



Environment, Health and Safety

The experienced lawyers of DLA Piper's Environmental, Health and Safety (EHS) practice design innovative and practical solutions to complex problems that arise from the laws and policies governing environmental protection, energy, natural resources, health and safety at work, and product safety. We are one of the largest teams of EHS lawyers across the globe. DLA Piper lawyers anticipate, track and find solutions to the traditional, ever-changing and emerging environment, health and safety issues that concern local, national and international businesses.

EHS compliance is vital in any business. Non-compliance with regulatory requirements and failure to address potential liabilities both carry increasing financial risks for all companies. Additionally, good safety management is not only important for business image, but is often a condition for obtaining both public and private sector contracts.

DLA Piper offers leading advisory practitioners and litigators throughout the world who work as an integrated team to represent clients' interests in rulemaking proceedings and challenges to regulations; defend in complex and costly EHS litigation and enforcement actions; evaluate and negotiate EHS issues in business transactions; and provide guidance on compliance with EHS regulations.

CAPABILITIES

Counseling and Advocacy

DLA Piper lawyers have played, and continue to play, a major role in shaping modern EHS law, participating in rulemakings, enforcement litigation and advocacy. Our lawyers apply our accumulated knowledge to provide timely counseling and representation on existing and proposed regulatory obligations. We also deploy our skills to track emerging EHS issues that are important to our clients.

Our expansive EHS counseling practice offers clients solutions in traditional issues of air, water, toxics, waste management, and employee safety as well as emerging EHS issues that are important to our clients, such as fracking, carbon trading, and climate change.

Our team works with clients to ensure they are aware of developments in health and safety, product safety, environmental law and the regulatory environment including implications of forthcoming legislation and the regulations. We have a proven track record and experience in reviewing and drafting compliance policies and procedures and in developing compliance programs tailored to industry and company needs. These are designed to inform, instruct and embed in all employees the complexities of governing laws, particular compliance vulnerabilities and the value of ethical behavior.

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We also assist clients in protecting their commercial interests by influencing new policies and regulations emanating from national and subnational governments, including advising on the implementation of legislation. We regularly advise clients on applications for operating permits, premises licenses, and other required authorizations, including those required under the Clean Air Act, Clean Water Act, and RCRA in the United States, and under the Licensing Act 2003 in the United Kingdom and other licenses pursuant to the Gambling Act 2005.

Enforcement Defence and Litigation

Litigation prevention is a key component of DLA Piper's counselling practice to help our clients anticipate and avoid liability. When disputes arise, our experienced litigators in the EHS practice can vigorously defend clients in high-stakes, complex litigation arising under EHS laws in jurisdictions throughout the world. Our lawyers collaborate with clients and counterparts to identify and execute the most advantageous business-oriented solutions, either by pursuing or defending litigation or arbitration proceedings or through alternative methods, such as mediation.

We have participated in several high-profile court challenges to significant environmental rulemakings and other final agency actions. We also represented the principal defendant in the massive Love Canal litigation in the U.S., the largest and one of the longest Superfund cases on record. We helped secure the reversal of a US\$1.65 billion jury verdict against ExxonMobil in the Maryland Court of Appeals. Our attorneys have substantial experience at Clean Air Act, Clean Water Act, RCRA and Superfund cases throughout the U.S.

Transactions

The depth of our transactional and site remediation experience enhances our ability to service clients across industries. Our lawyers represent investors, buyers, sellers, and lenders on EHS issues arising from the transfer and financing of businesses and real estate around the globe. We perform EHS diligence and negotiate the allocation of EHS liabilities for clients seeking to acquire properties and businesses, for clients offering properties or businesses for sale, and for lenders underwriting loans or engaging in workouts with their borrowers.

Our experience includes cross-border transactions for the acquisition of manufacturing businesses in a wide range of industries; the disposition of retail gasoline stations in various markets across the country; and the acquisition, financing, development, and redevelopment of commercial and residential properties, both individually and as portfolios.

