

Role Description

Senior Legal Counsel, Construction and Projects



Transport
for NSW

Cluster	Transport for NSW
Agency	Transport for NSW
Division/ Branch/ Unit	Corporate Services/Business Services / Legal / Construction and Projects
Location	Milsons Point
Classification/ Grade/ Band	TSSE 1B
Role Number	50000842
ANZSCO Code	271299
PCAT Code	1228192
Date of Approval	August 2019
Agency Website	http:// www.transport.nsw.gov.au

Agency overview

At Transport, we're passionate about making NSW a better place to live, work and visit. Our vision is to give everyone the freedom to choose how and when they get around, no matter where they live. Right now, we're delivering a \$51.2bn program – the largest Australia has ever seen – to keep people and goods moving, connect communities and shape the future of our cities, centres and regions. At Transport, we're also committed to creating a diverse, inclusive and flexible workforce, which reflects the community and the customers we serve.

Our organisation – Transport for NSW – is comprised of nine integrated divisions that focus on achieving community outcomes for the greater good and on putting our customers at the centre and our people at the heart of everything we do.

Primary purpose of the role

The Senior Legal Counsel, Construction and Projects is responsible for leading the delivery of solutions focussed independent legal advice and strategy relating to contract administration, claims and dispute management. The role will also include contract drafting and advising on legal aspects of project delivery, liability and legal compliance.

This role will advise on construction, maintenance and infrastructure projects for both development and operational areas of the business.

Key accountabilities

- Lead, oversee and provide expert comprehensive and solution-focused legal advice and services to all levels of TfNSW to support project and organisational outcomes and address legal risk.
- Engage and partner with key internal clients proactively to provide a significant contribution to achieving the delivery of agency and project goals, including leading the legal inputs to the compliance assurance framework, negotiations, driving the resolution of issues and the formulation of legal solutions in response to complex problems.

- Engage with key internal clients proactively to identify and capitalise on opportunities to improve the legislative framework and business processes.
- Provide expert guidance and advice to unit staff to support the delivery of high-quality legal outcomes for projects.
- Maximise the value and quality of legal services delivered by optimising the mix of internal and external service delivery, including using model documents and by developing and providing high-quality legal precedents to ensure consistency in approach across TfNSW.
- Identify, communicate and escalate significant legal risks regarding projects and collaborate with senior managers to develop and recommend solutions to ensure risks are proactively addressed and minimised.
- Initiate and promote knowledge sharing, expertise and skills within the Unit, within the Legal Branch and the other cluster legal teams generally, educating the Branch and supporting clients to improve decision making in projects/construction law issues.
- Forge consultative working relationships within the Legal team members and key internal clients to ensure best outcomes in relation to the management of legal risks.

Key challenges

- Balancing a high volume of work in an environment with competing priorities to deliver consistent, high-quality strategic and responsive legal advice and services in a timely and efficient manner.
- Building credibility as a trusted advisor with multi-disciplinary teams, building confidence and trust in legal advice and services to drive high-quality outcomes that align with client and organisational needs.
- Forging strategic long- term partnerships and consultative relationships with a range of stakeholders within TfNSW and across government and the private sector to achieve desired policy solutions and business outcomes.

Key relationships

Who	Why
Internal	
Deputy General Counsel Construction and Projects	<ul style="list-style-type: none"> • Receive guidance and advice on the strategic direction of matters • Provide expert and authoritative advice and contribute to decision making at a senior level • Provide high-level support to identify emerging issues/risks and their implications and propose solutions
Senior Legal Counsel Construction and Projects	<ul style="list-style-type: none"> • Collaborate in a consultative and strategic manner to achieve client-focused outcomes
Lawyer Construction and Projects	<ul style="list-style-type: none"> • Provide leadership, guidance and advice on matters • Collaborate as a team to meet client outcomes
Stakeholders / Clients	<ul style="list-style-type: none"> • Provide complex legal advice and recommendations on legal matters to support decision making and the achievement of objectives
Legal Branch	<ul style="list-style-type: none"> • Collaborate and share insights and knowledge <p>Contribute to capability development and continuous improvement initiatives</p>

Who	Why
External	
Other NSW Government Agencies	<ul style="list-style-type: none"> Establish effective high-level networks with other NSW clusters and agencies to enable performance benchmarking, monitor industry trends, maintain currency, and collaborate on common responses to emerging and future issues
External Vendors/Service Providers and Consultants	<ul style="list-style-type: none"> Negotiate and approve contracts and service level agreements on behalf of the Agency Proactively manage and direct the provision of external legal services, to ensure it effectively delivers strategic and commercial outcomes for the business including regular feedback to improve services

Role dimensions

Decision making

The Senior Legal Counsel – Construction and Projects is fully accountable and responsible for the provision of complex legal advice for the allocated program of work. The role provides direction and guidance and is a source of expert advice for the Lawyer Construction and Projects.

