

10 TIPS FOR CONTRACTS

1

Get legal input before tender or signing

Prior to the tender process, ensure you seek legal contractual input from an experienced lawyer e.g. construction or strata lawyer.

2

Select the appropriate contract

Choose the appropriate contract and understand any changes in the law – eg. when does the limit of a maximum three-year term apply (embedded network contracts), and whether there may be any unfair contract terms which must be removed.

3

Perform licence & compliance transgression checks

Do licence and compliance transgression checks e.g. ASIC search, contractor's licence, building practitioners licence, design practitioner licence, etc.

4

Consider any provisions that limit liability

Look closely at any provisions that aim to limit the liability of the contractor or service provider e.g. consequential loss & caps on damages claims, delay damages, etc.

5

Review pricing & payment terms

Require owners' approval for all variations to scope, places, specifications, price or completion date.

6

Include contractual & statutory warranties & indemnities

Include contractual & statutory warranties & indemnities to keep the builder or service provider accountable e.g. repairs to property damaged during the works and rectifying defects.

7

Check insurance provisions & send contract to your insurance broker

Check all insurance provisions, request certificate of currency, & have your insurance broker scrutinise the contract e.g. building works insurance, professional indemnity insurance, public liability insurance, vehicle insurance.

8

Consider access

Check for access restrictions or specifics e.g. common property and lots, storage of material, parking or working times

9

Include laws specific to the project or site. E.g. in NSW:

- *Home Building Act 1989*
 - *Design and Building Practitioners Act 2020*
 - *Strata Schemes Management Act 2015*
 - *National Construction Code*
 - *Building and Construction Industry Security of Payments Act 1999*
 - *Environmental Planning and Assessment Act 1979*
 - *Work Health and Safety Act 2011*
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10

Check execution formalities

Execution clauses and signatories must be legally compliant and authorised