

Senior Legal Counsel – Commercial

Cluster	Transport
Agency	Transport for NSW
Division/Branch/Unit	Corporate Services/Legal, Privacy and Information Access/Commercial Legal Unit
Location	Sydney (or any other location nominated)
Classification/Grade/Band	Transport Service Senior Executive 1A
Senior Executive Work Level Standards	Work Contribution Stream: Professional/Technical/Specialist
Kind of Employment	Fixed term (4 years)
ANZSCO Code	271311
Role Number	51017701
PCAT Code	2558192
Date of Approval	June 2019
Agency Website	www.transport.nsw.gov.au

Agency overview

Transport for NSW is the centrepiece of a reshaped transport cluster. It is responsible for setting the strategic direction and guiding an extended network of public and private service delivery agencies to deliver improved transport outcomes.

Primary purpose of the role

The primary purpose of this role is to deliver high quality, high value, timely and solutions focussed independent advice to the Agency for all commercial legal issues, ranging from highly complex and strategic franchising and other procurements to more routine, high volume work.

The role will primarily support the effective delivery of outsourced transport services contracts.

The role is also required to share knowledge and experience with other Commercial legal team members to enable lessons to be learnt and consistency to be applied across all agency projects.

Key accountabilities

- Live the NSW Public Sector and organisational values to achieve outstanding outcomes for the organisation and customers
- Lead, oversee and provide expert, timely, clear, comprehensive and solution focussed commercial advice to all levels of the Agency in a manner that supports project and organisational outcomes while also addressing legal risk
- Proactively engage and partner with key internal clients to provide a significant contribution to achieving the delivery of agency goals, including leading negotiations, driving the resolution of issues and the formulation of legal solutions in response to complex problems while at all times maintaining their support and trust and the support and trust of the Deputy General Counsel Commercial
- Engage with key internal clients to identify and capitalise on opportunities to improve the legislative framework and business processes

- Maximise the value and quality of legal services delivered by optimising the mix of internal and external service delivery including by developing and delivering high quality legal precedents to ensure consistency in approach across the Agency and the cluster
- Ensure systematic and strategic legal risks regarding projects are identified and raised with the Deputy General Counsel Commercial and proactively work with senior managers to facilitate solutions
- Initiate and develop knowledge sharing, expertise and skills within the Commercial Law Unit and within the Legal Services Branch generally, educating the Branch and clients to improve decision making in commercial law issues
- Forge consultative working relationships with the key internal clients to improve early decision making in connection with the management of commercial legal risks

Key challenges

- Supporting the Deputy General Counsel Commercial in the development of practice management systems and procedures, while at the same time managing and reconciling numerous competing strategic priorities and different business perspectives from within the Agency in a time constrained environment where some of those matters have a high level of political interest and public visibility
- Balancing a high volume work environment and demands resulting from tight timeframes and competing priorities so as to ensure consistent high quality strategic and responsive legal advice and services, against the requirement to also spend time in gaining a deep knowledge of the business of key clients
- Forging strategic long term partnerships and consultative working relationships with other members of the Legal Branch, with key stakeholders including the Executive, nominated key clients, other government agencies and external law firms to achieve desired policy solutions and business outcomes.

Key relationships

Who	Why
Ministerial	
Ministers and Ministers' offices	<ul style="list-style-type: none"> • Will give expert advice to relevant Ministers and Ministers' offices on complex and controversial matters relating to the project
Internal	
General Counsel –Legal, Privacy & Information Access	<ul style="list-style-type: none"> • The General Counsel –Legal, Privacy & Information Access leads the Legal Services Branch and may assign work and provide guidance and feedback
Deputy General Counsel Commercial	<ul style="list-style-type: none"> • The role reports directly to this position, who will be the primary supervisor
Lawyers in the Commercial Legal Unit	<ul style="list-style-type: none"> • Shares observations, practices and lessons with other Unit members
Other members of Legal, Privacy & Information Access	<ul style="list-style-type: none"> • Work in close collaboration with other members of the Branch by pro-actively sharing information and expertise
Senior Executives	<ul style="list-style-type: none"> • Provide expert advice and solutions based legal services for commercial issues generally
Key clients	<ul style="list-style-type: none"> • Provide legal advice and develop on-going relationships with key clients to proactively identify key legal risks at as early a stage as possible and to gain a deep understanding of the business operations and environment in which those clients operate
Commercial lawyers in cluster agencies	<ul style="list-style-type: none"> • To share information and expertise in order to achieve efficiencies across the cluster legal team

Who	Why
External	
External law firms	<ul style="list-style-type: none"> Negotiate and improve quality and cost of external legal services

Role dimensions

Decision making

Has a high degree of autonomy in forming legal views and providing expert legal services in commercial law matters.

