



# **NSW Government Legal Services Panel**

Panel Firm Induction

September 2021



# Acknowledgement of Country



# Induction format

<b>Session 1:</b>	<b>General Induction</b>	<b>2:00pm – 3:00pm</b>
<b>Session 2:</b>	<b>Cluster Briefing Sessions</b>	<b>3:00pm – 4:30pm</b>

# Cluster General Counsels

Cluster	Name	Title
Premier and Cabinet	Kate Boyd	General Counsel
Premier and Cabinet	Sarah Sandstad	General Counsel (PSC)
Treasury	Charles Cho	General Counsel
Customer Service	Colleen Dreis	General Counsel
Planning, Industry and Environment	James Hebron	General Counsel
Transport	Sally Webb	Chief Legal Officer
Health	Leanne O'Shannessy	Executive Director of Legal and Regulatory Services & General Counsel
Education	Sarah Hargans	General Counsel
Stronger Communities	Lida Kaban	General Counsel (DCJ)
Stronger Communities	Natalie Marsic	General Counsel (NSWPF)
Regional NSW	Tim Holden	Executive Director, Legal and Governance, General Counsel

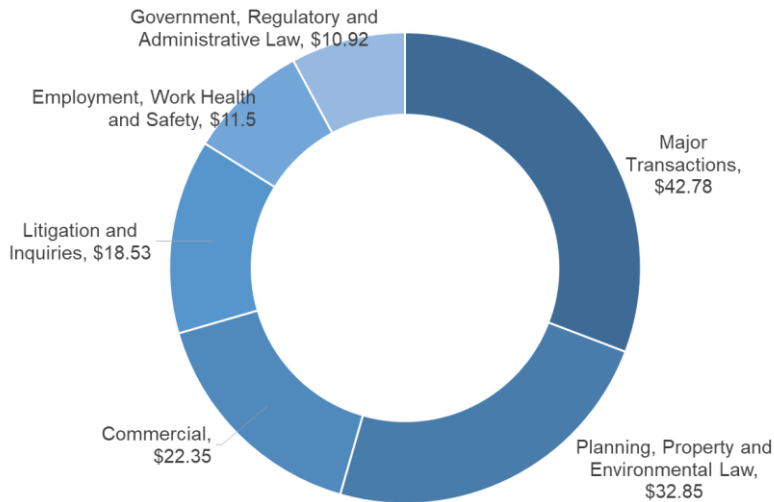


# Panel Management Team

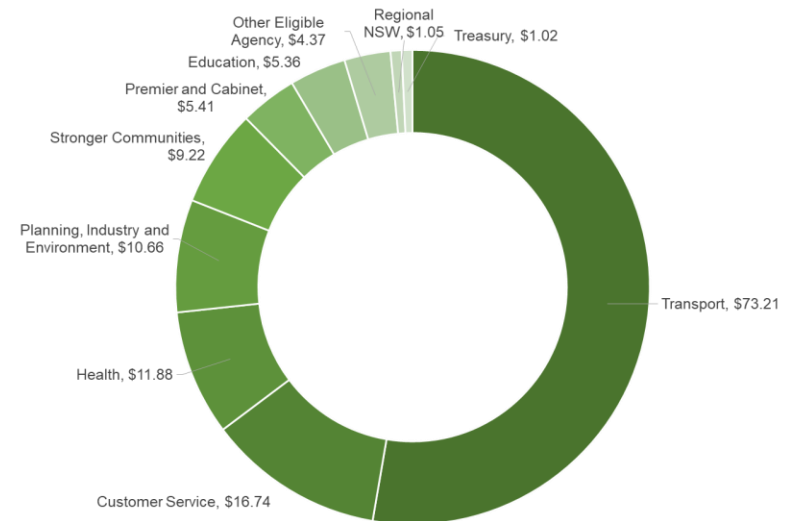
Name	Title	Email address
Sally Webb	Executive Contract Manager	Sally.Webb@transport.nsw.gov.au
Melissa Sloane	Panel Manager	Melissa.Sloane@transport.nsw.gov.au
Sarah Newton	Panel Support Officer	Sarah.Newton@transport.nsw.gov.au
Edward Arakelian	Manager, Data & Reporting	Edward.Arakelian@transport.nsw.gov.au

