



DENTONS

Data centres

New Zealand

Your strategic legal partner for data centre projects

Dentons helps clients from around the world navigate the complexities of their data centre projects in New Zealand and globally. The Dentons team in New Zealand is perfectly placed to assist you with your data centre projects thanks to its combination of specialist legal expertise, industry knowledge, and its understanding of New Zealand's legal, economic and political environment.

Dentons advises on all aspects of successful data centre projects, including advising on the construction of new data centres; acquisitions and dispositions of existing facilities; leasing and co-location arrangements; regulatory compliance; cyber incidents; and business as usual operations.

Data centre projects require an in-depth knowledge of all of the complex laws applicable to the establishment and operation of a data centre, including:

- Real estate
- Environment and planning laws
- Corporate structures and tax
- Financing
- Overseas investment laws
- Construction and infrastructure
- Power supply agreements
- Business as usual operations
- Environment, social and governance compliance
- Privacy and cybersecurity laws
- Government engagement
- Employment and health and safety

As a full service law firm, Dentons can seamlessly deliver advice on all stages of a data centre project, combining not only our legal knowledge but also our access to world-leading global experts (through Dentons globally) and our 'on-the-ground' experience, to ensure that the advice Dentons in New Zealand gives you is best in class.

This is why leading global private equity and real estate funds, and three out of the five largest global data centre giants have chosen Dentons to help realise their projects – in locations all over the world, including in Australasia, the US, UK, Europe, Singapore and more. Dentons has the world covered and the insight necessary to successfully deliver for those operating internationally.



Why New Zealand?

New Zealand is a popular destination for data centres, with over 50 data centres already in operation within the country – and demand for more capacity growing.

There are a number of key benefits and opportunities in New Zealand for those looking to build or invest in data centres, including:

- An existing **roadmap** to follow: major players such as Amazon Web Services and Microsoft have invested in data centres in New Zealand, and local operations also have experience establishing and operating data centres, and the implications for data centre operators under local law are well understood.
- New Zealand's **climate**: temperate and cool, especially in the south, the climate provides an ideal natural environment in which data centres can operate efficiently.
- The availability of **renewable energy**: with over 88% of energy generated in New Zealand coming from renewable sources (and that share increasing), New Zealand stands out as an attractive destination for those looking to enhance their sustainability credentials.
- Globally-recognised **data protection equivalency**: with a stable political system and well-developed privacy laws, New Zealand is recognised by the European Commission as maintaining an adequate level of data protection, thereby facilitating the cross-border transfer of personal data to New Zealand-based data centres.
- **Safety and stability**: New Zealand's distance from the rest of the world somewhat isolates it from conflict risk, and alongside its political stability, makes the country an attractive location for those seeking a high degree of physical data and infrastructure security.
- A **cloud-first approach**: the 'Cloud First' policy encouraging government agencies to adopt cloud-based solutions was introduced by the New Zealand government in 2012, and has driven demand for locally-operated public cloud services.
- Strong **international connectivity** to the internet, with three under-sea fibre optic cables offering multiple points of connection between New Zealand and the world.

Dentons can support the full lifecycle of your data centre project

Our approach

We understand that data centre projects do not neatly fit within a single legal practice area. That's why we have assembled a team of cross-practice experts, each of whom have experience advising on data centre projects, and who are available to support you to successfully deliver your data centre project.

Our teams collaborate to ensure that you have access to specialist advice when you need it, while at the same time working with you to manage your project so that the advice you receive is consistent and coordinated – not just across Dentons in New Zealand, but across Dentons globally.

While each project is unique, we will generally resource each project with two primary partners who will be your lead contact for the project. They will be responsible for ensuring that you receive the service you need at all times, and for sourcing specialist input as and when required. They will take responsibility for the overall delivery of the project and for ensuring that you are seamlessly supported throughout the full lifecycle of your data centre project.

Read on to understand our expert teams' specific experience in each of the practice areas that may be relevant to a data centre project, and how those teams may be able to help you with yours.

Real estate

The location of a data centre is crucial to its success. Data centres require large amounts of well-located, properly consented land, with strong infrastructure connections. You need specialist advice to navigate New Zealand's legal frameworks applicable to land acquisition, disposal and use, to ensure that you can effectively manage risk and ensure the long-term operational success of your data centre.

