

# APPLICATION FORM

## ABOUT THE ENGINEER TO THE CONTRACT PANEL

The Panel is an independent and public list of approved Engineers to the Contract (**EtCs**) who have the professional skills, experience and mana to be highly effective in the role.

The Panel is a Construction Sector Accord initiative to help accelerate the delivery of construction projects in New Zealand by supporting procurers (both public and private) and contractors.

Being a Panel member signifies to the industry that you are an experienced EtC, with the skills and attributes required to succeed in this role.

## YOUR APPLICATION

You can apply to be a Panel member if you are an experienced EtC practising in New Zealand. To apply, please complete this application form and send it to Panel Coordinator at **EtCPanel@engineeringnz.org** or EtC Panel Coordinator, c/o Engineering New Zealand, PO Box 12 241, Wellington 6144.

Please enclose a detailed CV with your application, including relevant technical experience, contractual competency, and related training and qualifications.

**The deadline for the current intake of applications is Monday 28 February.** We will contact you within 10 working days to confirm we have received your application.

We will contact you again to inform you of the outcome of your application. Applicants who pass through the first application stage will be asked to attend an interview with AN evaluation panel, which may take place in person or online, depending on logistics.

You can find more information about the EtC Panel and application process at <https://www.engineeringnz.org/public-tools/engineer-to-the-contract/> or by contacting the Panel Coordinator.

## CONFIDENTIALITY

Our application process is confidential. All information provided for the purpose of this application will be collected, used, stored and disclosed in accordance with the Privacy Act 2020.

## SECTION 1: YOUR DETAILS

Title	
First name	
Last name	
Company	
Address	
Phone	
Email	

Detailed CV included

## SECTION 2: QUESTIONS

Your responses to the questions below will allow the evaluation panel to assess whether you meet the requirements for appointment to the Panel.

When answering these questions, please anonymise any confidential information including names, project names and contracts from your response, along with any information you provide to support your response.

### Your experience

- What recent experience do you have as EtC or EtC's Representative under NZS 391x contracts?
- Please briefly outline your approach to the administration of construction contracts.
- Please provide an anonymised example of advice you have issued about contractual issues.

### Your practice

- What is your approach to establishing and maintaining relationships with participants in construction contracts?

- Please provide evidence of your recent continuing professional development (CPD). This may be a CPD certificate from an organisation of which you are a member, or a list of recent CPD events that you have attended.
- Can you provide an anonymised example of a direction or instruction that you have issued on a contract?
- What is your approach to calling and running meetings? You may wish to provide an anonymised example of minutes you have produced.
- Can you give one or more examples of when you had to make a decision **OR** when you considered it better to refrain from making a decision, and the factors you considered?

### SECTION 3: RELEVANT TECHNICAL & CONTRACTUAL EXPERIENCE

We would like to understand your experience working with contractors, principals, engineer's representatives and consultants. Please provide brief details about at least three projects you have been involved in, in this table:

Project description	Year completed	Contract Period	Out-turn Cost (NZD\$)	Role (EtC, rep, etc)
1				
2				
3				
4				
5				

## SECTION 4: REFEREES

Please provide details for two referees – one Principal and one Contractor – who can speak to your professional experience in the role of EtC. We may contact your referees during the application process. We will notify you before we contact your referees.

Referee 1: Principal	Title	
	First name	
	Last name	
	Company	
	Phone	
	Email	
Referee 2: Contractor	Title	
	First name	
	Last name	
	Phone	
	Email	

## SECTION 5: OUR EXPECTATIONS OF PANEL MEMBERS

Appointment to the Panel marks the industry's trust and confidence in the successful applicants. Members of the Panel are expected to act as industry leaders, contributing to the Panel's role as a centre of excellence and mark of quality for EtC services delivery.

If you are appointed as Panel Member, it is expected you will comply with the Code of Ethics for Panel Members, including the duty to:

- **Act objectively.** You should always act objectively and not act as an advocate for any one party. This means that you should act without bias (either real or perceived) towards or against any party. Your decisions should be based on evidence and information available, using your best professional judgement. You should be able to provide sound reasons for any advice you provide.
- **Appropriately manage conflicts of interest.** You may find that in a particular case you have a conflict of interest, whether it is an actual or perceived conflict. You should always carefully consider and disclose any potential conflicts to the parties involved.
- **Maintain confidentiality.** You may receive confidential and private information about contracts and/or projects. Certain rights attach to that kind of information, and it is important that those rights are protected. You should not disclose confidential information except as required to carry out the services you have been engaged to provide, or as required by law.

- **Treat people with respect and courtesy and communicate effectively.** As a Panel member you are representing the Panel and your profession. You should act courteously with the parties you work with at all times, and communicate professionally and effectively.
- **Take reasonable steps to safeguard health and safety and the environment.** You must take reasonable steps to safeguard the health and safety of people. You are also expected to have regard to reasonably foreseeable effects on the environment and the need for sustainable management of the environment.

*How we will manage complaints*

If the Panel Coordinator or Steering Group is informed or becomes aware of any complaint, concern or other issue with your performance or conduct as a Panel Member, we may review your eligibility to remain on the Panel. Reviews would be conducted by us and the Panel Steering Group, in consultation with you, and would assess whether you continued to meet the criteria for eligibility. You would have an opportunity to respond before any decision is made about your continued status as a Panel Member.

