

JOSHUA P. PEMBERTON

BARRISTER - AT - LAW

Curriculum Vitae

Year of Call: 2020

Joshua was called to the Bar in 2020, following more than eight years practice as a lawyer in senior positions (including Principal) in the Litigation Branch of the Queensland Department of Environment and Science.

Joshua maintains a keen interest in complex white-collar and regulatory crime and judicial and merits review matters having developed significant expertise prosecuting in these areas over the course of his career. Joshua's deep insight into in-house Government regulatory authorities and their processes places him in an invaluable position to achieve successful outcomes, in Court and negotiated, for both Government and private clients in this space.

Since coming to the Bar, Joshua has maintained a broad Public Law practice as well as regularly takes briefs in Criminal & Quasi-Criminal, Planning and Environment, Land and Property, and Commercial matters, often with a significant public law aspect. Joshua regularly advises and appears for both government and private sector clients across all Queensland and Federal jurisdictions.

Areas of practice

- Appellate
- Public Law
 - Environmental
 - Regulatory
 - Human Rights
 - Safety
 - Judicial and Merits review
 - Native title and Cultural heritage
 - Constitutional
 - Disciplinary
 - Taxation (Federal and State)
- Commissions of inquiry
- Criminal & Quasi-Criminal (White Collar Crime and Regulatory Crime)
- Land and Property
- Commercial
- Resources and Energy
- Land Court (Land valuations and Mining objections)
- Planning and Environment

Examples of work as a barrister

Advised and appeared for public and private clients on a broad spectrum of matters across the public law sphere in all Queensland Courts, including on appeal. These matters often involve complicated questions of law and, more frequently, involve the application of the *Human Rights Act 2019* (Qld). Some recent examples include:

- Advised and appeared (led by Horton KC) for the former trustee of Queensland in the successful appeal against the Queensland Crime and Corruption Commission (CCC): *Carne v Crime and Corruption Commission* [2022] QCA 141. The matter has now been appealed, with myself and Mr Horton KC being briefed to respond to the Special Leave Application.
- Advised and appeared (led by Hindman KC) for the State of Queensland in an aspect of Judicial review proceedings challenging the Covid-19 'High-risk setting' directive. The matter involved extensive, conventional Judicial review grounds, including a constitutional aspect and a significant human rights component.
- Jointly advised (with Horton KC and A Hellewell) the Officer of Liquor and Gaming Regulation (OLGR) on discrete matters falling from the recent inquiry in the Star Casino operations in Queensland.
- Advised and appeared (unled) for a building certifier in a disciplinary matter in the Queensland Civil and Administrative Tribunal.
- Regularly advised the State on matters of statutory construction, including:
 - proposed amendments to the *Environmental Protection Act 1994* (Qld);
 - the complex interplay between the *Queensland Heritage Act 1994* (Qld) and the *Planning Act 2016* (Qld); and
 - discrete aspects of the *Explosives Act 1999* (Qld).

Advised and appeared for the State (as a prosecutor) and private clients in criminal matters (both summary and indictable) in all Queensland Courts. Joshua has significant experience in complex regulatory matters involving statutory offences and, in particular, involving environmental offences. While he appears in all criminal and quasi-criminal cases, his practice focuses on regulatory and white-collar crime matters. Recent examples include:

- Advised and appeared (led by Devlin KC and Keim SC) as a prosecutor for the Crown in a significant prosecution under the *Environmental Protection Act 1994* (Qld) of four executive officers for indictable offences. This matter involved an extensive brief of evidence and many expert witnesses.
- Advised and appeared (unled) as prosecutor for Queensland Fire and Emergency Services (QFES) in a trial for 19 offences under the *Fire and Emergency Services Act 1990* (Qld) and the *Building Fire Safety Regulation 2008* (Qld).
- Advised and appeared (unled) for QFES as the respondent to a section 222 of the *Justices Act 1886* (Qld) appeal against conviction in the District Court. This matter was advanced on the ground of apprehended bias. The respondent was successful in resisting the appeal.
- Advised a significant commercial restaurant operation on strategies to defend a development offence under the *Planning Act 2016* (Qld).

Advised and appeared for private clients in civil disputes in all Queensland Courts. These matters involve contract disputes, planning and environment, property and land, corporate law, and torts. Recent examples include:

- Advised and appeared (unled) for the State of Queensland in a contested Supreme Court application for further and better particulars in relation to a malicious prosecution and misfeasance in public office suit against the State of Queensland and others.
- Jointly advised (led by de Jersey KC) on the application of ss 53 and 55 of the *Property Law Act 1974* (Qld) to a 'give and take' agreement between two large pastoral landholders.
- Advised, drafted the pleadings and briefed to appear (unled) for the plaintiff in a simple trespass and private nuisance matter.
- Advised, drafted the pleadings and briefed to appear (led by Benjamin Kidston) for the plaintiff in a complicated joint venture claim involving the operation of a regional hotel.
- Advised a private client on seeking a declaration in the Planning and Environment Court with related development offences in the Magistrates Court.
- Advised a private client on options for challenging a development approval under a local planning scheme in circumstances where the matter of the approval was attended with an error of law.

Negotiated alternative and administrative outcomes to compliance and enforcement matters, including advising clients on the use of enforceable undertakings under the *Environmental Protection Act 1994* (Qld).

Career history

- 2020 Called to the Bar
- 2020 Principal Lawyer at the Department of Environment and Science (Qld)
- 2017 Senior Lawyer at the Department of Environment and Science (Qld)
- 2014 Lawyer at the Department of Environment and Heritage Protection (Qld)
- 2012 Clerk at Legal Aid Queensland

Education

Bachelor of Laws, July 2011
Queensland University of Technology

Graduate Diploma of Legal Practice, November 2013
College of Law