

Eliza Mary Bergin

BARRISTER

Clerk

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Owen Dixon Chambers
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EXECUTIVE SUMMARY

Eliza Bergin practises in public, regulatory and commercial law. Eliza appears in the Federal and Supreme Court, Tribunals and Royal Commissions.

Prior to coming to the Bar, Eliza was a solicitor for 17 years. She was Solicitor and Senior Associate at Mallesons Stephen Jaques (now King & Wood Mallesons) (2004-2010). She was a Solicitor and Articled Clerk at Minter Ellison (1999-2001)

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) and a Principal Solicitor at the Victorian Government Solicitor's Office. She was a volunteer lawyer in East Timor (2001).

QUALIFICATIONS

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

RECENT CASES

Commercial and public law

1. Counsel to Assist the *Royal Commission into Aged Care Quality and Safety* (January 2019 – February 2021). Led evidence from large numbers of disparate witness in numerous hearings. Assisted to prepare case study and closing written submissions and the final report. Appeared in multiple hearing locations all over Australia including capital cities and remote and rural towns. Assisted Senior Counsel, Solicitors and Royal Commissioners. Led by P Gray QC and P Rozen QC (Jan 2019-Jan 2021).

2. Supreme Court - Electricity infrastructure - Ararat Wind Farm – disputed capital improved value for ratings purposes raising issues of the correct approach to occupancy, apportionment across municipalities and whether wind turbines are fixtures or chattels. For Valuer-General Victoria (2019-2021). Co-counsel with D O'Brien in VCAT and Supreme Court of Victoria. *AWF Prop Co 2 Pty Ltd and Ararat Wind Farm Pty Ltd v Ararat Rural City Council and Valuer-General Victoria* [2020] VSC 853 (Richards J).
3. Court of Appeal – Electricity infrastructure – Ararat Wind Farm - appeal from decision of Richards J in *AWF Prop Co 2 Pty Ltd and Ararat Wind Farm Pty Ltd v Ararat Rural City Council and Valuer-General Victoria* [2020] VSC 853 (Richards J). Led by A Myers QC (until May) and then by Tim North QC, with D O'Brien.
4. Supreme Court - Electricity infrastructure - Valuation – Mt Gellibrand Wind Farm – ongoing proceedings in the Supreme Court of Victoria regarding valuation of wind farm for ratings purposes. For Valuer-General Victoria (2020). Co-counsel with D O'Brien in VCAT and Supreme Court of Victoria.
5. Federal Court – Synthetic Greenhouse Gas - Environment – Federal Court of Australia – civil penalty proceedings regarding unlicensed importation. *Minister for the Environment v ACN Pty Ltd* [2020] FCA 1557 (Mortimer J).
6. Eliza regularly appears in VCAT and Planning Panels Victoria:
 - a. Urban renewal of Fisherman's Bend - Advisory Committee – proposed Planning Scheme Amendment GC81 to Melbourne and Port Phillip Planning Schemes including 45 hearing days and 253 submitters raising various issues including social housing, public transport, roads, industrial land use proximate to residential land use. With J Forsyth. *Fishermans Bend Planning Review Panel (AC)* [2018] PPV 71.
 - b. Convenience retail "On the run" – Application for review for permit applicant regarding proposed convenience store and service station in Horsham including traffic, noise and planning expert evidence. *OTR 129 Pty Ltd & OTR 130 Pty Ltd v Horsham Rural City Council* [2018] VCAT 1778
 - c. Convenience retail "On the run" – Application for review for permit applicant regarding proposed convenience store and service station in Mildura including traffic, noise, urban design and planning expert evidence. *OTR 16 Pty Ltd & OTR 169 Pty Ltd v Mildura Rural City Council* [2019] VCAT 27

- d. Objector appeals - *Duval v Macedon Ranges SC* [2019] VCAT 374; *Walters v Yarra CC* [2018] VCAT 1784; *Thuc Tran Mok Lao v Maroondah City Council* [2018] VCAT (13 August 2018)
- e. Gaming regulation - *DSL Securities Pty Ltd v Cardinia Shire Council* [2018] VCAT 212

Electricity, telecommunications and resources

- 7. Electricity infrastructure – Enforcement proceedings against rogue tenant at electricity substation terminal in Thomastown. Solicitor for SP Ausnet. *Reading v Whittlesea City Council* [2006] VCAT 1688, *Reading v Whittlesea City Council* [2006] VCAT 2181, *Reading v Whittlesea City Council* [2006] VCAT 2144
- 8. Electricity infrastructure – extension of time and bias application regarding development of two Wind Farms. Solicitor for the Minister for Planning. *Woolsthorpe Wind Farm Pty Ltd v Minister for Planning* (2012) VCAT 1634 and *Naroghid Wind Farm Pty Ltd v Minister for Planning* (2013) VCAT 675
- 9. Telecommunications infrastructure - advising Telstra Ltd on the roll out of the NBN, mobile phone towers and other telecommunications infrastructure including access regulation regimes. Solicitor for Telstra.
- 10. Electricity infrastructure - Expansion of Hazelwood coal-fired power station – advising proponent on EES and planning panel. Solicitor for Hazelwood.

Public and Administrative Law

- 11. Migration - Federal Court and Federal Circuit Court *EOD17 v Minister for Home Affairs* [2018] FCCA 3323, *BUB17 v Minister for Immigration and Border Protection* [2020] FCCA 204, *FCT17 v Minister for Immigration & Anor* [2019] FCCA 1167 (Written submissions), *Fati v Minister for Immigration and Border Protection* [2018] FCA 52
- 12. Freedom of Information - *Xenophon v Secretary, Department of Defence* [2019] AAT 3667 (Kenny J)
- 13. Inquiries:
 - a. Professional discipline - Solicitor assisting the *Building Practitioners Board* (2017)
 - b. Solicitor instructing senior and junior counsel on behalf of the State of Victoria regarding planning and environment issues before the *Inquiry into the Hazelwood Coal Mine Fire* (2014)

- c. Inquiry - IBAC investigation – Solicitor acting for the State of Victoria before Independent Broad-based Anti-Corruption Commission in Operation Ord (2016)
- d. Inquiry - IBAC investigation – Lead Solicitor acting for the State of Victoria before Independent Broad-based Anti-Corruption Commission in Operation Fitzroy (2015)
- e. Royal Commission - Acting for the Municipal Association of Victoria and 77 Local Councils in the 2009 Bushfires Royal Commission. Solicitor.

PROFESSIONAL MEMBERSHIPS

- Judge, Sir Harry Gibbs Constitutional Law Moot, Melbourne University Law Students Society (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
- Observer for ANU, United Nations Framework Convention on Climate Change (COP 20 in Peru, 2014 - precursor to COP 21 in Paris, 2015 at which the Paris Agreement was signed)

PAPERS AND PUBLISHED WORKS

Eliza regularly delivers papers and publishes articles:

- Victorian Planning and Environment Law Association, Red Dot Decisions (2 June 2021)
- 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 and Adelaide, 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)
- Eliza Bergin, ‘Powering ahead? The future for wind farms’ (2014) *Law Institute Journal* 55
- VGSO Seminar (2014) ‘Environment and Planning Trends’ with Ed Small
- VGSO Seminar (2010) ‘Good Decision-making’ with Jonathan Smithers
- Eliza Bergin and Isabelle Border, ‘Energy Efficiency – More than a trend’ (2007) *CO Magazine*
- Property Council of Australia, Sustainability – Green Buildings and Green Leases (Melbourne and Hobart, 2007)