# Context: Whole of Government Panel

**FY20/21 Legal Spend by SUB PANEL (\$m)**



**FY20/21 Legal Spend by CLUSTER (\$m)**



- Legal services enable delivery of government infrastructure, services and functions making NSW a great place to live, work and visit
- Successful partnerships given high risk, breadth and high volume of work plus value for money, transparency and consistency of services
- Commitment to improving target social outcomes

\* Approximate Off Panel legal spend for 2020/2021 was \$14.83m



# Benefits of a Whole of Government Panel

Whole of government panels deliver significant benefits:

- Estimated value of \$1.2 billion over a 3+3+3 year term
- Economies of scale, combined purchasing power to obtain value for money
- Pricing, volume discounts and governance to drive panel engagements – deepening firm share, capacity and experience
- Agencies benefit from the agency-specific knowledge and expertise that Panel Firm develops through deeper working relationships



# Governance

- Panel managed by Transport for NSW including
  - Monitoring overall spend
  - Measuring social procurement outcomes, pro bono and equitable briefing
  - Monitoring value adds
  - Administering customer satisfaction surveys in-house government lawyers
- Panel Relationship Partner ⇔ Executive Contract Manager (Sally Webb) ⇔ Panel Manager (Melissa Sloane)





# Who can use the Panel?

- NSW Government Agencies whether forming part of a cluster, statutory corporation, state-owned corporation or other NSW Government business entity or Local Government body.
- Around 250 'core' NSW Government Agencies
- These are listed on the NSW Buy website - [Eligible NSW Government buyers | buy.nsw](#)
- They are also listed in the template reports published on NSW Buy website [NSW Government Legal Services Panel | buy.nsw](#) (for firm completion)
- Firms are required to list 'core' agencies in monthly and quarterly summary billings
- If the "core" agency cannot be found in the report, include the billings in the 'other eligible agencies' category



# How does the Panel Operate?

- Non-exclusive but encourages engagement through the Panel
- Panel Rules govern legal services procurement:
  - Off-Panel engagements guideline and
  - Conflict management guideline
- Competitive procurement thresholds
  - Single estimate up to \$200k ex GST
  - Three estimates if greater than \$200k ex GST
  - Construction and statutory land acquisitions – \$400k ex GST
- Agencies will engage Panel firms directly via a Legal Services Order
- Agencies may negotiate directly with and engage an SME or regional supplier, for goods and services up to \$150,000 ex GST
- Agencies may directly procure services valued up to \$250,000 ex GST from a suitably qualified Aboriginal business with a minimum of one written quote.

# Who should I contact first?

- Panel is managed on a cluster basis
- Agency Contract Manager for the cluster will advise of cluster arrangements for
  - Communication
  - Conflict Clearances and Probity issues
  - Value adds
  - Matter billing & monthly reporting
  - Invoice process and where to send them
  - General engagement questions
- Client Agencies will deal directly with matter specific issues
- Cluster Relationship Partner ↔ Agency Contract Manager ↔ General Counsel
- Agency Contract Manager details are listed on [NSW Government Legal Services Panel | buy.nsw](#)

# Crown Solicitor's Office

- **Core Work:** Core Legal Work must be referred to CSO see [Premier's Memorandum M2016-04](#).

Area of Law	Types of matters excluded from the Panel
Sub-Panel 3(d) Crown Land	Native Title and Aboriginal Land Rights
Sub-Panel 5(a) Administrative Law	<p>Reviews of decisions under the <i>Tattoo Parlours Act 2012</i>, the <i>Combat Sports Act 2013</i>, and the <i>Explosives Act 2013</i>.            Note: The administrative review by NCAT of decisions made under the <i>Security Industry Act 1997</i> is not Core Legal Work and is included in Area of Law 5(a).            Note: Legal advice relating to Standing Order 52 is Core Legal Work but document production assistance to an Agency to meet its obligations under call for papers made under Standing Order 52 can be provided under Sub-Panel 7(a) Document Discovery.</p>
Sub-Panel 5(c) Enforcement, Regulation and Prosecution	Where native title defences are raised in prosecutions (e.g. in fisheries prosecutions), the native title component of the prosecution is core work.

