



## Zac Kerr

### Partner

Melbourne  
+61.3.9205.2166

Zac.Kerr@klgates.com

## OVERVIEW

Zac Kerr is a partner in the Melbourne office and advises on projects and infrastructure transactions globally, particularly in Australia and Asia. He has a particular knowledge of the transport, power, water and social infrastructure / public-private partnership (PPP) sectors, including greenfield contracting, financing and secondary markets.

Zac has advised on every privately owned toll road in Australia (together with a number of international road projects). He has also advised on the majority of the PPPs undertaken in Australia to date (together with a number of offshore PPPs). He is also experienced in advising clients lending to or buying and selling stakes in these assets.

He has advised on large and complex infrastructure procurement projects. He has drafted and negotiated project agreements, construction, operation and maintenance agreements, feedstock, offtake, tolling and other revenue agreements and ancillary project documentation.

Zac also has extensive experience advising on the sale and purchase of infrastructure assets and non-recourse or limited recourse project finance documentation.

His clients include sponsors, financiers and contractors on PPPs, toll roads, power stations, renewable projects, transmission and distribution assets, rail, ports, airports, telecommunication and industrial projects in Australia, New Zealand, developing and developed Asia, UK and Europe and the United States.

## ACHIEVEMENTS

- *Best Lawyers in Australia*, listed in Construction and Infrastructure Law (2020-present)
- *Best Lawyers in Australia*, listed in Energy Law (2021-present)
- *Legal 500 Asia Pacific*, Project Development - Australia, recognised lawyer, 2019
- Listed in Doyle's Guide for Leading Construction and Infrastructure Lawyers, 2019

## PROFESSIONAL / CIVIC ACTIVITIES

- Law Institute of Victoria member
- International Project Finance Association member
- Lance Corporal, Australian Army, 6 RAR, 5/6 RVR, 1995 – 2000

## SPEAKING ENGAGEMENTS

Zac regularly speaks at conferences and conducts client workshops. Examples of recent speaking engagements include:

- client PPP risk allocation workshops in 2017 and 2018
- chairing the International Project Finance Association 2018 Victorian Government Update, hosting Victorian Treasurer, moderating expert panel
- chairing the International Project Finance Association 2017: Renewable Energy Projects Negotiation Workshop
- chairing the Mills Oakley 2017 Renewable Energy Roundtable
- presenting at the Victorian Transport Infrastructure Conference 2017 on 'Infrastructure priorities and risk allocation'
- presenting at the Victorian Major Projects Conference 2016 on 'Key issues in infrastructure risk allocation'
- presenting at the WA Infrastructure Conference, African Transport Conference, Victorian Transport Infrastructure Conference, Australian Water Summit and other events on relevant infrastructure topics in 2013-2015.

## EDUCATION

- M.B.A., Melbourne Business School, 2008
- LL.B., Monash University, 2000 (*Honours*)
- Bachelor of Communications, Monash University, 1998

## ADMISSIONS

- High Court of Australia
- Supreme Court of Victoria

## THOUGHT LEADERSHIP POWERED BY HUB

- February 2021, Qatar PPP Projects (*Webinar*)
- 1 June 2020, Australian Government Seeks Feedback on Energy Emissions Technology Investment Roadmap Discussion Paper (*Alerts/Updates*)
- 18 October 2018, BUILDING BRIDGES VI: Financing Public Infrastructure in North America: Myths, (*Presentations*)

## OTHER PUBLICATIONS

- Co-edited the Thomson Reuters 2017 practical guide for 'Project Finance in Australia'.

