEWABLE ENERGY, CLIMATE CHANGE AND CARBON FARMING

Glen McLeod Legal can advise on the full spectrum of climate change policy issues and initiatives, as well as regulatory compliance. Our team is able to assist with facilitating renewable energy projects, responding to climate change issues arising in relation to development projects and advising land owners or project proponents on development and land access agreements.

- Advising a large scale developer, in the context of a structure plan, as to the potential for sea level rise to impact on a proposed development.
- Advising a large carbon farming initiative and liaising with State government Ministers as to whether carbon farming activities on pastoral lease land affects the ability for mining companies to obtain permits to clear native vegetation in the future.
- Negotiating a wind farm agreement in relation to Western Australia's largest wind power station and its effects on the developability of adjoining land.
- Advising a community group as to a legal strategy which it could pursue to protect its property interests in light of the local government's strategic plan for sea level rise and coastal erosion.



GLEN MCLEOD LEGAL

Level 8, London House
216 St Georges Terrace
Perth WA 6000

(08) 6460 5179
admin@glenmcleodlegal.com
glenmcleodlegal.com