- **Agency funded work:** CSO will work alongside the panel. Agencies can engage CSO to perform work on any area of law. Not considered off panel.



# Briefing Counsel

- **Equitable Briefing Policy**

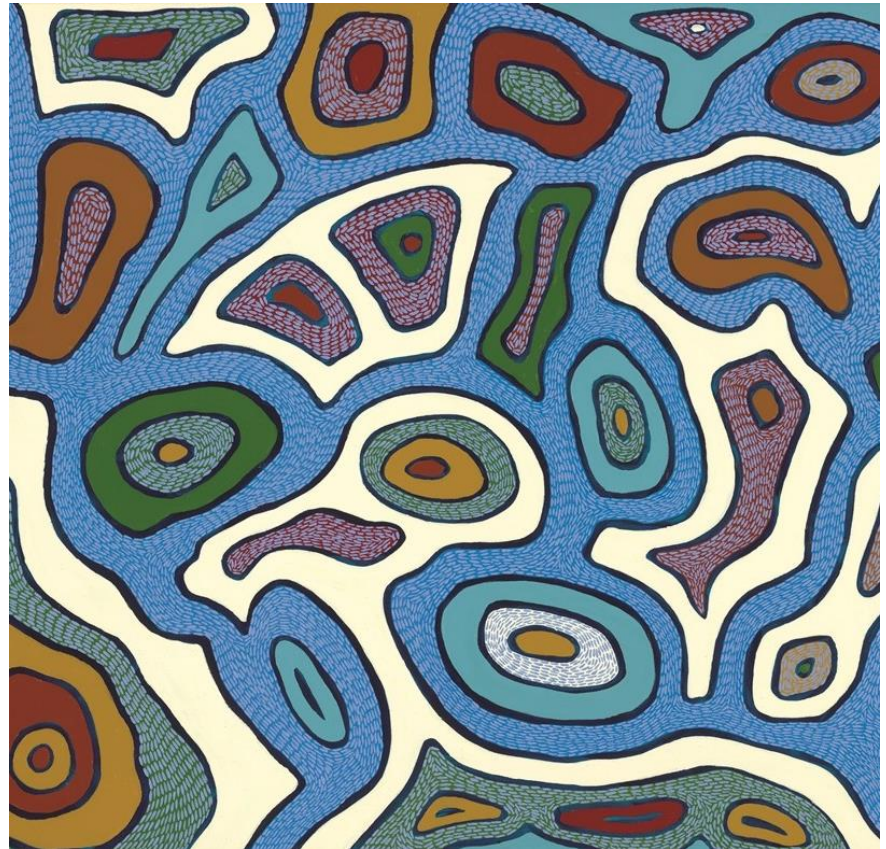
Firms seeking to brief counsel should put forward 3 names of proposed counsel to the Agency. At least one of those counsel should be a woman. Comply with Equitable Briefing Policy.

- **Briefing Senior Counsel**

- Engagement of Senior Counsel requires the agency's consent and request for approval will be forwarded to the Solicitor General.
- Solicitor General is not minded to approve rates above the standard Crown rates.
- Local Councils do not have to comply with Senior Counsel Policy, hence, firms do not have to include these counsel engagements in reporting. We do, however, encourage good practice

