
Bruce Brown

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BACKGROUND

Bruce is a highly regarded and experienced Australia Government lawyer with broad regulatory/enforcement, public law and procurement, asset sale and grants expertise gained over 25 years of practice. His wide experience in many areas of government practice has made him particularly valuable to client agencies as a strategic adviser, or for working on sensitive or risk laden projects.

Prior to joining Proximity, Bruce was a Special Counsel at King & Wood Mallesons (KWM), and before that Bruce was Special Counsel at the Department of Finance, National Legal Services Manager at the ACCC, and a Regional Commissioner in ASIC.

Bruce has a current NV1 security clearance with AGSVA.

EXPERTISE

- › Regulatory/Enforcement
- › Information Law – FOI, Privacy
- › Specialist litigation
- › Probity Advisory
- › Procurements and Grants Projects

Bruce has specialist skills in:

- › Managing litigation involving multiple Australian Government agencies – particularly liaising/consulting with OLSC and managing relations in discovery processes involving multiple (reluctant) agencies.
- › Negotiating settlements of major litigation – particularly where the agency and its officers had separate representation
- › Managing litigation involving claims of negligence (statutory and common law) against Commonwealth regulatory agencies.

REGULATORY AND ENFORCEMENT

Bruce has had an extensive career at the senior level in the regulatory and enforcement space and is very experienced at working within regulatory and enforcement regimes.

As a Legal Director/Director of corporate regulation, and later as a Regional Commissioner in ASIC, Bruce was heavily involved at both the regional and national level in enforcement activities of ASIC, particularly involving the regulation of company directors, financial advisers, auditors and liquidators. He directed investigations and also undertook duties as a national hearings officer in multiple states and territories.

As National Legal Services Manager in the ACCC, Bruce provided advice on many enforcement activities undertaken by ACCC investigators, particularly in relation to notices to produce and hearings powers. He also sat on the Chairman's Enforcement and Litigation Committees.

When Legal Services Manager at the ACCC, Bruce also provided extensive assistance to CASA and the TGA in the reviews of their enforcement powers as well as to the Building and Construction Industry Commission during its establishment phase.

Bruce also has experience in other areas of regulation and enforcement. His early legal career was in transport regulation, and he has had a long

involvement in the health regulation space. He is currently a member of various boards and committees involved in the regulation of health practitioners, including the Australian Health Practitioners Agency's Immediate Action (Enforcement) Committee and its Statutory Offences Regulation Committee.

Bruce has had extensive experience at providing privacy advice at both the grass roots and the strategic level, including in relation to the following:

**PRIVACY AND
INFORMATION LAW**

- › Medibank Private Listing - Bruce advised the board of Medibank Private in relation to privacy issues and barriers/options to the possible marketing of the share proposal to existing contributors and advised on the development of a strategy that would enable the Board/Commonwealth to communicate with those contributors without breaching the Privacy Act
- › Privacy Inter Departmental Committee - as Special Counsel in Finance, Bruce was a member of an IDC established by the Attorney-General's Department to advise on protocols to apply for the provision of personal information to large numbers of concerned persons in the case of national/overseas disasters
- › During his frequent secondments to the NHMRC, Bruce provided extensive advice on privacy issues, particularly in relation to the application of the Act to identities and details about grant assessment panel members and personal details in medical research misconduct claims, and sensitive private information issues in the in vitro fertilisation space. He also advised on privacy issues arising in relation to medical research proposals that involved accessing private information – particularly when it involved internationally sponsored medical research.

At the more 'grass roots' level, Bruce frequently provided privacy advice to his client areas in ACCC and Finance on specific issues. For example, in the ACCC, a common issue related to the 'enforcement of the law' provisions of the Act. Bruce also oversaw the development of staff manuals and training in both ASIC and the ACCC in relation to privacy matters.

Bruce also has wide experience in FOI matters and held national responsibility for FOI matters when he was Legal Services Manager at the ACCC, and in both ASIC and the ACCC, he frequently acted as internal reviewer of initial FOI decisions. He also oversaw the development of staff manuals and training in both ASIC and the ACCC in relation to FOI.

**PROBITY ADVISORY,
PROCUREMENTS AND
GRANTS**

As probity advisor, Bruce works with clients to ensure their grants, procurement or asset sales processes are defensible and can withstand internal and external scrutiny, as well as achieving value for money and optimum outcomes for his clients. He is particularly experienced in providing probity advice on politically sensitive or high risk projects.

