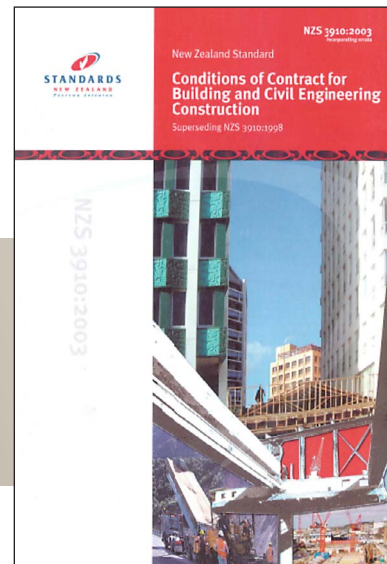


Roles & Responsibilities



1.0 Overview

The purpose of this document is to help the building owner planning to enter into a contract for the completion of construction works to their building, to understand the roles and responsibilities of the various parties under the NZS 3910: 2003 Conditions of Contract for Building and Civil Engineering Construction.

NZS 3910:2003 is a formal contract document offering a standard range of clauses, which

provides a good contractual framework. The standard clauses offer protection to the building owner and the Contractor throughout the contract and defect liability periods, setting rules for how and when works will be completed, payments made, disputes resolved, etc.

Under the NZS 3910 contract there are essentially 3 important parties: the Principal, the Engineer and the Contractor.

2.0 Definition of Parties

Principal;

After a contract is entered into the building owner is referred to as the "Principal".

Engineer and/or Engineer Representative;

The "Engineer" is basically the contract administrator (the person who writes the contract) and the person who enforces the contract. The "Principal" appoints the "Engineer".

Contractor;

The "Contractor" is the company appointed by the Principal to carry out the physical works as described with in the contract.



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3.0 Responsibilities

Principal:

Under the contract, the Principal must always appoint an Engineer to administer the contract. The following is quoted from the clauses within the contract:

“6.1.1 The Principal shall ensure that at all times there is an Engineer, and that the Engineer fulfils all aspects of the role and functions reasonably and in good faith”.

The Principal is also obliged to provide all information necessary that they may have in their possession to assist the Contractor in completing the works.

Engineer:

The role of the Engineer is as Contract Administrator, and not as Project Manager, in that the administration of the contract is concerned with contractual matters as opposed to technical detail and quality control.

The quoted text below, taken directly from NZS 3910 explains the function of the Engineer:

“6.2.1 The dual role of the Engineer in the administration of the contract is:

- (a) As expert adviser to and representative of the Principal, giving directions to the Contractor on behalf of the Principal and issuing payment schedules on behalf of the Principal at due times (see below the timeline for which payment schedules and payments are issued); and
- (b) Independently of either contracting party, fairly and impartially to make the decisions entrusted to him or her under the contract documents, to value the work and to issue certificates.

6.2.2 The Engineer shall exercise the powers entrusted to him or her by the contract documents without undue delay.

6.2.3 The Engineer where the contract otherwise provides, directions or instruction necessary for the administration of the contract shall be given only through the Engineer. Directions or instruction shall where appropriate or when requested by the Contractor be given in writing at the time of the instruction or as soon as practicable thereafter.”

Contractor:

By entering into the contract the Contractor agrees to complete the works and fulfill his obligations as set out in the contract. This involves the completion of the physical works (taking instructions from the Engineer and feeding information back to the Engineer as requested). It also means taking responsibility for the security and safety of the site and protection of property (including neighbouring property) as well as implementing quality management systems. These are just a few items in a long list of general obligations.

As part of the standard contract conditions, the Contractor agrees to provide all relevant paperwork requested by the contract, including guarantees, warranties and producer statement information, which provides confirmation and reassurance that work has been completed in compliance with relevant sections of the Building Code.