**SECTION 6: DECLARATIONS**

By signing this application form:

- I declare the information I have provided in this form is true and correct to the best of my knowledge and belief.
- I declare I do not have any criminal convictions (if this box cannot be ticked you may be asked to provide further information).
- I am aware Engineering New Zealand is subject to the Privacy Act 2020 and information may only be collected, used, stored and disclosed in accordance with that Act.
- I have read and understood the expectations under section 5 of this application form, including the Code of Ethics for Panel Members.
- If I am appointed to the EtC Panel, I agree to comply with the expectations under section 5 of this application form.

<b>Name</b>	
<b>Signature</b>	
<b>Date</b>	

Please send your completed form and CV to [EtCPanel@engineeringnz.org](mailto:EtCPanel@engineeringnz.org)

# CODE OF ETHICS FOR PANEL MEMBERS

## INTRODUCTION

The Steering Group for the establishment of the Engineer to Contract Panel (“the Panel”) has developed the following Code of Ethics as to the professional attitude and behaviours of a person who has been appointed to the Panel.

This set of expectations applies to the Panel member’s performance of the role of Engineer to the Contract (“EtC”). Each Panel member must acknowledge and commit to complying with this Code of Ethics.

The expectations of an EtC are twofold:

- they are grounded in the specific requirements within NZS 3910 and the Guidelines attached to NZS 3910;
- they reflect industry expectations that an EtC will demonstrate what are commonly referred to as the “soft skills” expected of an individual trusted by both parties to perform the contract administration role professionally, and where appropriate to engage the parties collaboratively in the interests of mitigating problems and avoiding disputes without departing from the contract. NZS 3910 identifies the collaborative role of the EtC in clause 5.21.2.

## EXPECTATIONS OF AN ETC

A Panel member shall at all times when performing the role of an EtC:

1. **Be independent:** Accept appointment as an EtC only where independent of any other role in the contract (for example, an EtC must not be an employee of the Principal or of a key consultant responsible for the design, quantity surveying, project management or contract administration of the contract) which may give rise to a conflict of interest or otherwise impair the independence and impartiality of the EtC.<sup>1</sup>
2. **Resolve conflicts of interest:** Disclose, before appointment and throughout the contract, any conflict of interest which impairs or is likely to impair the ability to act fairly and impartiality in the role of EtC, and resign where the conflict of interest cannot be resolved to the reasonable satisfaction of the parties to the contract.<sup>2</sup>

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All references are to the Guidelines attached to Standards New Zealand (NZS) 3910:2013 Conditions of Contract.

<sup>1</sup> Clause G6.2.

<sup>2</sup> Clause 6.1.1.

3. **Act professionally:** Act at all times in good faith<sup>3</sup>, and in a professional,<sup>4</sup> expeditious, diligent, orderly and timely<sup>5</sup> manner
4. **Make all decisions impartially**<sup>6</sup>: Act fairly, impartially, honestly, with integrity, without bias, consistent with and in reliance on the relevant contract, exercising professional judgment<sup>7</sup> in all decision-making under the contract including, without limitation, contractual interpretation, assessment, compliance, contractual entitlement, valuation, or certification. Obtain independent legal or other advice where necessary to inform decision-making.
5. **Principal's Representative:** Act as representative of the Principal only in issuing directions, variations, and instructions to the Contractor, and as agent in issuing payment schedules.<sup>8</sup>
6. **Advise Principal and Contractor:** Provide advisory opinions to the Principal<sup>9</sup> and the Contractor in respect of matters in relation to the contract, without at any time acting as an advocate of either party.
7. **Comply with time requirements:** Perform all duties of the EtC within the time or times stated in the contract<sup>10</sup>, or, where no time limit is stated, within a reasonable time<sup>11</sup>
8. **Delegate effectively:** Nominate in writing (where applicable):
  - a. A suitably qualified and experienced person as Engineer's Representative to perform the contract administration and other duties of the Engineer<sup>12</sup>, clearly defining the extent of their optional authorities<sup>13</sup>; and
  - b. Any assistants to the Engineer's Representative<sup>14</sup>.
9. **Be decisive:** Make decisions where required by the contract, promptly, with appropriate reasons.<sup>15</sup>
10. **Act collaboratively:** Work together with the parties as required in exploring options for avoiding or reducing the impact of matters that arise during the course of the contract<sup>16</sup>, and take active steps to resolve matters by clear decision-making and/or working with the parties to avoid or reduce the risk of matters being referred to dispute.

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<sup>3</sup> Clause 6.1.1.

<sup>4</sup> Clauses 1.6, 6.1.1.

<sup>5</sup> Clause 6.2.2.

<sup>6</sup> Clause 6.2.1(b).

<sup>7</sup> Clause G6.2.

<sup>8</sup> Clause 6.2.1(a).

<sup>9</sup> Clause 6.1.2(a).

<sup>10</sup> For example clauses 13.2.1, 10.3.4, 10.3.5.

<sup>11</sup> Clause 6.2.2.

<sup>12</sup> Clause 6.3.1.

<sup>13</sup> Clause 6.3.3(b).

<sup>14</sup> Clause 6.3.5.

<sup>15</sup> For example, clauses 9.2.4, 9.3.4.

<sup>16</sup> Clause 5.21.2