



Sean King

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proximity

BACKGROUND

Sean is a Director of Proximity. He is a highly regarded commercial advisor and lawyer with significant experience acting for Australian Government, private sector and non-profit clients.

Sean has significant experience in contracting, procurement, commercial law, project management, process structuring and governance.

Sean has undertaken many on-site engagements, receiving positive feedback for his combination of legal, commercial and management abilities. Sean is based in Canberra and has a current NV2 (top secret) security clearance with AGSVA.

EXPERTISE

- › Contracting
- › Procurement
- › Information technology
- › Intellectual property
- › Commercial consulting

Sean has wide ranging commercial and contracting experience including in respect of outsourcing (including ICT outsourcing), procurement (including major capital acquisitions and services), funding agreements and MOUs. Sean is regularly involved in major technology transactions including systems integration projects, software licensing and hardware acquisition.

Sean regularly assists clients to achieve good procurement results through effective and efficient management of the procurement process from deal structuring to tender evaluation to negotiation support. Sean also regularly advises clients on Australian Government procurement law and policy.

Sean has a particular focus on, and interest in, intellectual property law. He regularly advises clients on many aspects of intellectual property law including registration, ownership and licensing, commercialisation, auditing, protection and government intellectual property law and policy (including crown copyright). Sean also delivers intellectual property training sessions to Australian Government clients.

Sean has a Bachelor of Law and a Bachelor of Computer Engineering.

EXPERTISE

Government contracting

Assisting Defence with contracting and procurement support for the Landing Helicopter Dock (Canberra Class Amphibious Assault Ship) sustainment arrangements. The Landing Helicopter Dock Systems Project Office has been established to put in place sustainment arrangements for the Royal Australian Navy's largest ever ships, the \$3b HMAS Canberra and HMAS Adelaide, and 12 landing craft. The sustainment arrangements include multiple high value contracts for the provision of sustainment services including maintenance, asset management, supply management and design services. Sean assisted with procurement strategy, preparing requests for tender, providing advice on intellectual property management and licensing, developing evaluation reports and planning for contract negotiations.

Assisting the Australian Customs and Border Protection Agency with its Telecommunications Strategy and Market Testing Project. Sean assisted the client to establish outsourcing arrangements for telecommunications services including fixed voice,

mobile, satellite, radio, wide area network and closed circuit television. The procurement involves a combination of open approaches to market (which will result in the placement of work orders under AGTA) and purchasing from the whole-of-government telecommunications panels (which will result in the placement of official orders under multiple WoG panels).

Assisting an Australian Government client with its procurement of an electronic document records management system. The system will be rolled out in separate phases, with the first phase being electronic management of physical records and a pilot and a second phase (contingent on events) for agency-wide management of electronic records.

Providing support to Department of Defence for the \$1.3 Billion AIR 87 Armed Reconnaissance Helicopter Acquisition Project, including participating in major contract renegotiations and advising on on-going contract management.

Drafting the Army Aviation Training and Training Services (AATTS) RFT for, and negotiating the AATTS contract on behalf of, the Department of Defence. The project was praised for the quick, effective and cooperative manner in which the contracts were negotiated.

Department of Health Ageing - Assisting DoHA with its \$467 million eHealth reform program. The project will develop a national electronic health records system to supplement health providers' paper based systems. For the first time, Australians who choose to participate will be able to see their important health information when and where they need it. Sean has been involved in drafting and negotiating the contract to appoint a managing agent; drafting the approach to market documents (including conditions of tender and draft contracts) for the IT provider, marketing and public relations provider, strategic advisor and quality assurance organisation; and drafting the eHealth site funding agreements.

Assisting the Australian Maritime Safety Authority to establish a panel of search and rescue providers. The project included drafting template SAR services agreements and advising on transitional arrangements.

Assisting the Australian Antarctic Division with its approach to market for the provision of Airlink services between Tasmania and Antarctica and with a contract for a ski fitted aircraft to provide contingency fixed-wing services within Antarctica.

Sean has drafted numerous memorandums of understanding (MOUs) and

Information Technology

Advising a major Agency on its Internet Gateway Reduction Project, including assisting with its procurement strategy for both the gateway and IBNCs services. The project is particularly important for the Agency because it is procuring the services for the Agency and a large group of more than ten client agencies. The aims of the project are increased IT security and reduced costs. Sean has provided advice on procurement strategy, system integration risk, governance arrangements, and establishing MOUs between the lead agency and its client agencies.

Assisting the ATO with its Standard Business Reporting Authentication Project. The project will benefit more than 1 million businesses - simplifying the way they interact with the Australian Government online by establishing a common method of authentication. The project included drafting and negotiating the Deed of Standing Offer and both the Phase 1 (design) and Phase 2 (implementation) work orders.

Assisting Finance (through the Australian Government Information Management Office) with a coordinated procurement to establish a whole-of-government panel for data centre facilities (space in data centres) and data centre migration services (services to move equipment between data centres). The project includes advising on the procurement plan and strategy, drafting the RFT and head agreement, tender evaluation and negotiation. The project implements a key recommendation of the Gershon review and aims to save the Government \$1 Billion over the next 10 to 15 years.

Advising the Department of Defence on its Next Generation Desktop Project. The project is part of Defence's \$940 million ICT reform and will result in improved application and data delivery (through a virtualised thin-client architecture) and a more user-friendly multi-level security solution. Advising the Department of Defence on its Data Centre Migration program to move its ICT infrastructure from its existing data centre in Canberra to a new facility in Sydney. The project involves the physical moving of equipment, but also covers design of the moving process, assessment of Defence's data recovery systems and the purchase of new infrastructure.

