

21 July 2023

---

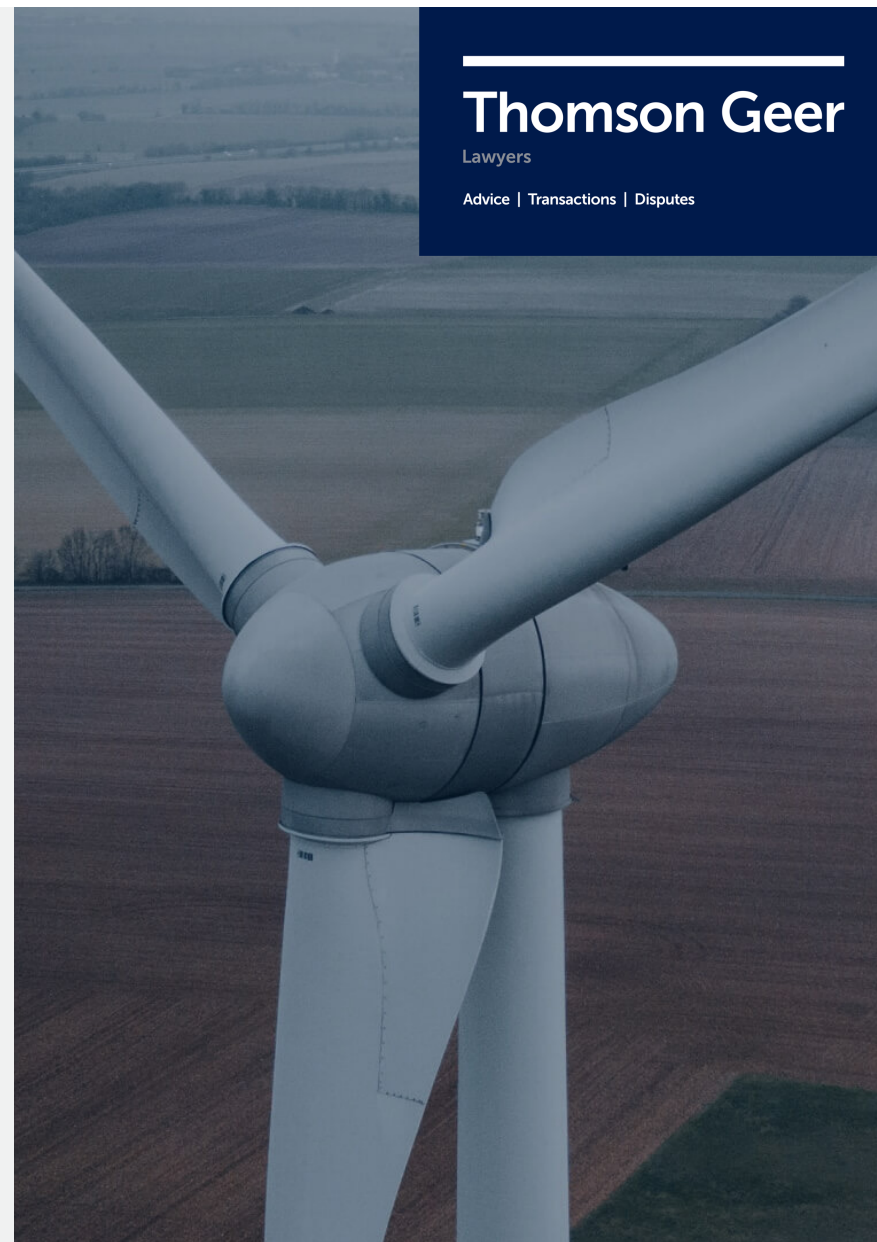
# Wind farm legalities

Sarah O'Brien-Smith  
Partner, Thomson Geer Lawyers

**Thomson Geer**

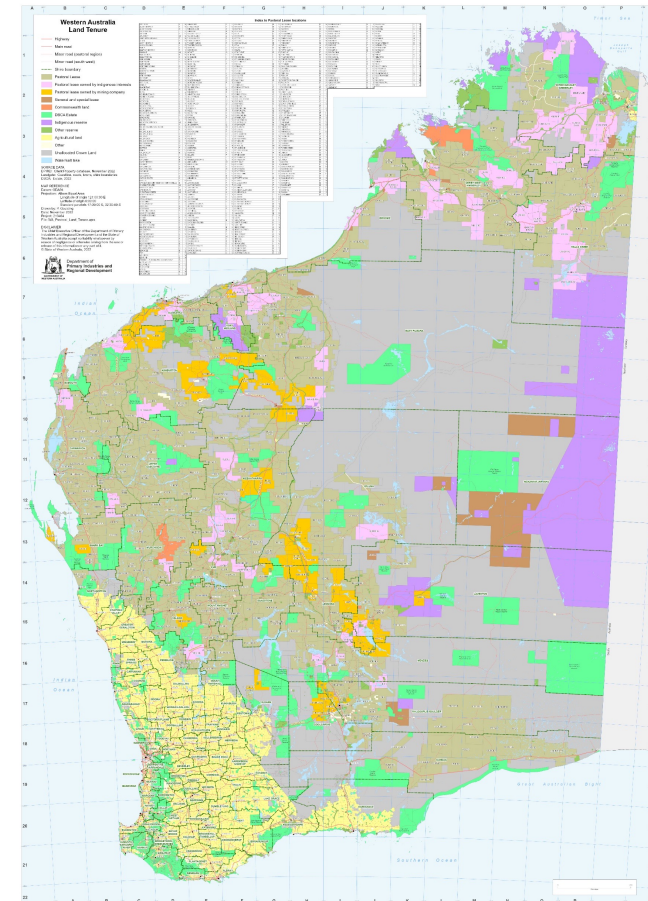
Lawyers

Advice | Transactions | Disputes



# Land tenure for wind farms

- Private land
- Pastoral leases
- New tenure type of diversification leases



# Exclusivity and access agreement

- Landowner cannot enter into negotiations or discussions with any other renewable energy company on the land or within X km, potentially right of first refusal
- Gives the developer access to the land for feasibility studies and enables discussions regarding permitting, grid connections, energy supply contract
- Provisions for landowner's benefit:
  - Notice and entry requirements
  - Conditions and restrictions e.g. access for permitted purposes only, must not interfere with farming operations, remove all the developer's property at end of activities, rehabilitate the land
  - Developer to maintain insurance
  - Developer must repair any damage to land or infrastructure
  - Indemnity in favour of landowner
- Signing / exclusivity fee + legal and accounting fees covered



# Option for lease and lease agreements

- Option for lease agreement
  - Gives the developer the right to exercise the option and take a lease over the land but no obligation to go ahead, locks up land for option period
  - No right to construct infrastructure unless option for lease exercised
  - Landowner to have similar protections as exclusivity agreement
  - ~ 5 year term + option to extend
  - Option fee
  - Broader option area → reduced leased area after determination of leased areas for infrastructure
- Lease agreement
  - ~ 30 year term + option to extend
  - Rent – different structures, minimum payment, per MW / per turbine, easement fees, review mechanisms
  - Landlord's costs covered (higher shire rates or outgoings)
  - Assignment
  - Financing
  - End of lease and decommissioning



# Contact

---



**Sarah O'Brien Smith**

Partner

T: +61 8 9404 9158

M: +61 439 698 523

E: [sobriensmith@tglaw.com.au](mailto:sobriensmith@tglaw.com.au)





# Thomson Geer

Lawyers

Advice | Transactions | Disputes

[tglaw.com.au](http://tglaw.com.au)

 Thomson Geer

 @Thomson Geer

Sydney | Melbourne | Brisbane | Perth | Adelaide | Canberra