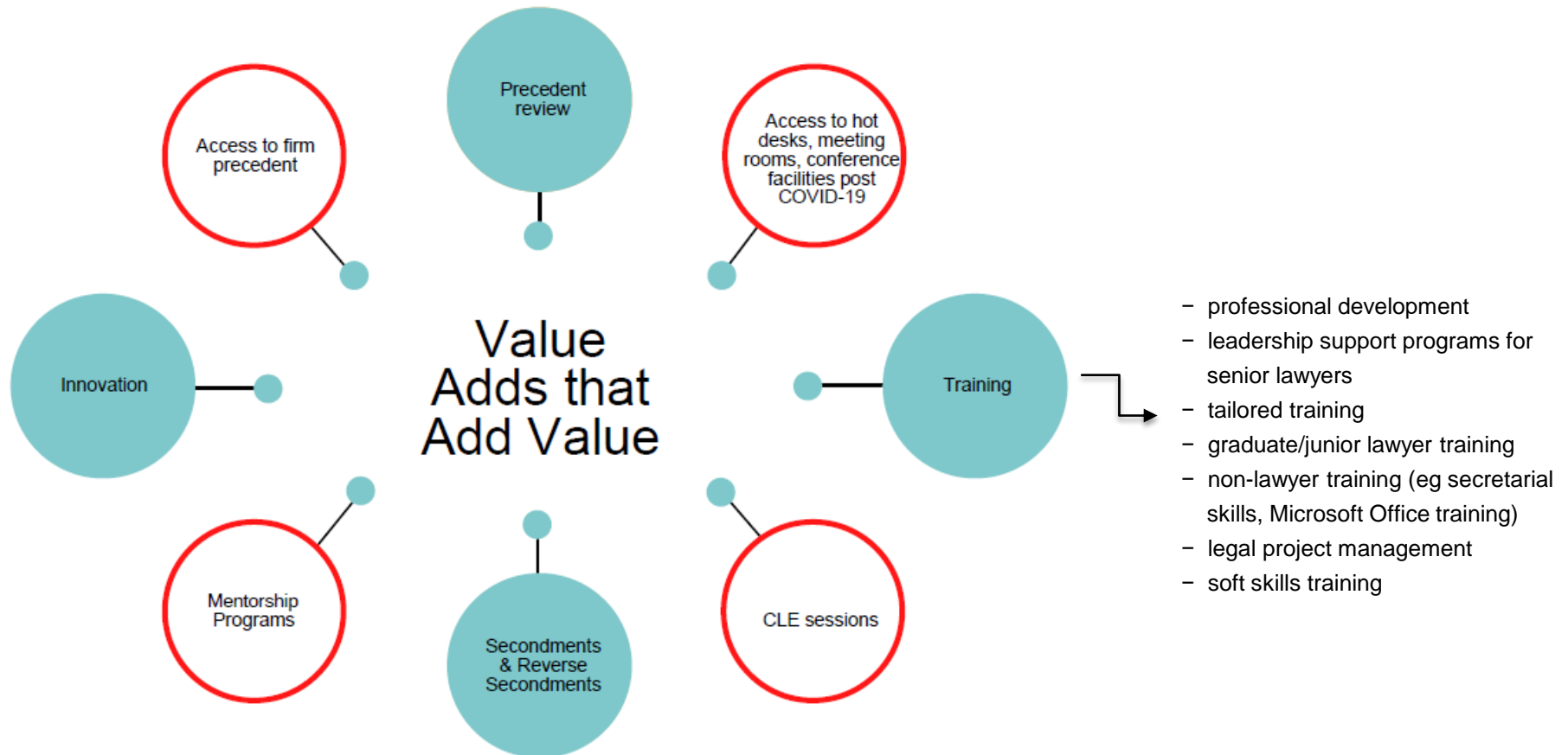
# Social outcomes

- SME & Regional
- Sustainability
- Disability
- Aboriginal



***“Our Songlines are Calling”** is a painting by **Frances Belle Parker** which shows the strong importance of our Traditional Songlines when travelling through country. This painting was used to launch Transport for NSW Reconciliation Action Plan 2019-2020.*

# Value Adds





# Performance Measurement & Management

- KPIs: client survey results, regular reporting, managing budget
- Feedback sessions organised between an agency and a Panel Firm or between instructing officer and Panel Firm member
- Client satisfaction surveys completed by users of the panel should not contain any negative feedback without this first having been raised with the Panel Firm
- Performance issues will be dealt with at an Agency and then cluster level before being escalated to the General Counsels Group and the Executive Contract Manager
- See Appendix for more details