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4.0 The Contract & Relationships

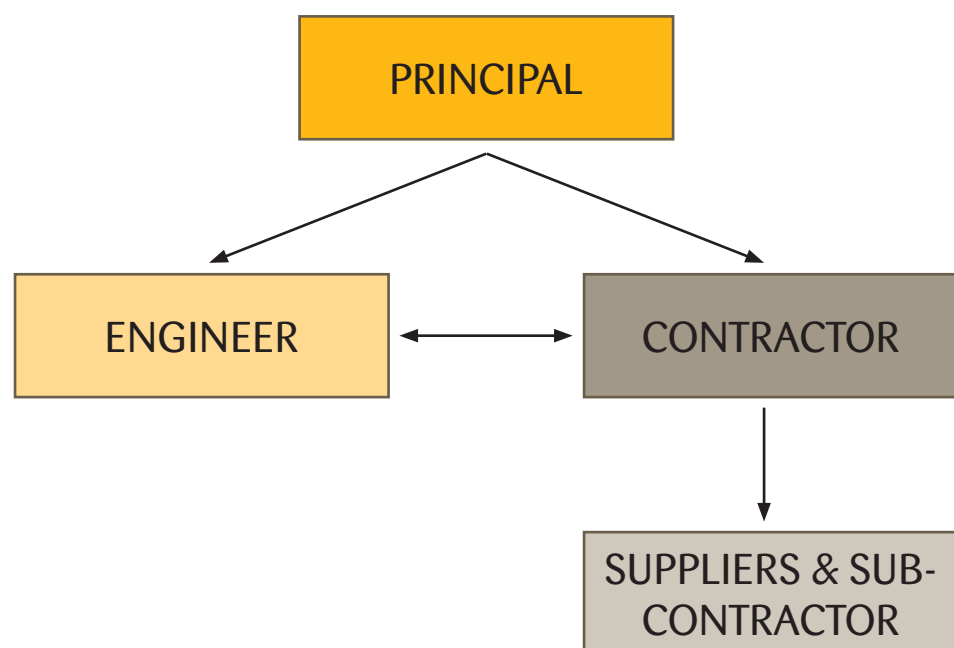
For a construction project being administered under the NZS3910, in a normal situation contract (i.e. a building owner(s) and single contractor with sub-contractors), the 3910 contractual arrangement is between the Principal and the Contractor only. The Engineer is not party to that contract in a legal sense, other than the fact that they are administering the contract. Fundamentally, the contractual agreement is an agreement by the Contractor to complete the work and the Principal to pay the Contractor for doing so, as per the contract conditions.

The contract makes provision for the Engineer to administer the contract, and the parties agree to this, ensuring that no party is disadvantaged as a result of the completion of the works, whether that be as a result of variations to the scope of works or extensions of time, etc.

There can sometimes be confusion in the industry as to what the role of the Engineer involves. People often consider that when they engage a Project Manager/Contract Administrator, or Engineer to the Contract, as correctly termed (under NZS 3910), that that person will be responsible for quality control, and for ensuring that the Contractor completes the work in strict accordance with the Building Consent documentation. The Engineer to the contract is not a Clerk of Works, their role is one of contract management rather than site management. The role involves monitoring progress and costs and relaying information and requests between the various parties, to ensure smooth running of the contract.

Below is a basic organisation chart showing the direct contractual and communication relationships under the NZS3910 contract for visualization purposes:

Contractual & Communication Relationship Chart



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5.0 Beyond NZS 3910

Although the roles and responsibilities are defined under the contract for the Principal, Engineer and Contractor, there are other relationships and contractual agreements outside of the contract for each party, and also for other parties not covered by the contract. Other parties may include the Architect, Structural, Fire and Acoustic Engineers and the Building Consent Authority (Council).

It would be common to engage the Architect to complete observation of the works at various stages ensuring that construction complies with good practice, design blueprints and the Approved Building Consent documentation.

In some instances a Clerk of Works may also be engaged to provide a quality control role, visiting site on a daily basis and observing each aspect of construction, to ensure that work is completed in accordance with good trade practice, the manufacturers' technical

literature for the products and materials installed and the Building Consent. Clerks of Works are generally only employed on larger scale commissions, as the cost of engagement for such would often not be financially viable on smaller scale projects.

Where Architects and Clerks of Works are engaged they would usually feed information back through the Engineer who would then communicate such to the Principal and Contractor as required.

The Building Consent Authority (BCA) would also be checking construction against the Approved Building Consent for compliance with both the Approved Design and the New Zealand Building Code. It is not uncommon for conditions of the Building Consent to require that the various Engineers also observe construction and provide sign off for any specifically engineered design component of the works.

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