**Infrastructure Advisory Contract Framework**

**Security of Payment Legislation and Services under the Infrastructure Advisory Schemes**

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| **Scheme** | **Service** | **Sub-services** | **SOPA applies** *(as a ‘related service’ under s 6)[[1]](#footnote-2)* |
| **PMS Scheme****SCM0005** | Strategy and Planning (15a) | * Financial and investment strategies
* Urban development
* Commercial property
* Public/Private partnership strategy
* Environmentally sustainable development strategy
* Resource management
* Project definition
* Development and packaging
 | N*Unless the service involves surveying or quantity surveying services in relation to construction work (s 6(1)(b)(ii))* |
| Risk (15b) | * Risk assessment and management
* Construction risk and due diligence
 | N |
| Major Project Procurement / Delivery and Project Management (15c) | * Planning and process analysis
* Procurement review
* Supply chain review
* Strategic sourcing
* Project leadership and governance and project assurance
 | N*Unless the service involves surveying or quantity surveying services in relation to construction work (s 6(1)(b)(ii)) OR**project management or administration which involves advice in relation to building, engineering, interior or exterior decoration or landscape works (s6(1)(b)(iii))[[2]](#footnote-3)* |
| Contracting (15d) | * Contract (Commercial Terms only)
* Contract negotiations and Contract administration
 | N*Unless the ‘contract administration’ services involve advice in relation to building, engineering, interior or exterior decoration or landscape works (s6(1)(b)(iii))2* |
| Communication (15e) | * Stakeholder engagement and Communication/ technical writing
* Issues management
 | N |
| **GANSW Scheme****SCM0801** | Strategy | * Project Initiation, Definition, Justification and Risk Assessment
* Project Governance and Management
* Business Case Development
* Financial And Economic Analysis
* Stakeholder Engagement and Management
* Strategic Planning
* Aboriginal Cultural and Spatial Intelligence
 | N*Unless the service involves surveying or quantity surveying services in relation to construction work (s 6(1)(b)(ii))* |
| Design | * Architecture
* Urban Design
* Landscape Architecture
* Emerging Practices
 | Y*Architectural, design and landscape advisory services in relation to construction work* (ss 6(1)(b)(ii)-6(1)(b)(iii)) |
| **Consultants in Construction Scheme (under $9M)****SCM1191** | Management | * Project director
* Project manager - planning and delivery - health infrastructure
* Project management
 | Y2 |
| Planning | * Value management facilitators
* Town planning
* Quantity surveying
* Compliance and certification
* Land surveying
* Property assessment surveys and detailed property assessment surveys
* BCA and access consultants
 | Y |
| Engineering | * Geotechnical engineering
* Civil engineering
* Structural engineering
* Electrical - building
* Mechanical - building
* Hydraulic - including town gas, LPG and fire services
* Fire services - sprinklers
* Traffic and transport engineering
* Electrical and electronics engineering
* Fire safety engineering
* Facade
* Acoustic engineers
 | Y |
| Security | * Security consultants and security equipment specialists
 | Y |
| Architectural | * Architectural - general
* Architectural - health
* Architecture planning and delivery - health infrastructure
* Architectural - education primary and secondary
* Architectural - education tertiary
* Architectural - correctional
* Architectural - heritage
 | Y |
| Assessments | * Environmental studies
* Environmental impact assessments
* Biodiversity/ecological assessments
* Occupational hygienists
* Consulting arborist
* Bushfire modelling
* Aboriginal cultural heritage
* Dispute managers
* Independent safety assessor
 | Y |
| **Consultants in Construction Scheme (over $9M)****SCM10611** | Construction-related project management services | * Project manager
* Project manager planning and delivery – health infrastructure
 | Y2 |
| Architectural services | * Architecture – general
* Architecture – planning and delivery – health infrastructure
 | Y |

1. Under s 6 of the *Building and Construction Industry Security of Payment Act 1999 No 46* (NSW) (**SOPA**) ‘related services’, in relation to construction work, means any of the following services:

	* the provision of labour to carry out construction work,
	* architectural, design, surveying or quantity surveying services in relation to construction work,
	* building, engineering, interior or exterior decoration or landscape advisory services in relation to construction work, or
	* services of a kind prescribed by the regulations for the purposes of this subsection. [↑](#footnote-ref-2)
2. Whilst s 6(1) of the SOPA does not expressly include project managers or consultants/professionals who manage and administer construction work under contracts, the Court of Appeal determined in *Edelbrand Pty Ltd v H M Australia Holdings Pty Ltd* [2012] NSWCA 31 at [30] that section 6 should be interpreted liberally to include such services. Project managers, superintendents and consultants who manage and administer construction work are able to make claims under SOPA. This was affirmed by *Lal Lal Wind Farms Nom Co Pty Ltd v Vestas - Australian Wind Technology Pty Ltd* [2021] VSC 807 at [54], [55] and *Crown Green Square Pty Ltd v Transport for NSW* [2021] NSWSC 1557 at [155]. [↑](#footnote-ref-3)