# Managing Budget

- **Provide an estimate for each matter**
  1. Include professional fees, disbursements and counsel fees ex GST
  2. Keep track of progress against the budget – estimate compliance
  3. Advise instructing officer at 80% of the approved estimate (and no later), whether:
    - \* the agreed scope of work will be completed within the approved estimate, ie within the remaining 20% of the approved estimate;
    - \* if the agreed scope of work cannot be completed within the approved estimate, provide background and a detailed explanation as to why the fee estimate has increased from to support the request for a revised fee estimate
  4. Seek and await approval from the instructing officer to increase the estimate when WIP reaches no more than 80%



# Managing Budget

- **Updating the estimate**
  1. Provide the instructing officer with a revised estimate with a detailed explanation as to why the additional work was not included in the initial estimate (see item 3 on previous slide)
  2. Consider the revised scope – what is covered – is it clear, does it explain why the uplift is required
- **Agencies need to forecast expenditure and manage their own budgets and internal approvals**
  1. Estimate compliance for each matter is critical to avoid lengthy delays in payment or non-payment

# Reporting of Volume Discounts

- Panel firms provide quarterly volume discount report to Transport for NSW, as panel manager on behalf of government
- All panel firm **Eligible** Billings to NSW Government Panels, Schemes and Contracts contribute to the Volume Discount Threshold:
  - NSW Government Legal Services Panel
  - Rural & Regional Legal Services Panel
  - iCare Panel (Workers Compensation & General Lines)
  - Other NSW Government Panels or Engagements
- Exclusions for Activation and Application of Volume Discount are outlined in the Deed

Threshold	Volume Discount
\$1 million	2%
\$10 million	3%
\$50 million	4%
\$75 million	5%



# Questions

Thank you for joining us









# Appendix



# Social Procurement Policy: SME & Regional

## Education

- Start-up workshops - free legal and commercial advice
- Advocating for SME sector
- Publishing material to SME eg standardising government contracts; plain English terms and conditions

## Sourcing

- Procurement policies enabling SMEs to engage the firm and vice versa
- Prioritising goods and services from local and regional SMEs, eg catering; facilities management
- Support Business Council of Australia's Supplier Code
- Social Traders - access hundreds of small businesses

## Service

- Quick payment policy
- Establish a regional office to better serve regional businesses

## Assistance

- Pro bono services for small, local and regional not-for-profit organisations
- Discounted services for SME and regional clients
- Sponsorship of SME organisations and events

## Partnership

- Financial investment in SMEs and start-ups
- Partnership or formal alliance with regional law firms
- Support start-ups in the tech space with innovation hubs and bespoke service offerings



# Social Procurement Policy: Sustainability

## Proactive targeting and reporting

- Membership of the Australian Legal Sector Alliance to promote sustainable practices
- Sustainable Procurement Policies to ensure all goods are ethical and environmentally sustainable
- CitySwitch - reducing office energy consumption

## Work style adjustments

- Video conferencing to reduce flights and commuting
- Encouraging flexible working to reduce office footprint
- Bicycle storage facilities; assist employees to buy bicycles
- Reimbursement of public transport fares

## Responsible Governance

- Carbon neutral status by offsetting activities
- Sustainability Partner or committee to develop a culture of sustainability

## Building management

- All buildings 5 Star NABERS rating
- Sustainable building fitouts and appliances
- Thoughtful waste management systems
- Encouraging recycling of hard to recycle items
- IT policies and systems eg follow-me print; double-side default; short computer sleep times
- Purchasing environmentally responsible paper - recycled, carbon neutral, FSC certified





# Social Procurement Policy: Disability

## Employment

- Employing people who identify as having a disability
- Diversity & Inclusion Strategy
- Policies to promote the success of people with disabilities
- NOVA Employment to provide work experience and permanent jobs for people with disabilities
- Flexible working arrangements and support for employees that care for family members with a disability
- Reverse secondments/hosting intern with a disability

## Community

- Pro bono work in the area of disability
- Supporting organisations that bring choice and inclusion to those with a disability