Investigations and Audits

As one of the few international law firms with a dedicated global EHS team, DLA Piper lawyers are capable of dealing with both regulatory investigations and enforcement of EHS laws and regulations around the world. Our experience includes handling all types of regulatory investigations, managing internal and external EHS compliance audits, and preparing for compliance management programs ranging from single-issue audits and programs to multi-media audits and programs encompassing all aspects of environment, health, and safety.

Our team comprises experienced investigators, experienced criminal defence lawyers and former regulators. We assist clients with self-notification issues, responses to supervisory and investigations by the enforcement division of regulatory bodies, and appearing before the various regulatory authorities when action is taken.

Climate Change

DLA Piper is a leader in the field of climate change, providing a strong foundation to manage our client's present and future climate change needs in any country. Our multilingual, multidisciplinary group delivers climate change advice in commentary practice areas, including energy, projects and finance, commercial, real estate, environmental, regulatory and government affairs, insurance, investment funds, corporate, mergers and acquisitions and tax law.

Our attorneys have substantial experience addressing our client's climate-related needs across a variety of projects, sectors, and institutions. Our experience includes the following representative matters:

- Advise on climate change legislation and energy efficiency measures such as the Carbon Reduction Commitment Energy Efficiency Scheme, Climate Change Agreements and the EU Emission Trading Scheme.
- Provide advocacy, counseling and transactional support to help clients navigate the EU Emissions Trading Scheme, California's AB32 cap-and-trade program, voluntary carbon markets, and other national and sub-national initiatives.

- Advise clients and negotiate transactions for carbon credits in compliance and voluntary markets.
- Counsel clients in the emergent area of climate legal risk and advise on the assessment and management of corporate climate legal risk through identification of the climate change risks, identification of the relevant regulatory frameworks that impose legal obligations related to climate change risk, and development and implementation of strategies for dealing with those legal obligations.
- Work closely with our clients to develop strategic climate plans, identify carbon burden, risks and opportunities and prepare companies for integration into a carbon-constrained world.
- Advocate on behalf of clients interests before international climate change and ozone conferences.
- Represent countries at international climate negotiations.

Crisis Management

DLA Piper is well placed to help our clients manage the immediate pressures of a crisis situation. Our 'Rapid Response', global crisis management hotline service, provides our clients with 24-hour, 365-day access to regulatory legal advice and crises assistance. Our extensive experience includes defending raids conducted by different regulators and investigating authorities and controlling major industrial hazards (COMAH legislation). Many of our staff have practical experience of various raid situations, having worked for the various regulators and investigating authorities. Our lawyers understand the appropriate balance between cooperating with the investigators while safeguarding the client's legitimate interests. The DLA Piper team has been involved in responding to raids by regulators including the European Commission, Office of Fair Trading, Serious Fraud Office and HM Revenue and Customs. Our attorneys in the US have also counseled clients to immediately correct alleged environmental law violations and successfully petitioned the EPA under its Audit Policy, thereby avoiding subsequent liability.

EXPERIENCE

- Representation of a major oil company defendant in mass tort actions involving hundreds of plaintiff properties allegedly contaminated by a 26,000-gallon underground piping leak. The Maryland Court of Appeals reversed virtually all damages awards. Cases resulted in landmark rulings on fraud, emotional distress, medical monitoring, and nature of property damages in environmental cases.
- Representation of a major oil company in lawsuits involving multiple retail service stations. Claims were asserted under California Proposition 65, California Fish & Game Code, and California Business & Professions Code Section 17200
- Representation of an oil company in CERCLA and Polanco Act lawsuits involving distribution terminals and retail facilities
- Representation of major power producing companies on permitting, planning, government relations, government initiatives, and potential litigation associated with climate change matters.
- Representation of electric utility companies before public service commissions and regulatory agencies to obtain approval for the construction and siting of natural gas, nuclear, coal, and renewable energy-powered electric-generating facilities.
- Representation of paper manufacturer in the privatization of a municipal solid waste management facility.
- Negotiating a remediation strategy for a large portfolio of filling stations, many of which were contaminated.
- Negotiating with the UK Government on behalf of a major industry sector on the terms and conditions of an energy tax rebate, to be given in return for accepting emissions reductions targets.
- Advising a multinational company on a creative regeneration project for the site of a former large process chemical plant.
- Defending chemical company in an enforcement action concerning discharges to publicly owned treatment works
- Defending a power company in response to alleged Clean Water Act violations at three sites in Maryland, and negotiating a global settlement with regulators and citizen interveners.
- Advising on emission reduction purchase and project development agreements between parties for the development of a range of landfill projects in South Africa.
- Representation of championship golf course owners in the permitting of the course, including wetlands and discharge matters.
- Representation of a large fuel terminal facility in connection with all environmental permitting, including Clean Air Act (Title V) permitting
- Representation of an international chemical company on shale gas development matters.
- Advising on a corporate manslaughter investigation arising from a fatal accident of an employee at a plant decommissioning