## NEWS & EVENTS

- 7 February 2020, K&L Gates Advises ISS on South Australia Schools Public Private Partnership (*Press Release*)
- 20 January 2020, K&L Gates Advises on AUD511m Waste-to-Energy Project in Western Australia (*Press Release*)
- 29 January 2018, K&L Gates Enhances Energy, Infrastructure and Resources Practice with Appointment of Melbourne Partner Pair (*Press Release*)

## AREAS OF FOCUS

- Construction and Infrastructure
- Construction and Infrastructure Project Funding
- Energy Finance
- Energy Storage and Distributed Resources
- Government and Public Procurement
- Major Infrastructure: Projects and Public-Private Partnerships
- Oil and Gas
- Power
- Rail and Roads
- Renewables
- Water and Wastewater

## INDUSTRIES

- Energy
- Power Generation and Transmission
- Utilities

## EMERGING ISSUES

- Sustainable Economy

## REPRESENTATIVE EXPERIENCE

- Advising Zen Energy on PPAs for the Clermont and Wemen Solar Farm projects
- Advising Windlab Limited in relation to the development of the AUD40 million Coonooer wind farm (Windlab's first development project in Australia)
- Acting for Westpac/Hastings in its bid with Zachry/ACS for the Texas I-635
- Advising the successful Wellington Gateway Consortium in relation to the AUD1 billion Transmission Gully Road PPP in New Zealand
- Advising Victoria (with the Commonwealth and NSW) in relation to its corporatisation and now shelved privatisation of its joint owned Snowy Hydro, including structuring and regulatory aspects.
- Advising in relation to its participation as operator and equity investor in its bid
- Advising TransUrban on its bid for the M5 South West PPP
- Advising TransUrban in relation to acquisition of Airport Link PPP due to receivership of original purchaser
- Advising on the bid to design, operate, construct, operate, maintain and the toll \$AUD2.5 billion Mitcham to Frankston Freeway project. Also involved in negotiating commercial contracts and advising on legislative and regulatory, legal due diligence and
- Advising on Capital Beltway managed lanes, Pocahontas Parkway and Pennsylvania Turnpike
- Advising on its on-market take-over of the M2 Motorway and subsequent M2 Upgrade
- Advising on the unsuccessful bid for Eastlink
- Advising on the unsuccessful proposal to acquire Dundalk road, Ireland
- Advising on the successful Western Sydney Orbital bid with Macquarie Bank Limited and the closing for Western Sydney Orbital and subsequent capital dealings and augmentation for that road
- Advising Bilfinger Berger AG on the Lane Cove Tunnel unsuccessful bid, successful bid and subsequent amendment and augmentation

- Advising on the interface between the AUD1 billion Cross City Tunnel and the AUD15 billion Sydney Metro City and South West project, where the new twin rail tunnels to be bored will pass less than one metre below the existing twin road tunnels which will
- Advising on the unsuccessful bid, successful AUD680 million build and subsequent amendment and augmentation of the Cross City Tunnel
- Advising on the successful unsolicited proposal worth \$AUD5.5 billion for the West Gate Tunnel Toll Road Project
- Advising Transurban on its participation as owner, operator and interface party for the successful unsolicited proposal to the NSW Government for the AUD3.5 billion NorthConnex tolled tunnel and related M2 upgrade and LCT and M7 augmentation
- Acting for Transurban on its successful unsolicited proposal to the Victorian Government for the AUD5.5 billion Western Distributor toll road project
- Advising Tilt Renewables on the EPC and O&M for a Queensland solar project
- Transurban/ Dutsche Bank/ Abbey Group/ Leighton - Advising on the unsuccessful bid for the \$AUD4 billion Toll Road project
- Advising the RBS / Veolia / John Holland lead Basswater Consortium in its AUD4.3 billion bid for the Victorian Desalination Project, including its electricity transmission and connection arrangements, related wind farm development and water connection and
- Advising RATCH-Australia Corporation Limited in relation to the successful Financial Close of the AUD400 million 180MW Mt Emerald Wind Farm, the largest project financed wind farm transaction in Australia in 2016
- Acting for Queensland Motorways on its acquisitions of Clem7, Legacy Way and Go-Between Bridge, restructuring and operation and development issues across Queensland Motorways' franchise (including Gateway and Logan Motorways)
- Advising Pacific Hydro in relation to the power purchase agreement in respect of their 195MW Portland Wind Energy project.
- Advised the lenders, Nedbank and Standard Bank, on the project documents for the 80MW Kouga Wind Farm in South Africa
- Advising Macquarie consortium in its acquisition of Hobart Airport
- Advising Loy Yang Power on its very long-term, base-load, 820MW electricity hedge with Alcoa, including carbon risk and carbon abatement plans, future expansion options, refinancing and other transactions.
- Advising on the design, construction, maintenance and operation of Tbilisi International Airport; including drafting finance documents
- Advising the lenders on project documents including concession agreement for the Cross Isreal Highway Toll Road

