

# Standard Construction Contracts



NEW ZEALAND  
INFRASTRUCTURE  
COMMISSION  
*Te Waihanga*

**TSA Riley**

**August 2024**

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**David Wilkie**



**Te Kāwanatanga o Aotearoa**  
New Zealand Government

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# Introduction

## John Hemi

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“The Commission's main function is to co-ordinate, develop, and promote an approach to infrastructure that encourages infrastructure, and services that result from the infrastructure, that improve the well-being of New Zealanders.”

Te Waihanga Act 2019, section 9



# Introduction

## David Wilkie

3910 Review Committee Chair  
TSA Riley – Executive Director  
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**TSA Riley**



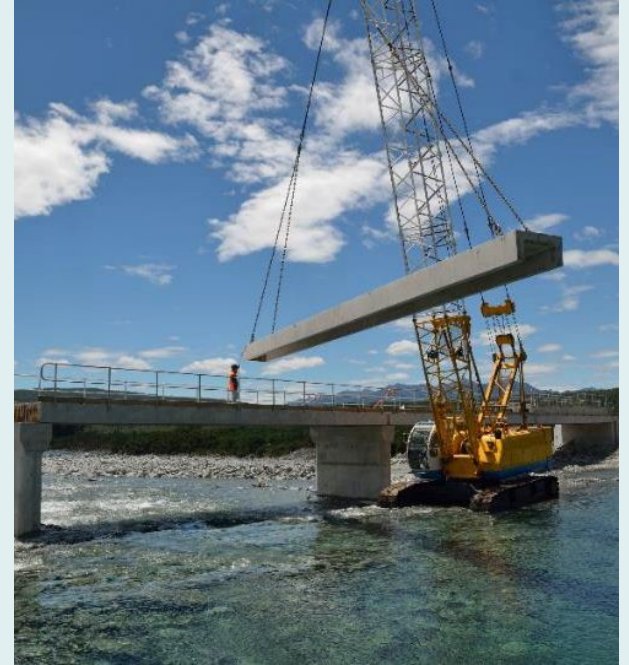
# Agenda

1. **Common NZ Construction Contracts**
2. **NZ 3910 overview**
3. **The recent Changes**
4. **Better Contracts**
5. **Questions**





- 1. Have you had any involvement in construction projects?**
- 2. Have you used another contract form?**
- 3. Are you aware of NZS 3910?**





## Common Contracts

- NZ Standards – NZS 39xx Conditions of contract for building and civil engineering construction
- Australian Standards – AS 4300, 4000, 2124 etc
- NZIA Standard Conditions of Contract SCC SF:2018
- NEC4 Engineering and Construction Contract (ECC)
- FIDIC form of contract
- Master Builders and Certified Builders member Construction Contracts
- Fully Bespoke custom written contracts







# NZS Documents

## Conditions of contract for building and civil engineering construction

- 3910:2023 (the base document)
- 3915:2005 –Where no person is appointed to act as engineer to the contract
- 3916:2013 – Design and construct
- 3917:2013 – Fixed term





**Why are construction contracts important?**





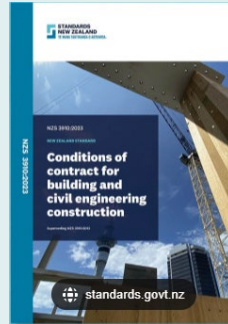
## Why are they important?