service.

- Representation of a NASDAQ-listed-South African based technology company that is the subject of a joint investigation regarding allegations of bribery and corruption by the SEC and DOJ into potential violations of the FCPA and securities laws.
- Defence of investigations under Corporate Manslaughter & Health and Safety legislation following the death of a worker crushed by a 70 tonne forging.
- Advising in relation to a major fire at a fuel depot and an explosion at an oil refinery, both major environmental and health and safety incidents.
- Conducting a strategic health and safety review for a major industrial multinational company.

INSIGHTS

Publications

ESG: the rise of private ordering and the role of the NCGC committee (United States)

26 March 2020

PROXY SEASON HOT TOPICS

This inaugural ESG handbook, part of our 2020 Proxy Season Hot Topics series, aims to help public companies as they develop and maintain a robust ESG program.

COP25's key outcome: adoption of the San Jose Principles on carbon market mechanisms – takeaways for business

12 February 2020

Ambitious countries are not waiting for full consensus on carbon markets.

PFAS: in California, regulators put cleanup levels on hold, but announce major data hunt

7 MAR 2019

This data hunt will affect thousands of facilities, drinking water systems and private drinking water well owners.

EnviroLENS - Copernicus for environmental law enforcement

18 FEB 2019

EnviroLENS, a Horizon 2020 innovation project funded by the European Commission, aims to demonstrate and promote the use of Earth Observation (EO) as direct evidence for environmental law enforcement, including in a court of law and in related contractual negotiations.

Slavery in the supply chain: new corporate reporting obligations for companies

9 DEC 2015

HEALTH, SAFETY AND ENVIRONMENTAL MATTERS SERIES

The UK's Modern Slavery Act 2015 is in force, imposing on companies new reporting requirements and new enforcement powers, including the creation of an Independent Anti-Slavery Commissioner.

NEWS

DLA Piper lawyers named Acritas Stars

10 March 2020

Acritas has named over 200 DLA Piper lawyers as 2020 Acritas Stars. Now in its fourth year, Acritas Stars highlights the stand-out lawyers in private practice as nominated by clients around the world. More than 3,000 senior in-house counsel feed into the nomination process to give a comprehensive view of highly recommended lawyers across the globe.

Frank Ryan discusses the trade war with Yahoo Finance

9 Sep 2019

Highlight: “Where we are right now is in a political phase in this debate, and... we need to get to a practical phase,” says @DLA_Piper’s Frank Ryan on the trade war. “The sooner we get stability for major multinationals in China regarding IP protection, the better off we’ll be.” pic.twitter.com/u0ykzF8m89

— Yahoo Finance (@YahooFinance) September 9, 2019

DLA Piper announces partnership promotions for 2019

1 APR 2019

DLA Piper is proud to announce that 77 lawyers have been promoted to its partnership. The promotions are effective as of April 1, 2019 in the United States and May 1, 2019 for EMEA and Asia Pacific. The promotions were made across many of the firm's practice areas in 43 different offices throughout 20 countries.

DLA Piper hosts leading business and diplomacy conference

14 MAR 2019

DLA Piper's London office has hosted the Annual Conference of the International Diplomatic and Business Exchange (IBDE).