- Advising in respect to the \$AUD7 billion bid on Queensland Motorway Toll Assets; key responsibilities included reviewing the underlying project agreements for each toll road and running the due diligence stream
- Advising in respect to the \$AUD7 billion bid of the Toowoomba Toll Road; key responsibilities included advising on the Project Deed, D&C and O&M
- Advising the Wyuna Water consortium in relation to the contract extension for the operation of the Wyuna Water PPP facility in New South Wales
- Advising the successful IFM led consortium on the acquisition and subsequent augmentations of Port Botany and Port Kembla, including operational arrangements for Aurizon to operate the Intermodal Terminal at the Enfield Intermodal Logistics Centre.
- Advising on the \$AUD170 million loan for a floatglass plant, with key responsibilities including drafting and negotiating the Loan Agreement and security documents
- Advising on the AUD\$6 billion Northern Beaches Hospital project, key responsibilities included advising on the D&C contract and car park project documents
- Advising on the Gas Haulage Capacity Agreement in respect of the gas capacity on the Port Campbell to Adelaide Pipeline
- Advising on the Gas Access and Transportation Agreement in respect of the gas transportation of the Moomba to Adelaide Pipeline
- Advising Exemplar Health Consortium in relation to its successful tender for the AUD630 million Bendigo Hospital PPP
- Advising ESCO Pacific and Palisade Investment Partners in relation to the successful financial close for the development of the AUD225 million 148MW Ross River Solar Farm
- Advising EnergyAustralia's financiers in relation to their financing of EnergyAustralia's AUD2.035 billion acquisition of the Delta Western GenTrading contract and the Energy Australia retail business, and subsequent takeout of GenTrading arrangements and
- Advising EnergyAustralia in relation to: - its acquisition of various wind farm development sites; - its acquisition and potential development (subsequently aborted) of the Stony Gap wind farm project; - its bid to secure Commonwealth and Victorian go
- Advising Elecnor on various matters in relation to their Australian projects, including in relation to the 300MW Bungala Solar Project
- Advising Elecnor on their AUD100 million Barcaldine solar photovoltaic project in Queensland, on the sale of the Barcaldine I project, the sale of the Barcaldine II solar project; and on the AUD300 million Bungala One and Bungala Two Solar Project
- Acting for an EDC led consortia on its bid for Mactan Cebu airport PPP, Philippines
- Advising Dubai Ports World Australia in relation to commercial arrangements with various shipping lines.

