

Making Construction Contracts Work for You – A Journey to Update NZS3910

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Journey – NZS3910 Conditions of contract for building and civil engineering construction

- History and Background
- Process
- Key Changes
- Land Development Engineer's role
- What's next?



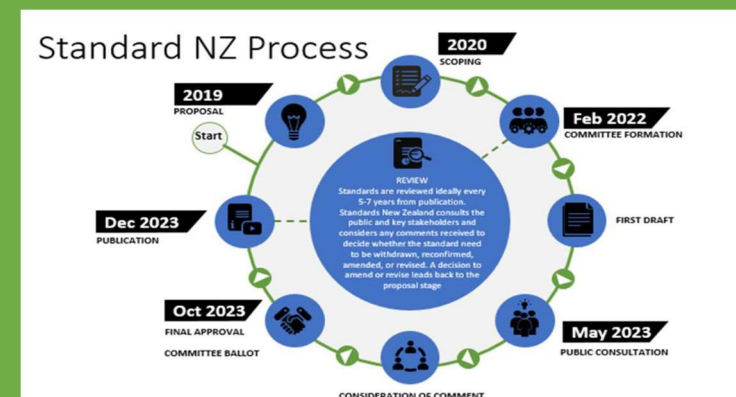
History and Background

- NZS3910 most commonly used construction contract in NZ
- Standard form containing general conditions of contract
 - Allocates risk fairly
 - Document contracts quickly and easily
 - Widely accepted and understood
- Last reviewed and updated in 2013
- Scoping workshop in 2020
- Construction sector survey on scope in 2021



Process

- Establish review committee based on identified stakeholders
- Development phase
 - 2022-2023 review and update by the committee
 - Release of Special Conditions in September 2022
- Public consultation
 - May 2023
 - 2,274 comments received
 - Consideration of comments
 - Final approval through Committee ballot then Standards New Zealand Board approval



Key Changes

- Contract Price options
- Role of Engineer to Contract
 - Dual role of Principal's representative and fair and impartial decision maker
 - Could delegate powers to Engineer's Representative
- Replaced with Contract Administrator (instructs) and Independent Certifier (decides)
- Instruction and Decision Review Process
 - Initiated by either party for instruction or decision (other than final) – review by Independent Certifier
- Emphasis in the contract for dispute resolution by the parties



Key Changes

- Contractor obligations
 - Design responsibilities can be more explicitly identified
 - Management plans and report requirements have been expanded
 - Specific focus on protection of the environment
- Plain language update
- Terminology updated (e.g Preliminary & General and Margin)
- Option to limit contractor liability
- Format



Land Development Engineer's role

- No formal role in the contract
- Need to work with developer's representative
- Consideration of roles when developer constructing on behalf of Council (such as through PDA)
- Clear lines of communication
- Documentation
- H&S is everyone's responsibility!



What's Next

- NZS3910:2023 currently available for pre-order (printing in December)
- Getting familiar with the new standard
- Training



Questions



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