

Eliza Bergin

Barrister

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EXECUTIVE SUMMARY

Eliza M Bergin practises in public and commercial law. Eliza appears in all Federal and State courts, tribunals and royal commissions. Eliza accepts briefs in all areas of public and commercial law in addition to criminal matters relating to white collar crime or regulatory offences. Eliza has specialist capabilities in land acquisition, planning and environment law.

Prior to coming to the Bar, Eliza was a solicitor for 17 years including senior roles as a Principal Solicitor at VGSO (2010-2017) in the Government and Public Law branch and the Land Acquisition Planning and Environment team, and Senior Associate at King & Wood Mallesons (2004-2010) in the Environment and Planning team.

Eliza was Associate to The Hon Peter RA Gray AM of the Federal Court of Australia (2001-2002). She was a legal officer in Office of Chief Parliamentary Counsel (2002-2004). She did articles at Minter Ellison (1999-2001) and was a volunteer lawyer in East Timor (2001).

RECENT SIGNIFICANT CASES (2017 – current)¹

Land Acquisition, Planning and Environment Law

1. Environment - Enforcement - Ongoing civil penalty proceedings in the Federal Court of Australia regarding greenhouse gas emissions (2019-2020, unled)

¹ All appearances were unled unless otherwise stated

2. Valuation - Ongoing proceedings in VCAT and Supreme Court of Victoria regarding the valuation of the occupancy for ratings (fire services levy) purposes of a wind farm (2019-2020, with D O'Brien)
3. Urban renewal - Advisory Committee - Fishermans Bend (2018, with J Forsyth, Instructed by City of Melbourne) Advisory Committee into proposed Planning Scheme Amendment GC81 to Melbourne and Port Phillip Planning Schemes including 45 hearing days and 253 submitters Fishermans Bend Planning Review Panel (AC) [2018] PPV 71
4. Planning - Convenience retail - Appearing for permit applicant before VCAT regarding proposed service station 'On The Run' in Horsham (2018) *OTR 129 Pty Ltd & OTR 130 Pty Ltd v Horsham Rural City Council* [2018] VCAT 1778
5. Planning - Convenience retail - Appearing for permit applicant before VCAT regarding proposed service station 'On The Run' in Mildura (2018) *OTR 16 Pty Ltd & OTR 169 Pty Ltd v Mildura Rural City Council* [2019] VCAT 27
6. Planning - Residential subdivision - Objector appeal before VCAT against conditions of permit (2018) *Thuc Tran Mok Lao v Maroondah City Council* [2018] VCAT (13 August 2018)
7. Advising a significant waste management business regarding environment and planning regulatory requirements and risks (2017)
8. Advising a significant waste industry body regarding environment and planning regulatory requirements and risks (2018)
9. Application for review of a refusal to extend of time in which to commence development and application for declarations regarding commencement of works regarding a proposed gaming venue *DSL Securities Pty Ltd v Cardinia Shire Council* [2018] VCAT 212

Public and Administrative Law

10. Royal Commission into Aged Care Quality and Safety appearing as Counsel Assisting and instructed by the Australian Government Solicitor and the Official Secretary to the Commission established by Letters Patent on 6 December 2018. Led by P Gray QC, T McEvoy QC (until March 2019) and P Rozen QC (from April 2019)
11. Migration appeals to the Federal Court of Australia, Federal Circuit Court of Australia *EOD17 v Minister for Home Affairs* [2018] FCCA 3323 (interlocutory judgment on reinstatement); *BUB17 v Minister for Immigration and Border Protection* [2018] FCCA (with E Rutherford);

- written submissions in *FCT17 v Minister for Immigration & Anor* [2019] FCCA 1167; *Fati v Minister for Immigration and Border Protection* [2018] FCA 52
12. Freedom of Information appeal before Kenny J regarding defence of the Commonwealth and international relations *Xenophon v Secretary, Department of Defence* [2019] AAT

