## About the Guide

- The monumental need for data centres
- Planning, locating building and operating a data centre
- Environment and corporate governance
- Outsourcing and offshoring
- Shared Services
- Data privacy
- Hot topics and regional trends
Locating a data centre - jurisdictional and enforcement issues
Relevant factors for site selection

- Costs
- Supply and demand
- Connection
- Access to services and supplies
- Physical framework conditions
- Macro factors

Jurisdictional and enforcement issues

- Planning consents / permissions
- Impact assessments (environment)
- Grants and incentives
- Legal certainty
- Security / data protection considerations
- Real Estate factors
Planning, building and opening a data centre
Planning, building and opening a data centre

Ownership Structures

Option 1: Tenancy agreement
- Data owner
- Data centre owner/developer
  - Site acquisition (purchase, lease)
  - Design and construct
  - Energy provider
  - Telecommunications provider
  - Equipment
  - Operator(s)
  - Funding (equity and debt)

Option 2: Joint venture
- Site acquisition (purchase, lease)
- Design and construct
- Energy provider
- Telecommunications provider
- Equipment
- Operator(s)
- Funding (equity and debt)
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Site acquisition and construction

- Acquisition of title to the land
- Prior due diligence
  - Any encumbrances (third party rights) over the property such as existing mortgages or leases
  - Sufficient rights to access the property
  - Third party's rights to purchase the land or other priority interests that could prejudice the ownership
- Financing acquisition or construction
  - Protections for lenders (mortgage etc.)
  - Construction standards and timelines
  - Events of default and consequences
  - Call upon security
  - Reporting requirements

- Lease
  - Rent review
  - Rights to make alterations
  - Mechanism to expand facilities
  - Right to obtain security over leasehold interest
  - Transfer / sub-lease
  - Term and termination
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Structures for appointment of building contractors

Model 1: Construct only model

Model 2: design and build structure
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Structures for appointment of building contractors

Model 3: Split model

- **Advantages**
  - Price
  - Design control
  - Quality control
  - Timing

- **Disadvantages**
  - No single point of responsibility
  - Designer insolvency
  - Design and project management skills
Contracting models for shared services
Legal structures for shared services models

- Shared Services = provision of common support functions by one or more specialist data centres to a number of divisions / departments or organizations
- Provided through different shared services models (captive, joint venture, outsourcing)
- **Captive model - Legal structure:**
  - Forms part or is owned by customer organization it serves (in-sourcing)
  - Separate department or legal entity
  - Transfer of assets
  - Internal service levels

- **Advantages**
  - Minimizes political and works council issues
  - Staff expertise being retained
  - Minimizes data privacy and confidentiality issues

- **Disadvantages**
  - Lack of business transformation / change management mindset
  - Lack of specialist shared services knowledge
  - Lack of flexibility
  - Cost
Legal structures for shared services models

- **Joint venture model - Legal structure:**
  - Joint shared data centre operating for a number of private or public organizations
  - Mostly as independent corporate entity (private limited company)
  - Shares and profit distributions
  - Arm's length agreement

- **Advantages**
  - Retaining a degree of control
  - Access to third party expertise
  - Sharing of risk

- **Disadvantages**
  - Time and commitment
  - Director's liability
  - Deadlock and exit
Legal structures for shared services models

- **Outsourcing model - Legal structure:**
  - Provision of services by external data centre
  - Service provision on a purely contractual basis (importance of contractual safeguards including service levels, change requests, control and governance, exit, etc.)

- **Advantages**
  - Access to third parties expertise
  - Costs
  - Flexibility

- **Disadvantages**
  - Loss of own expertise
  - Data protection / security issues
  - Works council / employee issues
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