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## Gordon Henderson

m: 0408 329 919  
e: gordon.henderson@proximity.com.au

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### BACKGROUND

Gordon is a Principal Advisor with Proximity. He has more than 20 years' experience as a senior employment and workplace relations lawyer in the private and public sectors.

Gordon also has significant commercial and contract law experience, having recently completed an assignment as Principal Lawyer (Corporate and Commercial) for the National Disability Insurance Agency (NDIA).

His private sector experience has included advising and representing medium to large employers in a wide range of workplace legal issues as an employment law partner in national law firms DLA Phillips Fox (now DLA Piper) and PricewaterhouseCoopers Legal.

More recently, Gordon has assisted Australian Government agencies Comcare and Safe Work Australia with the development and rollout of new national work health and safety laws.

Gordon currently holds a Baseline security clearance with AGSVA.

### EXPERTISE

- › Workplace policies, procedures and templates
- › Employment and workplace health and safety law
- › Commercial and contracting law
- › Administrative and privacy law

Gordon has a strong working understanding of Australian employment, WHS and workplace relations laws.

He has an in-depth knowledge of the operation and application of Commonwealth Government workplace laws and arrangements as they affect public sector employers, employees and contractors – this includes a detailed knowledge of Australian Public Service (APS) policies and procedures.

During his legal career, Gordon has received repeat invitations to participate in specialist panels, conferences and training activities concerning WHS laws, including for the NSW Law Society's specialist accreditation scheme. He has also delivered numerous presentations to government, professional and industry forums on these and other workplace law topics.

In recent engagements, Gordon has:

- › Completed a 6 month assignment in the Legal Advising team at the Department of Veterans' Affairs which involved providing advice on the interpretation of various aspects of the Department's legislation and policies.
- › Provided IP Australia's Office of Legal Counsel with advice and guidance concerning human resources matters, WHS policies and procedures and workplace disputes.
- › Undertaken an extensive review of IP Australia's privacy policies and notices and advised on strategies to facilitate use of personal information (including health information) for secondary purposes, including in permitted general situations.

- › Provided assistance to the Department of Employment concerning significant amendments to the Commonwealth *Safety Rehabilitation and Compensation Act 1988*.
- › Advised as Principal Lawyer (Corporate and Commercial) for the National Disability Insurance Agency, involving the supervision of the procurement of major enterprise complex ICT systems and services, consultancy services, funding agreements, intra-Agency corporate services agreements and property licences, as well as assisting with enterprise agreement negotiations, updating workplace policies and procedures, and disciplinary/code of conduct investigations.
- › Drafted and evaluated an NDIA tender for provision of early childhood intervention services in the ACT. This exercise was critical to developing state and territory confidence in NDIA's ability to deliver services under the National Disability Insurance Scheme. The review of tender responses, selection of providers and signing of contracts occurred within a compressed timeframe of one month and was successfully concluded to the satisfaction of the ACT Government.
- › Assisted the Department of Prime Minister and Cabinet in achieving compliance with WHS laws following Machinery of Government changes that resulted in an increased WHS risk profile.
- › Assisted Queensland's largest electricity supplier, Ergon Energy, in transitioning from existing state WHS laws to national harmonised WHS laws.

### Specific experience

As a partner of national law firms DLA Phillips Fox and PricewaterhouseCoopers Legal, Gordon conducted more than 600 outsourced prosecutions under the NSW *Occupational Health and Safety Act 1983* over a 7 year period for WorkCover NSW. This included advising and providing training to WorkCover personnel about the investigation of safety incidents, the collection of evidence and preparations for trial.

Gordon also appeared for WorkCover NSW in a number of coronial inquests into workplace fatalities.

While at Comcare, Gordon managed Federal Court litigation for breaches of the Commonwealth *Occupational Health and Safety Act 1991*, including the precedent setting appeal case in 2008, *Telstra Corporation Ltd v Smith*, which established that the contemporaneous performance of work is not necessary for a place to be categorised as a workplace.

Gordon also developed new templates and procedures for enforceable undertakings under the *Occupational Health and Safety Act* including finalising the first enforceable undertaking under this system in breach proceedings against John Holland.

In his role at Comcare, Gordon advised and assisted with the management of breach proceedings under the *Occupational Health and Safety Act* against the Australian Defence Force (ADF) in *Comcare v Commonwealth of Australia*

[2009] FCA 700. These proceedings concerned the death of 13 year old Cadet Nathan Francis from anaphylaxis at a cadet camp in 2007.

Gordon also provided advice in subsequent breach proceedings against the ADF in *Comcare v Commonwealth of Australia* [2011] FCA 1043, which involved a cadet suffering non-fatal anaphylaxis in 2009.

More recently, Gordon was the legal advisor to Comcare's Project Harmony, which involved disseminating information to various stakeholders concerning proposed national harmonised WHS laws including the delivery of more than 20 presentations nationally, attendance at stakeholder meetings (Commonwealth agencies, ACTU, national working parties, state and territory regulators) and the preparation and review of written guidance material concerning the effect and operation of the new laws.

Following the introduction of the WHS Act Gordon assisted Safe Work Australia in drafting and finalising guidance material on the new laws, including codes of practice and the responsibilities of duty holders such as employers, workers and officers.

As Legal Counsel – People and Safety for Ergon Energy, Gordon supervised the investigation of the death of one of its workers, including liaising with the Coroner's Court.

Gordon also engaged in extensive consultation with Queensland's Electrical Safety Office on behalf of Ergon Energy concerning interpretation of the new harmonized WHS laws. This resulted in agreed protocols between the parties.

In 2013, the Department of the Prime Minister and Cabinet assumed control of indigenous affairs activities from a number of other agencies under Machinery of Government changes. Gordon assisted the Department in reviewing existing and drafting new WHS policies to reflect the increased risk profile posed by remote and regional work activities. This included establishing a new national health and safety committee framework to provide representation for workers in accordance with the new WHS laws.

Gordon has drafted and provided advice on employment contracts throughout his legal career. This has included ensuring that contracts reflect current legal requirements in an environment of regular legislative reform of workplace laws.

## QUALIFICATIONS

- › Bachelor of Laws (University of NSW)
- › Bachelor of Science (University of New England)
- › Graduate Diploma in Legal Practice (University of Technology, Sydney)
- › Admitted as a lawyer of the Supreme Court of the ACT
- › Admitted as a lawyer of the High Court of Australia
- › Unrestricted practising certificate

## MEMBERSHIPS

- › ACT Law Society