

What to consider before you sign your building contract

Embarking on a new building project is an exciting journey, whether you are building your dream home or enhancing your existing space.

But building projects are not only about fun and excitement; they also involve significant investments, which need to be managed. With careful planning, asking the right questions upfront and seeking the right advice when you need it, you can make your dream home into a reality.

The importance of good communication

Good communication is the key to a successful project

This might sound simple and straightforward, but in any substantial project, there is the potential for misunderstanding. Miscommunication is the number one reason for disputes when building a home. It is important you work with a builder who you feel comfortable talking to and can trust, especially to help you deal with any project challenges that emerge along the way. Ensure your builder not only understands your vision but also listens to and addresses your concerns.

Communication is a two-way process, and there are obligations on both sides to be clear on expectations from the outset and throughout the process. This also needs to go beyond the verbal – it is important for both parties that key elements and all decisions are recorded in writing. Even an email update will help ensure everyone is on the same page. This will mean expectations are aligned and help avoid any disputes. Building a new home is exciting, but it is important to talk about potential issues and challenges, and how you will deal with them when they arise, including budget limitations, upfront.

Ensure you have independent legal advice

We strongly recommend all homeowners get independent legal advice when entering into a building project. Your lawyer should review your building contract and your guarantee. They should take you through these documents to ensure you know your rights and obligations, as well as those of your builder and, if you have a Master Build 10-Year Guarantee, those of the Registered Master Builders. Ideally find a lawyer who has some experience with construction projects, as they will be best placed to explain the contracts to you and identify the key risks you face. Remember this is one of, if not the, biggest investment you will ever make, and it is worth investing in good quality legal advice from the right lawyers.

Key areas for discussion with your builder

Contracts, guarantees and other documentation

Discuss all important documents, including your contract, with your builder. Make sure you understand what is covered and what is not, including the scope of work, timelines, and payment schedules. We recommend you also seek legal advice to fully understand the terms and conditions.

The Master Builders Contract (RBC1) is a market leader in New Zealand. It is long-standing, and regularly reviewed to ensure it remains relevant for New Zealand conditions and is transparent and fair. RBC1 is in line with other contracts in New Zealand, including the New Zealand Standards 3910 contract, the New Zealand Institute of Architects contract, and the Ministry of Business, Innovation and Employment (MBIE) contract.

Discuss with your builder the timeframes for the project, including potential risks, and what the implications of delays or changes are in terms of time and costs.

Your builder should also discuss the Master Build 10-Year Guarantee with you. The Guarantee is the most comprehensive on the market and includes insolvency cover. This provides cover for your build if it is established that your builder is unable or unwilling to finish the project or address defects. The Master Build 10-Year Guarantee can only be offered by a members. Our master builders are held to a high standard, and we carry out checks on joining to review financials, build quality, and customer service. We typically accept less than half of those who apply to be a master builder. For more information, see our guide: **Master Build 10-Year Guarantee**

Managing price escalation and fixed-price contracts

We recommend all homeowners talk openly with their builder about their available budget and ensure the project plan allows contingency for price escalation. Your builder will be able to guide you around product and process alternatives that may be able to help you reduce costs if required.

The Master Builder RBC1 contract has a clause for price escalation. We encourage homeowners to be wary of fixed-price contracts in the current environment. They may mean you are paying too much to cover all the risk of price escalation, or you are paying too little, meaning your project could become unviable and your builder may not deliver. Additionally, a Master Build 10-Year Guarantee may not be approved on a project with no allowance for price escalation.



Deposits and advance payments

Deposits and advance payments should be discussed with your builder. When entering into a building contract with a master builder, we recommend that you use our standard RBC1 Building Contract. This provides a fair and balanced risk allocation. It includes a comprehensive payment schedule, which allows you to keep track of all monies paid and ensures you only pay for work that has been completed. This is important, because in the unlikely event something goes wrong you will have enough money left to complete the build with someone else. This is also a key requirement of the Master Build 10-Year Guarantee.

Like most industries, deposits are required before work can get underway. The deposit allows the builder to undertake preliminary work, such as developing plans, consents, site set up, or purchasing materials to get the project underway. Typically, the deposit should be no more than 10% of the build cost for the residential sector. If your builder requires more than 10%, you will not be eligible for a Master Build 10-Year Guarantee. We recommend you discuss a deposit of more than 10% with your builder before you sign the contract to understand why this is needed.

Site visits and inspections

Talk to your builder about when you can have access to the building site, including for progress updates. This will include agreeing key inspection stages during the process and following practical completion. Practical completion is where the building work on your home is finished, except for minor defects or incomplete work that doesn't prevent you from moving in and living in your home. At a minimum, site visits should be in advance of payments for key stages of the build.

You should also discuss when you are able to move in following practical completion, and the timings for inspections following practical completion to pick up any further issues (e.g., at 3, 6, and 12 months).

How to manage variations and substitutions

In any project, there may be changes required. This could be because you change your mind, or a product is unavailable. These changes to the contract are called variations. Your builder should get written confirmation and agreement to any variation to the contract or costs. Discuss this process with them and be clear on the process for product substitutions.