Advising the ATO, Mint, Future Fund and others on contracts for software licences, licence support and ICT consultancy services (including in relation to both COTS and developed products).

Advising Centrelink in relation to the procurement of telecommunications arrangements on behalf of DHS.

Assisting with the production of a web-based procurement tool for DIAC.

Secondments

Sean has undertaken many on-site engagements, receiving positive feedback for his pragmatic approach and commercial acumen. Sean's recent on-site engagements include:

Department of Defence (July 2013 to July 2015). Sean provided legal and procurement advice to the Chief Information Officer Group (CIOG) on hardware, software, satellite and ICT systems (including major projects to modernise Defence's HR systems and to change a major network to a modern thin-client architecture), Defence Support and Reform Group (DSRG) on its procurement of environmental services and Defence Science and Technology Organisation (DSTO) on its partnerships with Australia's universities.

Secondment to the Defence Material Organisation (May 2012 to April 2013) to assist with two very large, high-profile programs - the Future Submarine Program (likely to become the largest ever Commonwealth program) and the Amphibious Deployment and Sustainment Program (undertaking major procurements for the sustainment of the Landing Helicopter Docks, the largest vessels ever operated by the Royal Australian Navy). The primary focus of the secondment was conducting procurements (including drafting the procurement documents), providing commercial and strategic advice, and assisting with IP management and licensing issues.

Secondment to the Australian Customs and Border Protection Agency (September 2011 to May 2012). Sean acted as a senior legal advisor in the commercial law team. His primary focus was assisting with two complex ICT projects - the Internet Gateway Reduction Program and the Telecommunications Strategy and Market Testing Project (both described in further detail below).

Australian Maritime Safety Authority (May 2013 to July 2013). Sean assisted AMSA with a politically sensitive contract development and negotiation matter.

Non-government contracting

Assisting Linfox with a variety of aviation matters including drafting agreements for aircraft purchase, aircraft trade-in, exclusive agency, and aircraft management. Negotiating an aircraft hire agreement under which Helifox (subsidiary of Linfox) provides aircraft and services to Raytheon Australia.

Assisting HIA to renegotiate a major IT redevelopment project including drafting a revised head agreement and work orders. The renegotiation will result in a contracting regime that is significantly more favourable for HIA.

Advising Canberra Data Centres on securities documents (fixed and floating charges). The advice enabled CDC to negotiate more favourable securities arrangements.

Government advice

Advising Defence on the \$1.3 Billion Seasprite helicopter acquisition project, including in respect of termination issues.

Advising AMSA on a pricing dispute with a major provider of search and rescue services, including advising on fee indexation, duty of good faith, dispute resolution and termination rights.

Giving advice to, and assessing claims on behalf of, Customs and Comcover in relation to Customs' implementation of an integrated cargo management system.

Advising Infrastructure on its rights to a repayment of funds paid under a funding agreement and options for termination. Advising Infrastructure on the application of procurement policy to a proposed software purchase.

Intellectual property

Significant experience in IP management and compliance with the Statement of IP Principles, having undertaken IP management reviews and drafted IP management policies for DSTO, CIOG and the National Library.

Trade mark matters for Defence and DEEWR, including managing international trade mark applications.

Advising Defence on its IP and technical data rights under major procurement contracts (a number exceeding \$1 Billion) including Multi-Role Helicopters, Seasprite Helicopters and Follow-on Stand-off Weapons.

Advising the ATO on the extent of its IP rights in relation to its national telephone call management system. Advising the ATO on domain name protection strategies.

Advising the APEC Taskforce on copyright issues with respect to artworks. The advice enabled APEC to ensure that it did not inadvertently infringe artists' copyright.

Advising the National Library (and separately, the Film and Sound Archive) on IP issues with making oral history interviews available online and drafting a click-wrap End User Licence Agreement.

Advising the Future Fund and DIAC on proposed licence agreements with Copyright Agency Limited (the declared collecting society for government copies of works), including advising on crown copyright law.

Drafting a detailed issues paper on the commercialisation of IP for Forest and Wood Products Australia to enable it to devise a strategy for commercialising its substantial IP assets.

Advising the Rural Industries Research and Development Corporation on exclusive licences in respect of plant breeder's rights in varieties of rice.

Providing legal compliance advice (including in respect of Trade Practices Act compliance) to Defence Housing Australia in relation to its national advertising campaigns.

R&D and industry organisations

Drafting a three level cascading document suite for CSIRO for the African Food Security Initiative. Under the Project CSIRO will receive over \$25 Million of funding from AusAID to fund agricultural research and development. CSIRO will engage major African research institutes that will in turn subcontract to various local research organisations.

Advising Plant Health Australia and Animal Health Australia on their industry and government cost sharing deeds. Advising AHA on issues associated with the 2007/08 equine influenza outbreak.

Advising A3P on its proposed takeover of an industry services body.

Advising PHA in relation to the restructuring and possible insolvency and winding up of one of PHA's members. Advising AHA on a trust for sheep levies, including drafting the trust agreement, trustee constitution and memorandum of understanding.

- QUALIFICATIONS**
- › Bachelor of Laws (University of Canberra)
 - › Bachelor of Engineering (Computer Engineering) with Honours (University of Canberra)
 - › Graduate Diploma in Legal Practice (Australian National University)
 - › Gateway Review Team Member Course
 - › Admitted as a lawyer of the ACT
 - › Admitted as a lawyer of the High Court of Australia
 - › Unrestricted practising certificate