The role manages the day to day activities and makes decisions relating to legal issues, including providing legal recommendations within established priorities and directives.

The role defers to the Deputy General Counsel Construction and Projects on complex matters, those with political ramifications, financial delegation or matters requiring a high level of authority or risk management.

Reporting line

This role reports to the Deputy General Counsel, Construction and Projects

Direct reports

Nil

Budget/Expenditure

As per the TfNSW Financial Delegations

Essential requirements

- Tertiary qualifications in law and eligibility to hold a practising certificate in NSW.
- Superior current knowledge and expertise in at least two (2) of the following areas of law: construction, projects and services contracts (including public, private partnership transactions), construction disputes, litigation and ADR processes, claims management and Roads Act.

Capabilities for the role





The NSW Public Sector Capability Framework applies to all NSW public sector employees. The Capability Framework is available at www.psc.nsw.gov.au/capabilityframework

This role also utilises an [occupation specific capability set](#).


Capability summary

Below is the full list of capabilities and the level required for this role. The capabilities in bold are the focus capabilities for this role. Refer to the next section for further information about the focus capabilities.

NSW Public Sector Capability Framework

Capability Group	Capability Name	Level
 Personal Attributes	Display Resilience and Courage	Advanced
	Act with Integrity	Highly Advanced
	Manage Self	Advanced
	Value Diversity	Adept
 Relationships	Communicate Effectively	Highly Advanced
	Commit to Customer Service	Advanced
	Work Collaboratively	Highly Advanced
	Influence and Negotiate	Advanced
 Results	Deliver Results	Advanced
	Plan and Prioritise	Advanced
	Think and Solve Problems	Advanced
	Demonstrate Accountability	Adept
 Business Enablers	Finance	Adept
	Technology	Adept
	Procurement and Contract Management	Advanced
	Project Management	Adept

Legal Professionals Capability Set

Capability Group	Capability Name	Level
 Legal	Statutory Interpretation	Level 4
	Legal Research	Level 3
	Legal Advice	Level 4
	Legal Drafting	Level 3
	Litigation and Dispute Resolution	Level 4

Focus capabilities

The focus capabilities for the role are the capabilities in which occupants must demonstrate immediate competence. The behavioural indicators provide examples of the types of behaviours that would be expected at that level and should be reviewed in conjunction with the role's key accountabilities.

NSW Public Sector Capability Framework

Group and Capability	Level	Behavioural Indicators
Personal Attributes Display Resilience and Courage	Advanced	<ul style="list-style-type: none"> Stay calm and act constructively in highly pressured and unpredictable environments Give frank, honest advice in the face of strong, contrary views Accept criticism of own ideas and respond in a thoughtful and considered way Welcome new challenges and persist in raising and working through novel and difficult issues Develop effective strategies and show decisiveness in dealing with emotionally charged situations, difficult and controversial issues
Personal Attributes Act with Integrity	Highly Advanced	<ul style="list-style-type: none"> Champion and act as an advocate for the highest standards of ethical and professional behaviour Drive a culture of integrity and professionalism across the organisation, and in dealings cross-government, cross-jurisdiction and outside of government Define, communicate and evaluate ethical practices, standards and systems and reinforce their use Create and promote a climate in which staff feel able to report apparent breaches of rules, policies and guidelines and act promptly and visibly in response to such reports
Relationships Communicate Effectively	Highly Advanced	<ul style="list-style-type: none"> Articulate complex concepts and put forward compelling arguments and rationales to all levels and types of audiences Speak in a highly articulate and influential manner State the facts and explain their implications for the organisation and key stakeholders Promote the organisation's position with authority and credibility cross-government, cross-jurisdictionally and outside of government Actively listen, and identify ways to ensure all have an opportunity to contribute Anticipate and address key areas of interest for the audience and adapt style under pressure
Relationships Work Collaboratively	Highly Advanced	<ul style="list-style-type: none"> Establish a culture and supporting systems that facilitate information sharing, communication and learning across the sector Publicly celebrate the successful outcomes of collaboration Seek out and facilitate opportunities to engage and collaborate with stakeholders to develop organisational, whole-of-government and cross-jurisdictional solutions Identify and overcome barriers to collaboration with internal and external stakeholders
Relationships Influence and Negotiate	Advanced	<ul style="list-style-type: none"> Influence others with a fair and considered approach and present persuasive counter-arguments Work towards mutually beneficial win/win outcomes Show sensitivity and understanding in resolving acute and