Civil and Commercial Litigation

13. Advising on application of the anti-money laundering provisions of the Commonwealth (2018)
14. Advising on a large commercial dispute including claims of oppressive conduct, breach of contracts and misrepresentations in the Supreme Court (2018, Junior Counsel to P O'Sullivan QC (now Judge of the District Court))
15. Appeal against the refusal of a stay application to a Judge of the Supreme Court from an interlocutory decision of a Magistrate (2017) *Aqua Max Water Filtration Solutions v Hurtado* [\[2017\] SASC 165](#)
16. Unfair preference claims in the Magistrates Court and Federal Circuit Court (2017, 2018)
17. Contested estate litigation for claimants under inheritance, wills and probates legislation in Supreme Court (2017 – 2018)
18. Appeal to a Judge of the District Court from orders of summary judgment by a Magistrate in a building and construction dispute (2017, with D Riggall) *D & C Homes v Yang* [2018] SADC 36
19. Construction arbitration under building industry security of payments legislation (2017 – 2018, with R Fenwick-Elliott)
20. Defending an application for a freezing order in the Supreme Court (2017)

SOLICITOR (2000 - 2017)

Planning and Environment

21. Expansion of the Melbourne Regional Landfill in Ravenhall for Corrections Victoria, *Melton C162* [2017] PPV
22. Advising on claims for damages arising from water over flows and risk to land and infrastructure for a range of clients (2012 – 2016)
23. Proposed Bunnings development, *Greater Shepparton C183* for VicRoads [2015] PPV 109
24. Proposed height limits regarding VicRoads headquarters in Kew, *Boroondara C138 & C139* [2014] PPV 65
25. Representing the State regarding two wind farm developments

- in *Woolsthorpe Wind Farm Pty Ltd v Minister for Planning* (2012) VCAT 1634 and *Naroghid Wind Farm Pty Ltd v Minister for Planning* for the Minister for Planning (2013) VCAT 675
26. Acting in the challenge regarding alpine grazing in the national parks before the Federal Court for the Minister for Environment in *Minister for the Department of Sustainability and Environment (Vic) v Minister for Sustainability, Environment, Water, Population and Communities (Cth)* [2013] FCA 1
 27. Redevelopment of Dimmeys for *PTV Richmond Icon Pty Ltd v Yarra City Council* [2011] VCAT 2175
 28. Acting for the State in *Friends of Mallacoota Inc v Minister for Planning & Minister for Environment and Climate Change* [2010] VSC 222
 29. Acting for the State regarding Windsor Hotel matters including *National Trust of Victoria v Victorian Civil and Administrative Tribunal & Minister for Planning & Halim Group & Hotel Windsor Holdings Pty Ltd* [2010] VSC 430
 30. Major redevelopments and expansion of public, commercial and industrial facilities including the Windsor Hotel redevelopment, GTV 9 Studios in Richmond, Port of Portland, St Kilda Triangle
 31. Advising on the preparation and conduct of environmental litigation including *Winky Pop and Or v Mobil Australia Ltd* (2009-2010) and *Spotless Group Ltd v Premier Building and Consulting Pty Ltd* (2006) while at King & Wood Mallesons
 32. Advising on the rollout of petroleum facilities including Applications for Review before VCAT for Woolworths Ltd (2005-2010) while at King & Wood Mallesons
 33. Planning advice and applications for review before VCAT and the Supreme Court for Telstra Ltd (2004-2010) while at King & Wood Mallesons
- Royal Commissions and Boards of Inquiry*
34. Board of Inquiry (2017) Solicitor assisting the *Building Practitioners Board* on secondment for 6 months for VGSO while a Principal Solicitor
 35. IBAC (2016) Solicitor acting for the State of Victoria before Independent Broad-based Anti-Corruption Commission in Operation Ord regarding corruption in the education (IT) sector
 36. IBAC (2015) Lead Solicitor acting for the State of Victoria before Independent Broad-based Anti-Corruption Commission in Operation Fitzroy regarding corruption in the public transport (bus) sector
 37. Inquiry (2014) Solicitor instructing senior and junior counsel before