Reporting line

This role reports directly to the Deputy General Counsel Commercial.

Direct reports

The role has no direct reports.

Budget/Expenditure

This role is responsible for ensuring the efficient use of external legal budgets.

Essential requirements

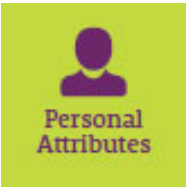
- Eligible to hold a practicing certificate in NSW
- Superior current knowledge and expertise in contract law
- Proven capability to obtain highly developed skills in other practice areas





Capabilities for the role

The NSW Public Sector Capability Framework applies to all NSW public sector employees and the Legal Professionals Capability Set defines the additional knowledge, skills and abilities required for roles within the legal profession. The Capability Framework is available at www.psc.nsw.gov.au/capabilityframework and the Legal Capability Set is available at www.psc.nsw.gov.au/workforce-management/capability-framework/occupation-specific-capability-sets/legal-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
	Display Resilience and Courage	Advanced
	Act with Integrity	Advanced
	Manage Self	Advanced
	Value Diversity	Advanced
	Communicate Effectively	Highly Advanced
	Commit to Customer Service	Advanced

NSW Public Sector Capability Framework		
Capability Group	Capability Name	Level
 Relationships	Work Collaboratively	Advanced
	Influence and Negotiate	Advanced
 Results	Deliver Results	Advanced
	Plan and Prioritise	Advanced
	Think and Solve Problems	Highly Advanced
	Demonstrate Accountability	Advanced
 Business Enablers	Finance	Adept
	Technology	Adept
	Procurement and Contract Management	Adept
	Project Management	Adept
 Legal	Statutory Interpretation	Level 3
	Legal Research	Level 3
	Legal Advice	Level 3
	Legal Drafting	Level 3

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	Advanced	<ul style="list-style-type: none"> Model the highest standards of ethical behaviour and reinforce them in others

NSW Public Sector Capability Framework

Group and Capability	Level	Behavioural Indicators
		<ul style="list-style-type: none"> • Represent the organisation in an honest, ethical and professional way and set an example for others to follow • Ensure that others have a working understanding of the legislation and policy framework within which they operate • Promote a culture of integrity and professionalism within the organisation and in dealings external to government • Monitor ethical practices, standards and systems and reinforce their use • Act on reported breaches of rules, policies and guidelines
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 Commit to Customer Service	Advanced	<ul style="list-style-type: none"> • Promote a culture of quality customer service in the organisation • Initiate and develop partnerships with customers to define and evaluate service performance outcomes • Promote and manage alliances within the organisation and across the public, private and community sectors • Liaise with senior stakeholders on key issues and provide expert and influential advice • Identify and incorporate the interests and needs of customers in business process design • Ensure that the organisation's systems, processes, policies and programs respond to customer needs
Relationships Work Collaboratively	Advanced	<ul style="list-style-type: none"> • Build a culture of respect and understanding across the organisation • Recognise outcomes which resulted from effective collaboration between teams • Build co-operation and overcome barriers to information sharing, communication and collaboration across the organisation and cross-government • Facilitate opportunities to engage and collaborate with external stakeholders to develop joint solutions
Relationships Influence and Negotiate	Advanced	<ul style="list-style-type: none"> • Influence others with a fair and considered approach and present persuasive counter-arguments