- Advised the Connecting Sydney consortium (Acciona Infrastructure Australia, Transdev, Alstom Transport Australia and Capella) in its successful bid for the new CBD and South East Light Rail and operations of the Inner West Light Rail project
- Advising an equity investor in relation to its purchase of the AUD100 million Gorodok ethane pipeline from Moomba to Sydney.
- Advising an equity investor in relation to a bid to acquire various Origin Energy assets, including electricity generators and its stake in the SEA Gas pipeline.
- Acting for an equity investor in the acquisition of a stake in Maher Terminals, US and Canadian port operator
- Advising on the \$AUD5.8 billion project. Key responsibilities included drafting the due diligence report on finance documents and the project's finance structure, as well as drafting various agreements required for the client to accede the project, includ
- Advising bidders for each of the Dalrymple Bay and Abbot Point coal terminals, including in relation to all rail haulage, port and rail access, shipping, intermodal and capacity / take or pay arrangements.
- Advising a bidder for the Port of Newcastle, including in relation to all rail haulage, port and rail access, shipping, intermodal and capacity / take or pay arrangements.
- Acting for the borrower on the financing of the AUD872 million Bujagali hydroelectric project in Uganda including reviewing and advising on project finance documentation
- Advising the developer, Cennergi (a joint venture between Tata Power and Exxaro Resources Limited), on the 95MW Tsitsikamma Wind Farm in South Africa
- Advised the Learning Communities Victoria consortium in relation to its successful tender for the AUD290 million New Schools PPP Project
- Advised Barwon Region Water Authority on its biosolids PPP
- Advising AusNet Services in relation to various connection arrangements in Victoria, including Crowlands Windfarm and the Aggreko 100MW summer peak diesel generator.
- Advising ARENA in relation to various renewable energy projects, including the successful financial close of the AUD28.7 million Longreach Solar Farm and the AUD47.5 million Oakey Solar Farm
- Advising ARENA in relation to the successful Financial Close of the AUD70 million Cook Shire Solar Farm, including advising on the project documentation and assisting with the Financial Close process
- Advising an equity investor in relation to its participation in Newcastle Coal's new AUD1.75 billion coal export terminal.
- Advising the financiers to the Verve / Inalco substantial refurbishment and recommissioning of the Muja B power station.
- Advising investors on successful bid for Reliance Rail project

- Advising the Learning Communities Victoria consortium in relation to its successful tender for the AUD290 million New Schools PPP Project
- Advising the Aegis Correctional Partnership in relation to the restructure of the Partnerships Victoria Ararat Prison PPP
- Providing Acciona Construction with advise regarding bid submissions for the Rockingham waste-to-energy project
- Advising Acciona Construction on EPC contract
- Advising Belectric on the Limondale Solar Farm project
- Advising a bidder for the \$17 billion WestConnex Motorway.
- Advising client on WestConnex extension and widdening, including reviewing of Commitment Deeds and Interface Agreements
- Advising Windlab Limited in relation to the development and financial close of the 104MW Lakeland Wind Farm
- Advising AusNet Service wth general advice for the Wangaratta Solar Farm project
- Advising AusNet Services in relation to O&M contract and general advice on exposures in relation to termination of contractors
- Advising AusNet Services in relation to the review, negotiation and drafting of the Network Extension Contract, Connection Services Agreement, and any necessary ancillary documents with respect to the Glenrowan Sun Farm project
- Advising AusNet Services in relation to equipment lease agreements, and attendace to signing and registration of security interests
- Advising on the connection arrangements, land arrangements, new transmission line and preparing due diligence report for the Stockyard Hill Connection
- Review the variation of the NZ Schools 2 - Wakatipu Upgrade project, including drafting new Interface Agreement, updating the Design Brief and obtaining New Zealand and Japanese legal opinions
- Review the variation of the UTas PPP, including admending contracts and reviewing amendments to the Project Agreement and obtaining an Australian and Japanese legal opinion
- Providing contract and/or student accomodation advice to Programmed Facility Management
- Advising on the successful bid; providing contract and/or student accomodation advice to Programmed Facility Management
- Advising ISS on its bid for the South Australian Schools II PPP
- Advising IGIS PE on acquisition of stake in ITR

- Advised TAE Gas Turbines on an a long term agreement and associated documents with the Commonwealth to develop and operate a Turbine Engine Maintenance Facility to service F-135 Joint Strike Fighter jet engines, GE-414 Super Hornet and Growler jet engines and AGT-1500 engines for M1 Abrams main battle tanks. K&L Gates also advised on financing, the acquisition of a brown field site, specialist equipment purchases and construction of the required facility and specialist engine test cell.