Dentons' full-service real estate team brings deep expertise across all stages of a data centre project. Our team has significant experience advising on the acquisition and disposal of large real estate portfolios, and works seamlessly with our other teams to deliver pertinent, commercial-minded advice which brings together our experts from other areas, to help you deliver a successful transaction.

Our team will work with you to:

- conduct thorough legal due diligence to confirm title, land use rights, consenting and regulatory compliance.
- advise on land acquisition, development, financing and leasing arrangements tailored to data centre requirements.
- navigate contractual and commercial risks across acquisitions, developments, leases and financing.
- work alongside our corporate structuring and tax specialists to ensure that you have the appropriate corporate vehicle through which to conduct your activities.
- ensure robust protection of ownership or occupancy rights to support uninterrupted operations.
- manage lease-related negotiations and disputes, including end-of-term obligations and property condition issues.
- understand the implications for you under the Overseas Investment Act 2005, and work with our overseas investment specialists to guide you through the process of seeking consent, where required.



Sara Cheetham

Partner

D +64 4 909 6352

M +64 21 764 869

sara.cheetham@dentons.com



Oliver Hobbs

Senior Associate

D +64 4 915 0822

M +64 27 306 1113

oliver.hobbs@dentons.com

Environment and planning laws

Data centre projects face increasing regulatory and environmental scrutiny. From early-stage development through to operational compliance, managing environmental and planning requirements is critical to ensuring project success. Legal considerations include resource consents, environmental impact assessments and compliance with regional and national planning regulations. These elements are particularly important given the significant infrastructure and energy consumption associated with data centres.

In New Zealand, Dentons has a market-leading environment and planning team, who can help you navigate the complex regulatory environment surrounding the development of data centres, including the need for resource consents and adherence to regional and national planning regulations.

The team understands the importance of engaging with environmental regulators early in the process to ensure smooth approval of permits and consents, and will work with you to:

- offer strategic guidance from the early stages of development, helping you navigate the complexities of New Zealand's resource management and environmental planning laws.
- advise on regional plan changes and assist with resource consents and environmental impact assessments.

- work with you and environmental regulators to find practical, compliance-focused solutions that align with legal requirements and your business objectives.
- represent you in the Environment Court or High Court proceedings, ensuring that any disputes or enforcement actions are effectively managed.
- provide expertise in managing resilience-focused infrastructure projects, which is essential for ensuring the long-term sustainability and operational continuity of data centres.



Christina Sheard

Partner

D +64 9 375 1185

M +64 21 052 7273

christina.sheard@dentons.com



Ezekiel Hudspith

Partner

D +64 4 498 0849

M +64 21 105 4001

ezekiel.hudspith@dentons.com

Corporate structuring and tax

The legal structure of your data centre operations will need to align with both your short and long term strategic goals. Whether you are acquiring a data centre facility, entering a joint venture, or reorganising operations for greater efficiency, establishing the right corporate and funding framework can significantly impact the success of your project.

Dentons' corporate and tax specialists offer deep experience in:

- selecting the most efficient corporate and asset ownership/use structure for scalability and tax optimisation.
- negotiating joint ventures and partnerships, including interests relating capital contributions, governance rights, dispute resolution and exit mechanisms.
- identifying and securing suitable sources of debt and/or equity financing.
- meeting regulatory requirements for financial reporting, disclosure and audits.

Our team will work with you to:

- advise you on the appropriate business structures that support your objectives, including tax efficiency and compliance.
- structure and negotiate joint venture agreements that maximise value and protect your interests.
- undertake due diligence in relation to the acquisition or disposal of data centre assets, including corporate and tax due diligence.
- work seamlessly with our other teams, and your external advisors (both domestically and internationally) to ensure that advice is tailored to your specific requirements.
- help you understand New Zealand's financial reporting and other regulatory requirements applicable to your New Zealand obligations.
- manage cross-border tax issues, ensuring compliance with both local and international tax regulations (especially in the Asia Pacific region, the US, and Australia).