NSW Public Sector Capability Framework

Group and Capability	Level	Behavioural Indicators
		<ul style="list-style-type: none"> • Work towards mutually beneficial win/win outcomes • Show sensitivity and understanding in resolving acute and complex conflicts • 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 Deliver Results	Advanced	<ul style="list-style-type: none"> • Drive a culture of achievement and acknowledge input of others • Investigate and create opportunities to enhance the achievement of organisational objectives • Make sure others understand that on-time and on-budget results are required and how overall success is defined • Control output of business unit to ensure government outcomes are achieved within budget • Progress organisational priorities and ensure effective acquisition and use of resources • Seek and apply the expertise of key individuals to achieve organisational outcomes
Results Think and Solve Problems	Highly Advanced	<ul style="list-style-type: none"> • Establish and promote a culture which encourages initiative and emphasises the value of continuous improvement • Engage in high-level critical analysis of a wide range of complex information and formulate effective responses to critical policy issues • Identify and evaluate organisation-wide implications when considering proposed solutions to issues • Apply lateral thinking and develop innovative solutions that have long standing, organisation wide impact • Ensure effective governance systems are in place to guarantee quality analysis, research and reform
Results Demonstrate Accountability	Advanced	<ul style="list-style-type: none"> • Design and develop systems to establish and measure accountabilities • Ensure accountabilities are exercised in line with government and business goals • Exercise due diligence to ensure work health and safety risks are addressed • Oversee quality assurance practices • Model the highest standards of financial probity, demonstrating respect for public monies and other resources • Monitor and maintain business unit knowledge of and compliance with legislative and regulatory frameworks

NSW Public Sector Capability Framework

Group and Capability	Level	Behavioural Indicators
Business Enablers Finance	Adept	<ul style="list-style-type: none"> • Incorporate sound risk management principles and strategies into business planning • Understand core financial terminology, policies and processes, and display a knowledge of relevant recurrent and capital financial measures • Understand impacts of funding allocations on business planning and budgets, including value for money, choice between direct provision and purchase of services, and financial implications of decisions • Understand and apply financial audit, reporting and compliance obligations • Identify discrepancies or variances in financial and budget reports, and take corrective action where appropriate • Seek specialist advice and support where required • Make decisions and prepare business cases paying due regard to financial considerations
Business Enablers Procurement and Contract Management	Adept	<ul style="list-style-type: none"> • Apply legal, policy and organisational guidelines and procedures in relation to procurement and contract management • Develop well written, well structured procurement documentation that clearly sets out the business requirements • Monitor procurement and contract management processes to ensure they are open, transparent and competitive, and that contract performance is effective • Be aware of procurement and contract management risks, and what actions are expected to mitigate these • Evaluate tenders and select providers in an objective and rigorous way, in line with established guidelines and principles • Escalate procurement and contract management issues where required
Legal Professionals Capability Statutory interpretation	Level 3	<ul style="list-style-type: none"> • Apply understanding of the legislative process and common law to identify and solve complex issues of statutory interpretation. • Make use of extrinsic materials to resolve ambiguity and complex statutory interpretation issues, consistent with legislative and common law requirements. • Understand and apply current legislation relating to interpretation of statutes to solve complex interpretation issues. • Draw on detailed knowledge of the structure and operation of Acts and subordinate legislation in undertaking statutory interpretation.

NSW Public Sector Capability Framework

Group and Capability	Level	Behavioural Indicators
Legal Professionals Capability Legal Research	Level 3	<ul style="list-style-type: none"> • Achieve reliable and accurate legal research results through an understanding of the applicable legal system and application of case law and precedent. • Undertake legal research tasks in an efficient and targeted manner, identifying the most valuable sources and progressively adjusting research plans based on results. • Evaluate the results of legal research and where necessary, direct the further research to be undertaken. • Demonstrate a sound understanding of technology relevant to legal research and assist others in using the technology available.
Legal Professionals Capability Legal Advice	Level 3	<ul style="list-style-type: none"> • Independently identify the client, scope, purpose and form of legal advice required in complex, urgent and sensitive matters. • Clarify and refine instructions where appropriate and assist others to do so. • Independently analyse and apply relevant law to complex facts, incorporating policy, probity and operational considerations, and creatively formulating options. • Independently identify and advise upon emerging legal risks and their strategic, commercial and policy implications. • Provide guidance to others on selection of external legal services providers and approves briefing of external legal services providers. • Conduct quality assurance of external legal advice provided and provide feedback to external legal providers. • Provide professional supervision to other legal roles in preparing legal advice to assure the quality of the advice provided.
Legal Professionals Capability Legal drafting	Level 3	<ul style="list-style-type: none"> • Draft legally complex transactional documents, adapting precedents or drafting bespoke documents as required, to meet the requirements of the transaction or project and appropriately manage legal risk. • Uses advanced legal knowledge and experience to draft, review or amend complex legal documents which comply with policy, achieve the client's purpose, and minimise legal and commercial risk. • Apply advanced legal knowledge and understanding of stylistic and mechanical requirements to drafting transactional documents, interpreting and negotiating provisions as required. • Provide supervision to other legal professionals in preparing legal documents to assure the quality of documentation.