Bruce's recent projects include:

- › Department of Finance - probity adviser to the establishment of the Whole of Australian Government Commonwealth Property Services Management Panel. While Special Counsel at Finance, Bruce also acted as probity adviser to several other whole of government procurement projects, including Travel Phase 1
- › Sale of Territory Insurance Office - advised the NT Government and the Board of TIO on the market testing and sale process for the NT's insurance agency

- › Transfer of Funds Management Functions – advised the Board of NSW State employees superannuation scheme on the market testing and outsourcing of its funds management role to the private sector.
- › Moorebank Intermodal Terminal Establishment - while Special Counsel at Finance, Bruce acted as probity adviser to the multi-agency Moorebank Intermodal Terminal team, tasked with laying the groundwork for the building of an intermodal terminal
- › Australian Renewable Energy Agency - probity adviser for all grants programs upon establishment of ARENA. Bruce also developed an umbrella strategy for all its various grants schemes
- › Department of Agriculture and Water Resources - probity adviser for appointment of a consultant to develop and maintain an international milk price index as an information tool for dairy farmers
- › Wine Australia - probity adviser to the state grants and competitive grants schemes for overseas wine promotion programs.

LITIGATION EXPERIENCE

- › advising on and managing Supreme Court proceedings arising after the \$6 billion-dollar sale of Sydney Airport by the Commonwealth. The NSW Stamp Duties Office revised its assessment of the sale and declared it a land rich transaction, attracting a stamp duty assessment of several hundred million dollars with interest. The project involved a significant amount of discovery across a wide spectrum of Commonwealth departments and agencies.
- › advising Comcover on the management of class actions against the Commonwealth following the equine influenza outbreak. The claims were based in negligence and multiple class actions were lodged by groups of horse trainers, breeders and racing industry bodies. Bruce was heavily involved in instructing external solicitors and reviewing the Royal Commission's findings.
- › heavy involvement in the development of a strategy to manage hundreds of individual claims from retirees for negligent advice regarding their eligibility to join Commonwealth superannuation schemes going back to the 1960s. Although these matters were not a true class action, they were managed by a small number of firms, and had many common features. He also had an ongoing role assisting in the instruction of solicitors and counsel and maintaining a consistent approach to assessing the claims, including the transfer of many claims to consideration under the CDDA scheme
- › advising in relation to a class action brought against the TGA (Health) by many retailers and wholesalers following the settlement of negligence claims by Pan Pharmaceutical against the TGA for closing down the company. Bruce advised Comcover on the matter, assisted in instructing solicitors and counsel, resolved issues between Health, Finance and OLSC and was a senior member of the negotiating team established to settle the claims.
- › Bruce was a senior member of the legal team appointed to assist the HIP Royal Commissioner with the hearings. He was the 'Government Procedure' expert. Roles included interviewing witnesses and advising counsel assisting on Commonwealth procedures (including regulatory procedures, MOG changes, LSDs, AAOs, and Westminster Principles).
- › as Legal Director/Director of corporate regulation, and later as a Regional Commissioner in ASIC, Bruce was heavily involved at both the regional and national level in enforcement activities of ASIC, particularly involving the regulation of company directors, financial advisers, auditors and liquidators. He

directed investigations and undertook duties as a national hearings officer in multiple states and territories.

- › as National Legal Services Manager in the ACCC, Bruce provided advice on many enforcement activities undertaken by ACCC investigators, particularly in relation to notices to produce and hearings powers. He also sat on the Chairman's Enforcement and Litigation Committees.
- › as Legal Services Manager at the ACCC, Bruce also provided extensive assistance to CASA and the TGA in the reviews of their enforcement powers as well as to the Building and Construction Industry Commission during its establishment phase.

QUALIFICATIONS

- › Bachelor of Laws - University of Tasmania
- › Master of Social Science (Public Sector Management).
- › Admitted as a lawyer of the Supreme Courts of the ACT and of Tasmania.
- › Admitted as a lawyer of the High Court of Australia.

CURRENT MEMBERSHIPS

- › Member, ACT Law Society
- › Australian Health Practitioners Regulation Agency
 - NSW Nursing and Midwifery Board
 - Aboriginal and Torres Strait Islander Health Practitioner Board
 - AHPRA Immediate Action Committee
 - AHPRA Statutory Offences Regulation Committee