
Bronwyn Fagan

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BACKGROUND

Bronwyn is a Principal Advisor at Proximity. She is a highly regarded commercial advisor, manager and lawyer with significant experience acting for Commonwealth and New South Wales government, private sector and not-for-profit clients.

Bronwyn has practiced for many years in contracting, procurement, commercial law, policy, administrative, risk management and governance, and has worked on many high profile, sensitive matters. She was General Counsel at a NSW state-owned multi-utility company for over a decade. She is sought after by her clients for her approachable, collegiate manner, and her pragmatic solutions-focused and highly commercial advice.

Bronwyn is based in Canberra and has a current NV1 security clearance with AGSVA.

EXPERTISE

- › Corporate and commercial law
- › Contract drafting and negotiations
- › Procurement and contract/project management
- › Risk management, probity, ethics and governance
- › Intellectual property
- › Insolvency and bankruptcy
- › Dispute resolution and litigation

Bronwyn is particularly skilled at:

General contract law: providing advice on general commercial issues including contract interpretation, enforcement, termination and variation; drafting and negotiating; MOUs.

Intellectual property: provision of advice and drafting of release forms around intellectual property, copyright and moral rights; enforcement actions for breach of IP rights by organisations, individuals and employees.

Governance and probity: provision and coordination of probity advisory services and probity audits; drafting and updating of governance frameworks and documentation such as constitutions, terms of reference, legislative instruments.

EXPERIENCE

General contract law

Bronwyn has almost two decades experience as a commercial lawyer in the private sector, NSW and Australian governments. In her role as General Counsel for Essential Energy she created procurement suites and guidance playbooks to cover purchases ranging from low risk and low value, to \$100m+ construction projects. She is currently providing commercial legal advice at Agriculture including drafting Terms of Use for a new departmental client portal and providing legal advice for the \$1.6bn Murray Darling Basin Water Infrastructure Program's rolling tenders.

Bronwyn drafted and negotiated contracts for Austrade with sponsors, participants and innovation hub providers in Germany, the US, China, Israel, and Singapore for the Landing Pads project (part of the National Innovation and Science Agenda). She drafted, negotiated and enforced contractual material for the Export Market Development Grants; and provided advice on a broad range of contracts from ICT, through leases of property and armoured cars, LES and A-Based labour hire.

For DSS Bronwyn advised on various grants through the Community Grants Hub, ICT contracts (including IBM and procurements for ICT infrastructure); 1800Respect's contractual arrangements with counselling providers and complaints management; contracts between state and federal governments for the Data Exchange program; and the labour hire arrangements and procurement for the Independent Decision Makers for the National Redress Scheme.

Intellectual property

Bronwyn advised Agriculture in relation to drafting release forms for intellectual property, copyright and moral rights for the use of audio, video and written material, including those with culturally sensitive needs. She advised the Export Standards Branch about the use of an organic equivalency mark for organic agricultural products to encourage trade between Australia and Korea covering IP creation, registration, protection, and the international regulatory and legislative requirements.

For Austrade Bronwyn provided advice on enforcement actions against individuals breaching the intellectual property rights associated with Austrade's registered trade mark, broader reputation and resources. She advised on the theft of IP by employees who were seeking to make a personal gain from wrongfully claiming certain Austrade IP belonged to them.

Bronwyn advised ASADA on enforcement actions against individuals and businesses breaching ASADA's intellectual property rights regarding endorsements, resources and registered trademarks, such as where supplement manufacturers wrongfully claimed their products were endorsed by ASADA.

Governance and probity

Bronwyn advised Austrade on risk management identification, audits, regulatory reviews and enforcement related to the Assisted Destination Status (ADS) Scheme arrangement between the Australian and Chinese governments for ADS visa holders, ADS tour guides, and ADS in-bound tour operators. She conducted due diligence, probity reviews, and identification of areas of the ADS Code that could be redrafted to improve robustness, clarity and enforceability. Working with Home Affairs, AFP and ATO regarding breaches and potential criminal activity.

At Agriculture Bronwyn co-ordinated probity training and advisory services for the \$1.6bn Murray Darling Basin Water Infrastructure Program's rolling series of tenders for Delivery Partners and Project Partners with the goal of reaching the Commonwealth's water savings targets.

For DSS Bronwyn drafted the NDIS Quality and Safeguards Quality Auditors Scheme Guidelines and the contractual material between DSS and the accreditation service provider (JASANZ).

Bronwyn has advised many agencies, organisations and not-for-profits in relation to their governance frameworks and documentation including constitutions, processes and policies, including Australian Sports Commission, Essential Energy, Austrade, DSS, Menslink, School Sport ACT, ACT Cricket, Canberra Raiders.