## Education

- Australian Network on Disability "Stepping Into" Program – an internship program for university students with disability
- Paid internship program for law students in their penultimate year

## Training

- Disability Confidence training
- Training in awareness of physical and mental health issues to reduce stigma associated with the sharing of any disability (particularly mental health issues)
- Client training eg employment; disability and accessibility in the workplace; inclusion
- Training procurement team to support Australian Disability Enterprises



# Social Procurement Policy: Aboriginal

## Employment

- Employing Aboriginal people
- Aboriginal education organisations to provide work experience and permanent jobs for Aboriginal people

## Education

- Sponsor secondary and tertiary scholarships
- Mentor students – Australian Indigenous Education Foundation; AIME Mentoring

## Community

- Pro bono for Aboriginal corporations/communities in local, regional and remote areas
- Provide legal and business secondees for 6 weeks p.a. to support Aboriginal not-for-profit and partner organisations

## Economic

- Supply Nation to source Aboriginal suppliers
- Commit % of NSWG LSP revenue to Aboriginal owned businesses
- Partner/JV with Aboriginal owned law firm

## Training

- Workshops for Aboriginal enterprises at start up
- Events eg Aboriginal artwork; food/cooking; weaving
- Training procurement team to support Australian Disability Enterprises



# Information and Resources

- Panel information on NSW Buy website
  - Overview of the Panel
  - List of Suppliers
  - About the scheme
  - Information for buyers
  - Information for suppliers / panel firms
  - Scheme Rules
  - Resources
- Panel information on Ansarada (secure virtual data room) - for government agency access only
  - All of the above information stored on NSW Buy website
  - Panel Firm capability information, CVs and rates
  - Value Adds

# Performance Management

## Client Satisfaction

- Refer to Annexure B to the Deed, Service Level Agreement, Clause 2.1
- Users of the panel will be asked to complete on-line client satisfaction surveys
- Feedback will be given as part of the annual review process whereby individual firms are provided with a firm specific annual report
- Client satisfaction survey will include the following aspects:
  - \* Overall satisfaction
  - \* Quality of work
  - \* Approach and Strategy
  - \* Scope and instructions
  - \* Personnel assigned
  - \* Cost management
  - \* Management of work
  - \* Time management
  - \* Communication and reporting

# Performance Management

## What are the KPIs?

- Managing budget
- Client Satisfaction
- Regular Reporting
- Can be located in Annexure B to the Panel Deed – SLA, clause 2.2

## Regular Reporting

- Reporting requirements are outlined in the Service Level Agreement (Annexure B to the Deed), Clause 3.1
- Report templates are uploaded to the **NSW Buy Website > NSW Government Legal Services Panel How to Supply > Reporting > Index of Reports**
- Reporting is required monthly, quarterly and yearly
- General Counsels Group (comprising the cluster General Counsels) will monitor spend and panel performance



# Performance Management

## Regular Reporting

- Reporting will capture:
  - Individual file expenditure
  - Expenditure across the panel by Agency, sub panel, area of law and firm
  - Tracking against social procurement outcomes
    - \* Aboriginal Procurement Policy
    - \* Small & Medium Enterprise and Regional Policy
    - \* Australian Disability Enterprises Policy
    - \* Sustainability Policy
  - Pro bono
  - Equitable briefing
  - Other performance management information

# Panel Firm Induction - Other Matters

- **Correspondence**
  - Always include the agency reference number in the email subject line – so that it's filed properly in the document management system
  
- **Invoices**
  - The billing requirements are contained in Clause 5 and 10 of the Deed.
  - Refer to Schedule 4 of the Deed regarding disbursements and the approval process;
  - Refer to Schedule 4 of the Deed for non-chargeable items (exclusions)
  - Include the total amount billed to date for the matter (including professional fees, disbursements and counsel fees ex GST) as a percentage to the most recent estimate
  - When a volume discount threshold is reached and activated, include as a separate line on the invoice (not embedded in the hourly rate)
  - Queries relating to outstanding invoices should be directed to the respective agency