Group and Capability	Level	Behavioural Indicators
		complex conflicts <ul style="list-style-type: none"> Identify key stakeholders and gain their support in advance Establish a clear negotiation position based on research, a firm grasp of key issues, likely arguments, points of difference and areas for compromise Pre-empt and minimise conflict within the organisation and with external stakeholders
Results Plan and Prioritise	Advanced	<ul style="list-style-type: none"> Understand the links between the business unit, organisation and the whole-of-government agenda Ensure business plan goals are clear and appropriate including contingency provisions Monitor progress of initiatives and make necessary adjustments Anticipate and assess the impact of changes, such as government policy/economic conditions, to business plans and initiatives, and respond appropriately Consider the implications of a wide range of complex issues, and shift business priorities when necessary Undertake planning to transition the organisation through change initiatives and evaluate progress and outcome to inform future planning
Results Think and Solve Problems	Advanced	<ul style="list-style-type: none"> Undertake objective, critical analysis to draw accurate conclusions that recognise and manage contextual issues Work through issues, weigh up alternatives and identify the most effective solutions Take account of the wider business context when considering options to resolve issues Explore a range of possibilities and creative alternatives to contribute to systems, process and business improvements Implement systems and processes that underpin high quality research and analysis
Business Enablers Procurement and Contract Management	Advanced	<ul style="list-style-type: none"> Ensure that government and organisational policy in relation to procurement and contract management is implemented Monitor procurement and contract management risks and ensure that this informs contract development, management and procurement decisions Take responsibility for procurement and contract management activities and decisions by applying the guidelines and procedures Promote the principles of risk management as applied to procurement projects, to identify and mitigate risk Implement effective governance arrangements to monitor provider, supplier and contractor performance against contracted deliverables and outcomes Represent the organisation in the resolution of complex/sensitive disputes with providers, suppliers and

NSW Public Sector Capability Framework

Group and Capability	Level	Behavioural Indicators
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contractors

Legal Professionals Capability Set

Group and Capability	Level	Behavioural Indicators
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Legal Legal Advice	Level 4	<ul style="list-style-type: none"> • Provide guidance on complex issues concerning client identity, multiple clients, scope of instructions, purpose, sensitivity or urgency. • Provide guidance and leadership on legal issues relating to vulnerable clients, including where capacity may be in issue or where ethical or cross-cultural issues arise. • Apply a high level understanding and expert analysis of policy, probity and operational issues to provide solutions and options to resolve complex and sensitive legal questions. • Review legal risk management across the organisation and advise on the strategic, commercial and policy considerations of decisions. • Review internal legal capacity and expertise and develop options for the provision of legal services, including managing cost and tender processes. • Monitor and review relationships with external legal services providers and evaluate cost effectiveness, timeliness and quality of services provided. • Provide professional supervision to other legal roles in preparing legal advice, to assist in their professional development and assure the quality of the advice provided.
Legal Litigation and Dispute Resolution	Level 4	<ul style="list-style-type: none"> • Provide leadership in the areas of model litigant behaviour, ethical conduct and deal with complaints about conduct of legal professionals. • Provide leadership and guidance to others on the procedural aspects of conducting complex litigation, including in urgent applications and appellate jurisdictions. • Provide leadership and share expertise on the conduct and management of litigation, promote best practice in litigation management and advise on highly complex and significant strategic issues. • Review and analyse decisions concerning evidence and/or witnesses in highly complex or significant matters and provide expert advice on evidence where required. • Provide leadership on the strategic use and conduct of alternative dispute resolution processes and managing costs of litigation. • Review internal legal department capacity, future needs and expertise and develop options for the provision of legal services; manage cost and manage tender processes. • Monitor and review relationships with external legal

Legal Professionals Capability Set

Group and Capability	Level	Behavioural Indicators
		services providers and evaluate cost effectiveness, timeliness and quality of services provided.