1. Fairness - industry acceptable balance of risk
2. Insurable
3. Wide acceptance - familiarity and industry use
4. Cost efficient – known risk allocation and legal interpretation
5. Established community of practice and body of knowledge





# The NZS 39xx suite



3910 : 2023

The base contract



3915 : 2005 – Where no person is appointed to act as engineer to the contract



3916 : 2013 – Design and construct



3917 : 2013 – Fixed term

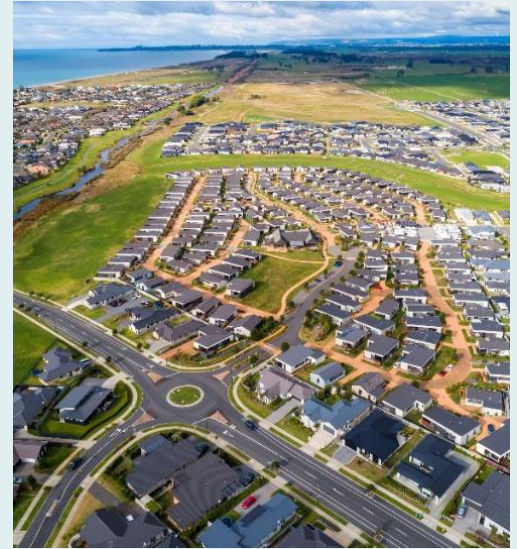
# 3910 Background





## NZS 3910 – Relevance to the Pacific

- Buildings and civil construction
- Used for 80% of construction contracts in NZ
- Adaptable for small to large construction contracts (nominal range \$50k - \$500M)
- Acceptable to insurers
- Strong level of industry investment and acceptance (Principals, designers, contractors, subcontractors, project managers/administrators, legal)





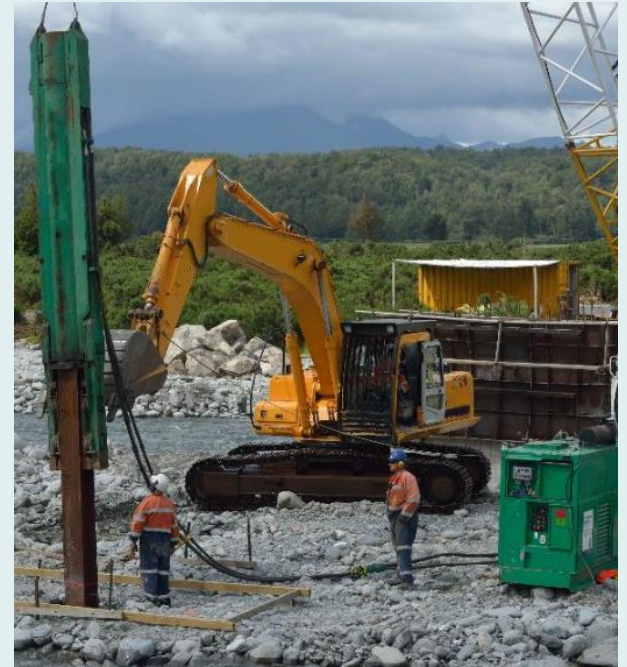
**What examples do you have where you or another party used 3910?"**



# NZS 3910:2023

## Recent Review

- Evident that change was needed
- Industry representative committee appointed Feb 2022
- Public consultation process June 2023
- Published December 2023
- Significant update to reflect industry feedback and emerging best practice





## 3910 Committee - what is Success ?

- A document that works most of the time for most situations
- The new document is an evolution of the current and widely accepted
- Transparent, clear and appropriate allocation of risk
- In 5 years' time it is the dominant form with minimal changes/specials
- Consistency and plain language
- Simple navigation





## Towards Better Contracts

- NZS 3910 most commonly used contract form
- Special Conditions used extensively to customise contracts.
- Collaborative contracting improved contract performance and project outcomes
- Capability in key contract administration roles has a significant impact.
- Relationships and reputations enable disputes to be avoided or resolved outside the contract.
- Keep connection from procurement stage through to delivery





# Good Contract Practice

## 1. Key Strategies:

- Clearly defined responsibilities and scope definition
- Risks considered and allocated
- Fair and Transparent procurement process
- Collaboration and relationships

## 2. Licences to adapt NZS 3910

- Amending standard conditions & fully conforming the contract under a 2 year multiple use license  
<https://www.standards.govt.nz/home/nzs-3910-2023-reference-guide/>