- the *Inquiry into the Hazelwood Coal Mine Fire* on behalf of the State of Victoria while a Principal Solicitor at VGSO
38. Royal Commission (2009) Acting for the Municipal Association of Victoria and 77 Local Councils in the 2009 Bushfires Royal Commission while a Senior Associate at King & Wood Mallesons

PROFESSIONAL EXPERIENCE

Professional roles

- Barrister, 2017 – Present
- Principal Solicitor at the [Victorian Government Solicitor's Office](#), 2010 – 2017
- Solicitor and Senior Associate at [King & Wood Mallesons](#), 2004 – 2010
- Legal Officer at the [Office of Chief Parliamentary Counsel](#), 2002 – 2004
- Judge's Associate at the [Federal Court of Australia](#) to the Honourable Peter RA Gray AM, 2001 – 2002
- Solicitor at [Minter Ellison](#), 1999 – 2001

Qualifications

- Master of Laws (Environmental Law) (2016) – Australian National University
- Bachelor of Laws (Hons) (2000) – University of Melbourne
- Bachelor of Science (1995) – Monash University

Professional Memberships

- Member of Council, South Australian Bar Association (2019-2020)
- Judge, Sir Harry Gibbs Constitutional Law Moot, Melbourne University Law Students Society (2019)
- Advocacy coach, GDLP University of Adelaide / Law Society of South Australia (2018, 2019)
- Chair Planning and Local Government Committee, Planning and Environment Law Section, Law Institute of Victoria (2016-2017)
- Member, Victorian Planning and Environment Law Association
- Observer, Conference of Parties 20, United Nations Framework Convention on Climate Change (Peru, 2014)

- Member, Australian Institute of Administrative Law
- Member, Australian Association of Constitutional Law
- Advocacy coach, GDLP University of Adelaide / Law Society of South Australia (2018, 2019)

PAPERS AND PUBLISHED WORKS

Eliza regularly delivers papers and publishes articles:

- Book Review 'Contract and the Australian Consumer Law' by JW Carter and L Chan (2019) *Law Institute Journal* (February 2020)
- Administrative law: The implications of *Burns v Corbett* in tribunal proceedings against interstate residents (October 2018) *Bulletin (Law Society of South Australia)* 40(9), 36
- Book Review 'Pizer's Annotated VCAT Act by E Nekvapil' *Law Institute Journal* (May 2018) p 59
- Presentation 'National Trends in Planning and Environment Law' for Legalwise Melbourne (13 March 2018)
- Presentation 'National Trends in Planning and Environment Law' for Legalwise Adelaide 'Planning, Development and Infrastructure Law in SA: A Brave New World' (7 March 2018)
- Presentation to the Law Institute of Victoria Government Lawyers Conference – Public Interest Disclosure, Confidentiality and Privilege (October 2017)
- Presentation to the Law Institute of Victoria Government Lawyers Conference – Information Sharing in Government (November 2016)
- 'Book review: Australian Environmental Law: Norms, Principles and Rules' *Law Institute Journal* (September 2016)
- Presentation to the Law Institute of Victoria Property Law Update – 'What's new in Planning Law?' (March 2016)
- Presentation to the Clean Energy Council, Wind Industry Forum on 'Wind Farms and Applicable Laws with a focus on Planning' (March 2015)
- Guest Lecturer, Masters of law subject: Climate Law, University of Melbourne on Wind Energy (May 2015)
- Victorian Planning and Environment Law Association, Young Professional Group, 'Key Principles of Wind Farm and Bushfire Management' (November 2014)
- VGSO Seminar (2014) 'Environment and Planning Trends' with Ed Small

- VGSO Seminar (2010) 'Good Decision-making' with Jonathan Smithers
- Eliza Bergin, 'Powering ahead? The future for wind farms' (2014) *Law Institute Journal* 55
- Eliza Bergin & Isabelle Border, 'Energy Efficiency – More than a trend' (2007) *CO Magazine*
- Property Council of Australia, Sustainability – Green Buildings and Green Leases Melbourne June 2007, Hobart July 2007