David Shillson

Partner

D +64 4 498 0890

M +64 21 995 176

david.shillson@dentons.com



Wook Jin Lee

Partner

D +64 9 375 1174

M +64 21 224 4238

wookjin.lee@dentons.com



Gerard Dale

Partner

D +64 9 375 1152

M +64 21 388 636

gerard.dale@dentons.com



Chris Parke

Partner

D +64 9 375 1157

M +64 21 382 596

chris.parke@dentons.com



Bruce Bernacchi

Partner

D +64 9 914 7265

M +64 21 982 250

bruce.bernacchi@dentons.com



Peter Callus

Senior Associate

D +64 4 498 0834

M +64 21 228 3957

peter.callus@dentons.com

Financing

Securing the right financing is crucial for many data centre projects, which often involve large capital investments. You need to consider:

- the range of financing options available for data centre investments, from corporate and acquisition finance to finance leasing, securitisations, and receivables sales.
- the importance of structuring deals in a manner that aligns with business objectives, while managing risk, cash flow, and financing costs.
- how to navigate complex multi-party financing arrangements involving multiple investors, lenders and financial institutions.
- the specific financial needs of data centres, including capital expenditure for infrastructure, operational costs and potential funding for future expansions.

Dentons' Banking and Finance team offers comprehensive support tailored to data centre projects. Our team will:

- advise on the full spectrum of financing options, from corporate finance to bespoke securitisation and receivables sales.
- provide practical, commercially-focused advice to help structure financing arrangements that align with your data centre's strategic objectives.
- help navigate complex transactions involving multiple stakeholders, ensuring seamless financing solutions.
- offer expert guidance on financial risk management and maximising the efficiency of your capital structure.



Liz Lim

Partner

D +64 9 909 6341

M +64 21 1902 909

liz.lim@dentons.com



Joshua Jones

Partner

D +64 9 375 1134

M +64 21 358 731

joshua.jones@dentons.com



David Shillson

Partner

D +64 4 498 0890

M +64 21 995 176

david.shillson@dentons.com

Overseas investment laws

For overseas investors, acquiring a data centre in New Zealand is likely to involve navigating New Zealand's complex legal regime for overseas investment under the Overseas Investment Act 2005. You will need on the ground expertise to navigate the legal and political frameworks where consent is required to acquire 'sensitive' assets (whether due to the location or size of the data centre, or its role as a strategically important business). Failing to meet legal requirements can lead to serious legal consequences, including fines or enforced divestment.

Our team are experts is advising on the requirements under, and applications for, consent for overseas investments. The team regularly works with overseas investors and with the regulator to submit, manage and obtain consent for transactions subject to the regime: applying not just the legal understanding required to navigate New Zealand law, but also relying on its strong relationship with the regulator and in-depth understanding of the political landscape applicable to the overseas investment regime.

Our team will provide you with strategic guidance throughout the overseas investment process, and will work with you to:

- advise on consent requirements.
- help you identify and mitigate regulatory risks.
- support due diligence to ensure compliance with national security and infrastructure criteria.
- navigate the application process to secure timely consent when required.



Wook Jin Lee
Partner
D+64 9 375 1174
M+64 21 224 4238
wookjin.lee@dentons.com



David Shillson
Partner
D +64 4 498 0890
M +64 21 995 176
david.shillson@dentons.com



Joy Wang
Senior Associate
D +64 9 375 1141
joy.wang@dentons.com

Construction and infrastructure

New build data centre projects are significant undertakings, which involve a complex construction process to get the data centre up and running. That process requires careful planning, and an understanding not only of legal risks but also the commercial factors that influence the success of a major infrastructure build.

Our top-ranked construction law team has a deep understanding of the construction and infrastructure industry in New Zealand, which enables the team to give advice with a full understanding of not only the legal but also the commercial risks to you in undertaking a significant construction project. The team will work with you to help manage your procurement strategy, by advising on every phase of your procurement process: from RFP to final contract execution – and beyond.