Bronwyn served as General Counsel of Essential Energy from 2000 through to 2013. Her role included leading the legal services team as well as corporate records management.

Essential Energy was then Australia's largest multi-utility statutory state-owned corporation (over 5500 employees, network region 94% of NSW).

- › Management of the external legal panel and the significant associated budget;
- › Provision of legal advice internally on a broad range of issues related to the gas, electricity, water, internet and telecommunications businesses, appliance trading stores (Betta Electrical), call centres and customer service centres;
- › Environment and sustainability compliance, audits and legal or regulatory breaches;
- › Regulatory and license compliance across the broad range of functions from IT to employee trade tickets;
- › Intellectual property (registration, protection/breach and register management);
- › Construction projects, project management, property and easements including for the \$6.2bn network upgrade as provided by the Australian Energy Regulator;
- › Advising around compliance and breaches of work health and safety obligations;
- › Introduction of the Personal Properties Securities Register, and determination of how that impacted Essential Energy; advice regarding Trade Practices implications and compliance and subsequently Australian Consumer Law;
- › Privacy Officer role; GIPA (formerly FOI) processing, training and annual reporting; handling of external information requests including from ATO, law enforcement, government and opposition, as well as customers, staff and former employees;
- › Probity advisory for a broad range of projects, procurements and transactions;
- › Energy futures and energy saving certificates creation and trading, legal and compliance advice regarding the solar rebate scheme;
- › Media statements and advertising, marketing campaigns and collateral sign-off, sponsorships and grants, ministerial briefings and statements, including through times of significant media and public scrutiny around ICAC hearings involving Ministerial and senior staff conduct;
- › Providing legal management of and input to personal injury incidents and claims including multiple fatalities; coronial inquests; litigation, claims and subpoenas; legal advisory for the multiple organisation-wide Safety Week

campaign and training rollouts, and assisting with the delivery of the training to staff in regional and major depots and corporate offices;

- › Legal input to audits and investigations (including workplace investigations, probity, privacy, ICAC, police, NSW Auditor General, Energy and Water Ombudsman, Environmental Protection Authority, insurance claims and settlements);
- › Drafting, reviewing and enforcing a broad range of legal documents; assessing external proposals and negotiating one-off and sustained transactional conditions; managing organisational risk by providing commercial options that enabled projects to proceed with a palatable management plan for assessed potential identified risks, rather than being a 'road block' which discouraged the engineering staff from seeking legal advice;
- › Assessing and managing risk, liability and insurance requirements in conjunction with the insurer;
- › Creating business continuity plans and managing practice scenarios to incorporate lessons learned; maintaining risk mitigation strategies and staff training for potential mail contamination situations;
- › Staff training and education on legal, records and broader risk and compliance; internal and ministerial/stakeholder briefings and industry working groups.
- › Projects undertaken include the restructure of the Records Department (and of the processes employed within the organisation that concern issues related to the classification, retention, retrieval and disposal of corporate records);
- › Introduction of reporting and approvals processes to reduce and manage the spend on couriers and records storage, resulting in a significant (sustained) cost saving;
- › Re-organisation of external legal services provision five times – in 2000, 2001 following a merger, again in 2005 and in 2010 following sales of Retail and Gas businesses and restructure; and 2012/13 in the process of creating a panel for the three businesses that became Networks NSW);
- › Creation, introduction and management of a new suite of long and short-form procurement contracts and related guidance documents – involving supplier and internal customer consultation and training;
- › Creation and introduction of new Request for Legal Advice forms and processes to internal customers and external panel firms, to aggressively manage and reduce external legal spend following the NSW energy industry restructure;
- › Appraisal and recommendation of e-commerce platform proposals (including project managing pilot projects);
- › Tender evaluation and document preparation for the NSW Gas Retail Market Regulator;
- › Legal advisory for Essential Energy's sale processes, including data room input and maintenance, preparation of submissions and legal documentation, and collation, drafting and vetting of responses to queries from interested parties;

- › Ongoing legal advisory input to, and dialogue with shareholder Ministers, as well as other ACT, NSW and Commonwealth government agencies and regulators; including the redrafting of, and lobbying for amendments to, various pieces of legislation and related instruments; and to mergers, acquisitions and divestments.

QUALIFICATIONS

- › Master of Laws (University of Melbourne)
- › Bachelor of Laws (University of Canberra)
- › Bachelor of Arts (Political Science and History) (ANU)
- › Graduate Diploma in Legal Practice (University of Wollongong)
- › Accredited multi-disciplinary mediator (Australian Disputes Centre)
- › Company Directors Course (Australian Institute of Company Directors) (ACT Women's Director Scholarship)
- › Admitted as a lawyer of the Supreme Courts of NSW and the ACT
- › Admitted as a lawyer of the High Court of Australia