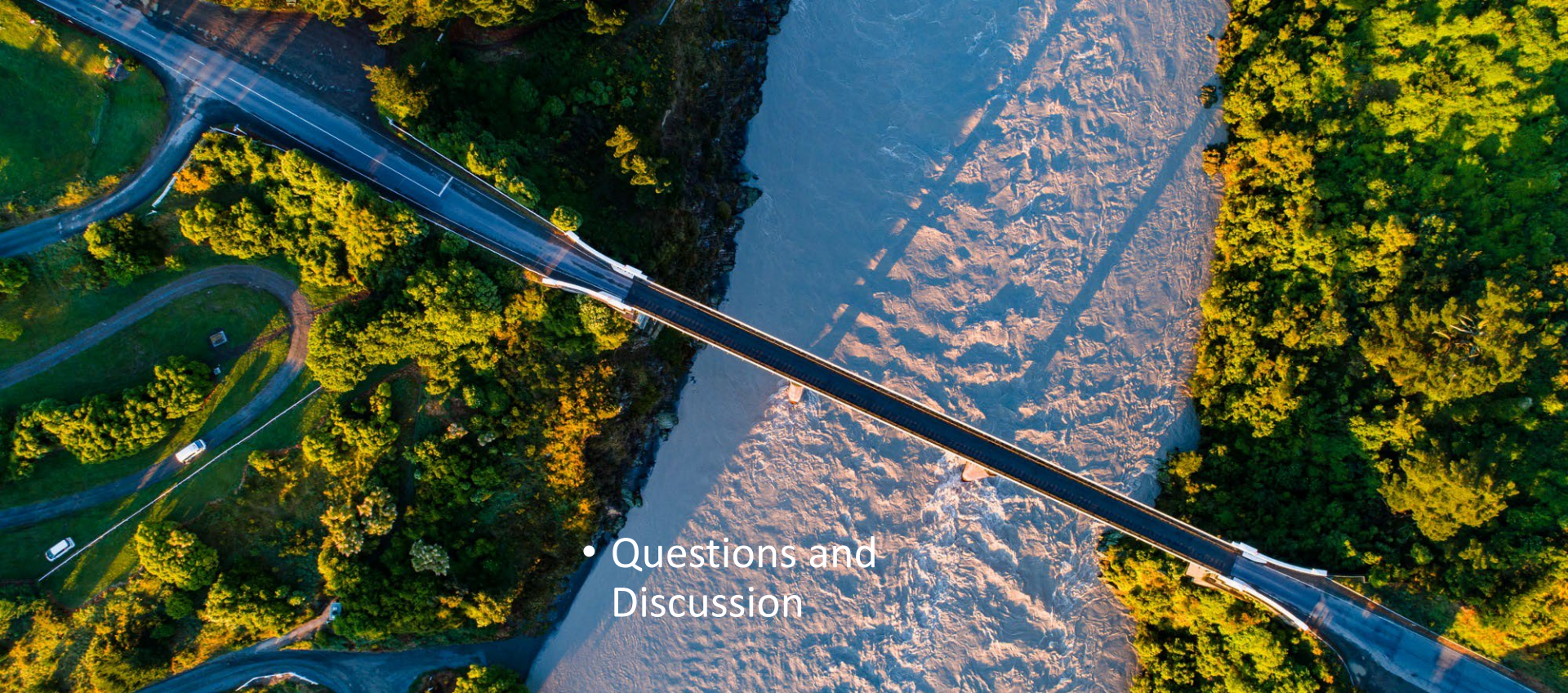


## Find out more

- [www.standards.govt.nz](http://www.standards.govt.nz)
- Who else to talk to.....
  - Te Waihanga
  - Govt agencies eg NZGP MBIE
  - Society of Construction Contract Practitioners <https://www.sccp.nz/>
  - Australasian Procurement Construction Council (APCC)







- Questions and Discussion