Our team will work with you to help you manage the project from conception to execution, including by:

- expertly drafting and negotiating construction contracts, whether based on New Zealand or global industry standard templates (which, in respect of the former, many of our team have been instrumental in designing).
- managing the complexities of system integration, including vendor relationships and installation agreements for technology and equipment.
- helping you transition seamlessly from construction to full operational capacity, with special attention to timing, regulatory approvals and operational readiness.
- managing disputes with contractors and others.
- advising on procurement rules and best practice, drawing on the team's deep knowledge of how to successfully deliver major projects in New Zealand.



Sara Cheetham

Partner

D +64 4 909 6352

M +64 21 764 869

sara.cheetham@dentons.com



Paul Buetow

Partner

D +64 93 75 1114

M +64 21 668 214

paul.buetow@dentons.com

Power supply agreements

Reliable and cost-effective energy supply is a critical consideration for data centres, given their high energy demands. Whether you are securing long-term power agreements, exploring BESS and renewable generation (including colocation opportunities) or upgrading infrastructure, ensuring that your energy needs are met efficiently and sustainably is essential for operational success.

Our expert team has significant experience advising industrial power customers, and knows the New Zealand electricity market inside and out. The team can provide you with not only legal support but commercial insights into the risks to your supply, and will work with you to:

- draft and negotiate Power Purchase Agreements (PPAs) to secure stable, long-term energy supply (including peak-demand firming options).
- understand the New Zealand legal framework applicable to Electric Service Agreements for retail power delivery, energy services and Renewable Energy Credits (RECs).
- develop, draft and negotiate Engineering Procurement and Construction (EPC) contracts to purchase long-lead equipment and upgrade electrical infrastructure.
- provide strategic advice to ensure long-term energy security and compliance with relevant regulations.



Wook Jin Lee

Partner

D+64 9 375 1174

M+64 21 224 4238

wookjin.lee@dentons.com



Gerard Dale

Partner

D +64 9 375 1152

M +64 21 388 636

gerard.dale@dentons.com



Peter Callus

Senior Associate

D +64 4 498 0834

M +64 21 228 3957

peter.callus@dentons.com

Business as usual operations

Data centres rely on a complex web of commercial and operational agreements to maintain performance, ensure uptime and manage risk. From hosting and service level agreements to facilities management and compliance with data privacy laws, getting the legal foundations right is critical to supporting data centre operations and maintaining customer trust.

Our team has significant experience acting for both customers and operators of, and suppliers to, data centres, so understands the key commercial drivers and legal risks that underpin the legal arrangements in place. Our commercial and technology experts are well-versed in uptime guarantees, service levels, redundancy, data sovereignty and cybersecurity – so can easily navigate the complex web of commercial contracts on which a data centre relies in its day-to-day obligations.

Our team will work with you to:

- undertake commercial due diligence in connection with an acquisition of data centre operations, helping you understand key risks with an overlay of understanding of the commercial and regulatory environment in which a data centre operates.
- draft and negotiate key operating agreements, including SaaS contracts, service agreements and facilities management and asset management agreements.
- draft standard and bespoke customer contracts.
- develop and contractually integrate business continuity measures including transition period agreements.
- advise on the contractual implications of privacy and data protection laws, and the contractual management of cybersecurity risk.
- coordinate and digest advice from other jurisdictions and its implication on your New Zealand operations.
- help you to manage supply chain risk.



Campbell Featherstone

Partner

D +64 4 498 0832

M +64 21 80 9779

campbell.featherstone@dentons.com



Hayley Miller

Partner

D +64 9 915 3366

M +64 21 870 477

hayley.miller@dentons.com



Chris Parke

Partner

D +64 9 375 1157

M +64 21 382 596

chris.parke@dentons.com



Peter Callus

Senior Associate

D +64 4 498 0834

M +64 21 228 3957

peter.callus@dentons.com

Environmental, social and governance compliance

The environmental impact of operating a data centre requires careful management from a legal and reputational perspective. As climate-related risks attract increased attention from investors, regulators, and other stakeholders, data centre operators need to address environmental, social, and governance (ESG) considerations head-on. To manage these considerations, you will need to understand not only your legal obligations under New Zealand law, but also how these obligations fit within global ESG reporting frameworks.

Our team of ESG experts works closely with our other teams to apply an ESG lens to the broader corporate, real estate, and environment and planning work that we undertake for you.

