**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)