DLA Piper represents the Securities and Exchange Board of India (SEBI) to recoup funds from one of the world's largest Ponzi schemes

16 AUG 2018

DLA Piper has successfully acted with Counsel (Thomas Bradley QC, Michael Hodge QC and Julia O'Connor) for the Securities and Exchange Board of India (SEBI) in the second of two proceedings before the Federal Court of Australia.

DLA Piper announces partnership promotions for 2018

3 APR 2018

DLA Piper is proud to announce that 62 lawyers have been promoted to its partnership. The promotions are effective as of 1 April 2018 in the United States and 1 May 2018 for EMEA and Asia Pacific. The promotions were made across many of the firm's practice areas in 42 different offices throughout 20 countries.

In New Zealand

ENVIRONMENT

Good stewardship of the environment is a hallmark of good business, and high reputation. It's also true that environmental care, natural resources, resource management and regulatory compliance are some of the most challenging areas of business operation in New Zealand today.

DLA Piper New Zealand has one of the strongest resource management, planning and environment teams in the country. The firm's hands-on expertise in environmental management extends into every sector affected: energy, mining, farming, forestry, fisheries, aquaculture, water, local government, utilities, government, Treaty of Waitangi, property and land development, and manufacturing.

New Zealand's Resource Management Act (RMA), environmental legislation and regulation, and planning considerations are key components in any development. We are expert at navigating clients through the challenging, changing arenas of conservation, climate change, natural resource protection, environment law, planning law and regulation.

We have vast experience in commercial, agricultural, aquacultural, mining, residential, industrial and retail projects. Many of the consenting and planning issues that have related to these developments have been public and contentious. DLA Piper New Zealand has a practical understanding and depth of legal knowledge of the issues our clients face. We have excellent, specialised industry and business knowledge in sectors where environmental challenges arise.

The firm is expert in managing relationships with regulators and stakeholders.

We regularly act for local government in major public works, all of which require attention to environmental and planning regulation. DLA Piper New Zealand's team is a leading adviser assisting local authorities throughout the country with resource consent and RMA issues.

HEALTH AND SAFETY

DLA Piper New Zealand's employment law team is experienced in health and safety laws, compliance and defence of prosecutions.

We act for clients in diverse sectors, including hazardous industries such as forestry, infrastructure and construction on occupational health and safety issues.

We are strategic advisers at senior executive and board levels on policy development, organisational obligations and compliance.

In addition, we act rapidly as a first port of call when your organisation is the subject of a health and safety crisis.

At our disposal in advising on health and safety crises is a DLA Piper international resource – Rapid Response. This is a comprehensive, worldwide legal emergency service. It provides expertise on issues using global legal and response experts handling similar situations around the world.

CAPABILITIES

- Policy preparation
- Defence
- Compliance and audits
- Stress claims
- Training
- Responsibility of senior officers and board
- Crisis management

- Relations with regulators and investigators
- Health and Safety in Employment Act
- Private plan changes; rezoning; public plan changes
- Urban planning; town planning
- District and regional plans
- Resource consents and consent approvals; compliance
- Stakeholder consultations
- Applications under the RMA, appeals, dispute resolution; designations
- Litigation, prosecutions, enforcement
- Consent breaches and monitoring of consents
- Site acquisition and environmental due diligence
- Heritage and Maori; and Treaty of Waitangi issues; iwi
- Property development, including brownfields development
- Utility and infrastructure development
- Coastal and marine management
- Water management and rights
- Waste management
- Energy generation, reticulation
- Emissions, emissions trading
- Flood control, erosion, discharges
- Compulsory acquisitions, valuations, compensation

EXPERIENCE

Marlborough District Council - NZ King Salmon Proposal

DLA Piper New Zealand acted on behalf of the Council as a submitter in opposition when this matter was heard by a Board of Inquiry in 2012. It involved 4 plan changes and the resource consents necessary for 9 salmon farm sites (eight where marine farming is prohibited). 1,271 submissions were received and involved a 10 week hearing. Only 4 of the farms were approved.