Our team will work with you to:

- advise on integrating ESG factors into your business strategy, ensuring alignment with best practices and regulatory requirements.
- help you ensure that your ESG reporting is compliant with applicable laws in New Zealand and further afield.
- conduct environmental risk assessments and due diligence to identify and mitigate legal and financial risks related to climate change, particularly in the context of data centre operations.
- provide strategic guidance on the legal implications of climate change legislation, helping clients navigate emerging laws and manage associated risks.



Nicky McIndoe

Partner

D +64 4 915 0818

M +64 27 350 9021

nicky.mcindoe@dentons.com



Ana Coculescu

Senior Associate

D +64 4 496 5932

M +64 21 509 503

ana.coculescu@dentons.com

Privacy and cybersecurity laws

Data centres handle vast amounts of personal and sensitive information, making data protection and cybersecurity a key focus. Since information easily flows across borders, you need advice that is able to provide a global perspective on compliance, and understands the legal intricacies of operating a data centre where customers are scattered across the globe.

Our specialist technology and privacy experts deeply understand the global data protection and privacy law environment, and the dynamic cybersecurity risks associate with data centre operations. They are closely connected with Dentons colleagues globally, and have significant experience advising on cross-border transfer of personal information, data sovereignty issues, multi-jurisdiction privacy compliance programmes, and cyber incident responses affecting clients around the world.

Our team will work with you to:

- help you understand data protection and privacy compliance requirements under New Zealand privacy law, as it applies to the handling, storage and transfer of personal data.
- navigate issues arising from cross-border data transfers (both outbound and inbound).
- draft and negotiate commercial agreements and customer-facing documents to ensure personal information is subject to appropriate contractual safeguards and disclosure and other compliance requirements are met.
- understand your legal obligations surrounding data sovereignty.
- prepare and respond to cyber incidents, including working with specialist incident response teams.
- understand obligations that data centre operators may face as service providers under specialist telecommunications laws, including obligations to retain data and establish interception capability.
- understand the legal framework for sensitive businesses and other requirements regarding the designation of critical infrastructure.
- align your obligations under the laws of other jurisdictions with those imposed on you under New Zealand law, and provide with practical guidance on how to right-size your New Zealand compliance in the context of your global operations.



Campbell Featherstone

Partner

D +64 4 498 0832

M +64 21 80 9779

campbell.featherstone@dentons.com



Hayley Miller

Partner

D +64 9 915 3366

M +64 21 870 477

hayley.miller@dentons.com

Government engagement

Data centre projects are often commercially significant to the regions in which they are undertaken. They raise questions of data sovereignty, and depending on their customer base, can be seen as nationally important infrastructure. Due to the scale and complexity of a data centre project, your relationship with key regulators and other government stakeholders is likely to be crucial to the success of your project.

Our team has deep experience working with central and local government and regulators. The team understands how New Zealand is governed and regulated, and is across the framework of legal powers (and duties) that govern interaction with the executive. Our team has connections with decision-makers, and a thorough understanding of the workings of the New Zealand political system.

Our team will work with you to:

- manage regulatory requests involving client and business data.
- navigate your responses to information-gathering requests, including the management of confidentiality.
- understand who key decision makers are and how decisions are made, and what regulators are prioritising.
- manage regulatory risk, including the risk of regulator action.
- understand and pursue opportunities to shape legislation and regulation in New Zealand.
- interact with government agencies such as local authorities, the Environmental Protection Authority, the Office of the Privacy Commissioner, the Department of Internal Affairs, the Commerce Commission, the New Zealand Security Intelligence Service, the Government Communications Security Bureau, New Zealand Customs Service and Border Security and WorkSafe New Zealand.



Hayden Wilson

Chair & Partner

D +64 4 915 0782

M +64 21 342 947

hayden.wilson@dentons.com



Linda Clark

Partner

D +64 4 915 0862

M +64 27 490 7942

linda.clark@dentons.com

Employment and health and safety

All data centre projects rely on a strong workforce. When undertaking any data centre project or operations, you need to understand your obligations under New Zealand employment law and contractor law, so that you can ensure that your people practices align with legal requirements while supporting high performance.