In 2013, DLA Piper New Zealand acted on behalf of the Council as a party to the appeal to the High Court. The appellants were 'Save our Sounds' and 'Environmental Defence Society'. DLA Piper New Zealand also acted in the Supreme Court on behalf of Environmental Defence Society.

Wellington City Council - Harcourts Heritage Building

DLA Piper New Zealand is acting in the Environment Court and the High Court on appeal for an application to demolish an eight story protected heritage building.

Greater Wellington Regional Council - Peka Peka to North Otaki Roading Proposal

This New Zealand Transport Agency state highway proposal involved two notices of requirement and 49 resource consents for the construction and operation of the Peka Peka to North Otaki Expressway proposal.

It was declared a matter of national significance and is part of the Wellington Northern Corridor, identified by the Government as a Road of National Significance. DLA Piper New Zealand acted on behalf of Wellington Regional Council, a submitter conditionally in support of the proposal.

Greater Wellington Regional Council - Warburton v Porirua City Council and Wellington Regional Council

DLA Piper New Zealand acted on behalf of the Regional Council in successfully defending an application by Mr Warburton. The issue was whether a 'stormwater outflow' that flowed across the foreshore was a 'river' under the Resource Management Act 1991, which would mean the consenting requirements under section 13 and the Regional Plan would apply, and set a precedent for the entire Wellington Region. It was found the land over which the watercourse flowed was not the bed of a river, and not subject to control under s 13(1) of the RMA. The declarations were declined. Costs were awarded to the Council.

Wiri Oil Services Limited

DLA Piper New Zealand is advising Wiri Oil Services Limited (WOSL) in relation to designating its terminal site in South Auckland to facilitate protection of the asset from incompatible land uses in the area. The terminal is a nationally significant oil distribution asset which receives 95% of Auckland region's diesel and petrol and 100% of Auckland's aviation fuel requirements.

Insight Global Farmland Fund Limited

DLA Piper New Zealand advised Insight Global Farmland Fund Limited (IGFFL) on the purchase of a Southland 'going-concern' dairy farm business from Fermoy Farms Limited. The transaction included the transfer of property, plant and equipment, contracts and livestock, and also involved complex water rights issues.

Dairy Farms Partnership, being the partnership between DF1 Limited and DF3, Limited (both Cayman Islands based)

DLA Piper New Zealand advised on the purchase of an Otago 'going-concern' dairy farm business. The purchase was completed by Dairy Farms Partnership (DFP), (owned by the Harvard University Endowment Fund) after being nominated in accordance with the sale and purchase agreement by the purchaser. Among many aspects the transaction involved consideration of various issues arising in relation to existing resource and local government permits including the water rights on the property; drafting of the lease arrangements; sale and purchase agreements for the assets and the property; as well as an application for Overseas Investment Office consent. We also advised DFP on the lending arrangements in relation to the funding of the purchase.

Wellington City Council - Town Belt Bill

DLA Piper New Zealand is assisting with all aspects of preparing local legislation to provide a new governance and management framework for the Wellington Town Belt.

New Zealand Veterinary Association (Inc)

DLA Piper New Zealand advised the Chief Executive of our client on a particularly difficult performance and stress-related issue. We assisted with the performance improvement process while also identifying a strategy to resolve what was becoming a dysfunctional and stressful relationship for all concerned.

Nuplex Specialities Limited

A previous employee of Nuplex alleged entitlement to long-term health insurance post-retirement at Nuplex' costs. DLA Piper New Zealand successfully defended these claims in the Employment Relations Authority and the Employment court, and then the Court of Appeal, securing significant cost for the client.

Krones AG

DLA Piper New Zealand represented this German manufacturer when an employee of a project sub-contractor was fatally injured in New Zealand. This involved a Department of Labour investigation, which resulted in no prosecution of our client.

KiwiRail Limited

DLA Piper New Zealand provided advice and support following a stress claim by an employee.

Waitomo Big Red

DLA Piper New Zealand successfully defended a quad bike adventure ride operator in a health and safety prosecution relating to a fatality.