Our specialist employment and health and safety team has deep experience advising on all aspects of New Zealand law affecting employees and contractors (including immigration law).

Our team will work with you to:

- navigate all employment issues, particularly in high-stakes or contentious situations, to help you resolve them quickly and cost-effectively.
- advise on regulatory and industry-specific employment regulations, including those impacting contractors, employees, remote working and other non-traditional models and external service providers.
- help you comply with immigration laws, and navigate New Zealand's work permit and visa regime, when hiring international workers or relocating talent for specialised roles.
- draft and negotiate employment contracts, and draft policies, procedures, and training programs tailored to the unique needs of data centre businesses, ensuring compliance while fostering high-performing teams.
- provide strategic advice for addressing allegations of employment discrimination, sexual harassment, wage disputes, and other employee-related issues, with a focus on internal investigations and effective resolution.
- manage employment litigation, including complex union disputes and high-profile claims, ensuring cost-effective solutions and effective case management across the employment, human rights, and safety jurisdictions.
- develop and implement appropriate health and safety processes ensuring compliance with the strict liability legal regime which applies in New Zealand, while also supporting the response to any safety incidents or breaches.



Renee Butler
Partner
D +64 4 915 0795
M +64 27 610 9738
renee.butler@dentons.com



James Warren
Partner
D +64 9 375 1199
M +64 21 773 682
james.warren@dentons.com

Our experience

Our teams have worked on all aspects of the lifecycle of a multitude of successful data centre projects. Our teams have also worked on many other similar projects where their experience will be invaluable when advising on your data centre projects: delivering major infrastructure projects; advising overseas investors; advising data centre and SaaS operators; responding to cyber incidents; and more.

Read on to find out about some of the key data centre projects with which we have been involved.



IBM

Acting for IBM on the design, construction and leasing of an data centre in East Tamaki, Auckland, including drafting and negotiation of the development agreement, and negotiation of a lease form that provided for numerous tenant and tenant clients protections.



Kyndryl

Advising on the sale of a leased Auckland based data centre by Kyndryl to T4 Group, including the transition of customers and project managers, and structuring of tenure of the property to preserve user data centre rights.



ESR

Acting for this leading asset manager (with US\$49 billion total AUM) on its investments into New Zealand, including negotiation support and site due diligence.



Data centre in Indonesia

Acting for the owner/developer on an 80MW data centre, including drafting long lead equipment contracts (design-build and supply only), the main contract and the RFT.



Catalyst Cloud (NZ data centre owner)

Advising Catalyst Cloud, a New Zealand-based owner and operator of data centres, on data sovereignty issues relating to government policy for hosting data, including advice on implications under the US CLOUD Act, cross-border enforcement and the rights of security and intelligence agencies.



Ngāti Toa

Advising on Ngāti Toa's cornerstone investment in Team IM, a market-leading New-Zealand owned and operated business with its flagship product being TEAM Cloud, a New Zealand sovereign hyperscale cloud offering powered by Oracle.



IT infrastructure service provider

Advising on the sale of part of the client's business in New Zealand to a local purchaser, enabling the client to exit its data centre business undertaken from that site and to prioritise other aspects of its business.



ASX listed infrastructure player

Assisting to negotiate and finalise long term, multi-site, contracts for the maintenance and renewal of data centres and other electrical hardware and telecommunications sites, including supply arrangements for products and product liability risks.



ANZ Bank New Zealand

Advising on the construction contract for its million data centre in Auckland.



A large IT company

Advising on renegotiation of the lease with a temperamental landlord for premises being used as a data centre.



Canberra Data Centres

Advising on vendor tax due diligence with respect to the partial sale of shares in a trans-Tasman data centre operator.



Various clients

Advising on hosting terms with AWS, Azure and Google; advising on SaaS contracts (as vendor and as customer); and advising on high-profile cyber incident responses.

Dentons' global capabilities

Map shows Dentons' global track record advising on data centre related projects in 30+ countries

More than 140 Dentons partners have provided data centre related advice

Dentons works with 9/10 of the top global data centre companies

ABOUT DENTONS

Redefining possibilities. Together, everywhere. For more information visit [dentons.com](https://www.dentons.com)

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