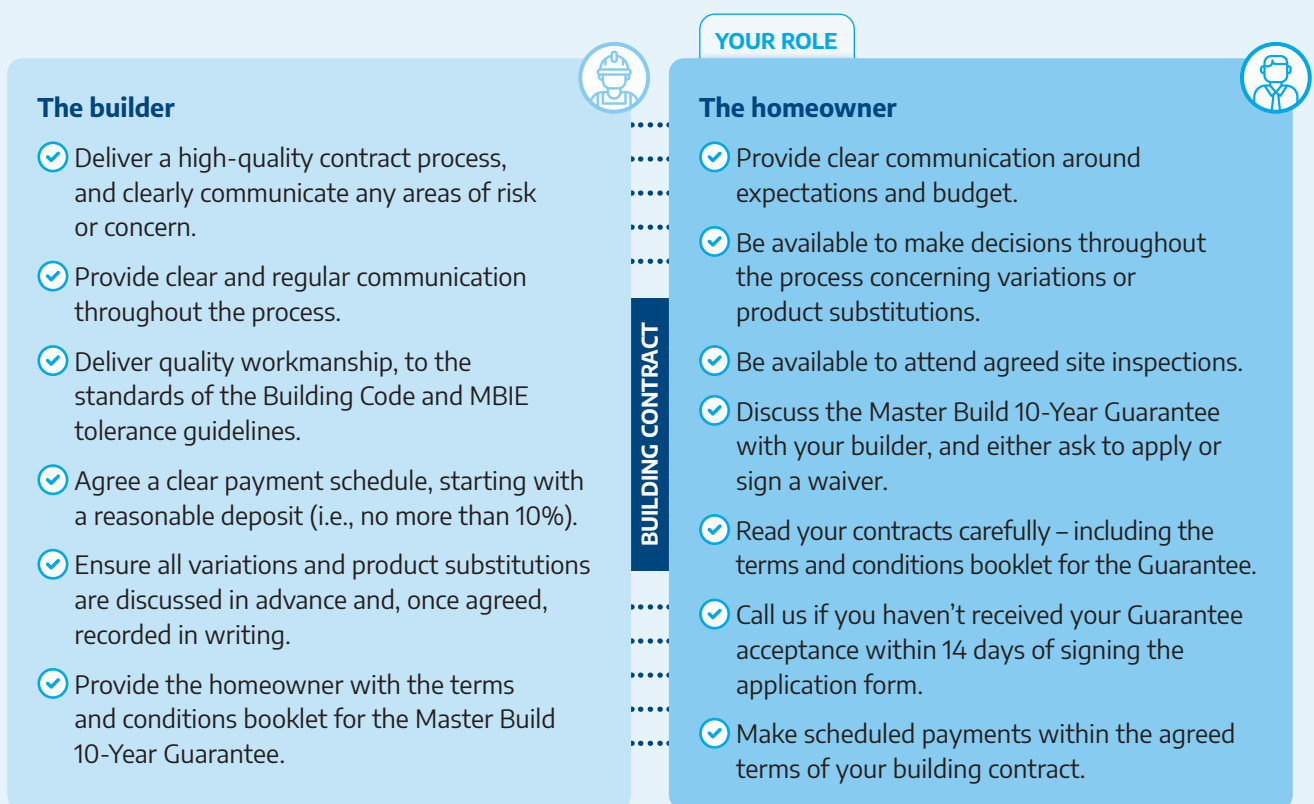
Understanding defects and tolerances

Talk to your builder about the finishing you require. While the Building Code sets out the minimum standards a builder must work to, there is also a guide to tolerances which outlines acceptable levels of workmanship. This guide is developed by the Ministry of Business, Innovation and Employment (MBIE) and it establishes the benchmark for builders to work to. We recommend homeowners review this to understand what constitutes a building defect and levels of tolerance. The guide covers aesthetic issues rather than issues of non-compliance with the Building Code. Discuss this with your builder; if you require a higher-quality level of workmanship it may mean additional time and costs, and this will need to be covered in the contract specifications.

This discussion up front ensures you can manage expectations. You should also discuss how and when defects in the building work will be remedied. It is normal for there to be minor issues that need to be resolved during the build process. Some of these may require coordination with subcontractors, so may take time. Your builder will be able to advise on this process.

The elements of a smooth build process

Once a contract is signed with your builder, both parties should commit to ensuring they follow their obligations for a smoother build process.



Supporting the process – Registered Master Builders Association (RMBA)

- ✓ Offer the Master Build 10-Year Guarantee.
- ✓ Provide a high-quality building contract (RBC1), which is designed for current market conditions.
- ✓ Provide resources for your builder to ensure they are a well-run business and understand regulatory requirements.
- ✓ Provide homeowners with trustworthy information to support their planning and knowledge of the building process.
- ✓ Provide a free, independent disputes resolution service (Fair Way Resolution).
- ✓ Offer a code of conduct complaint process.

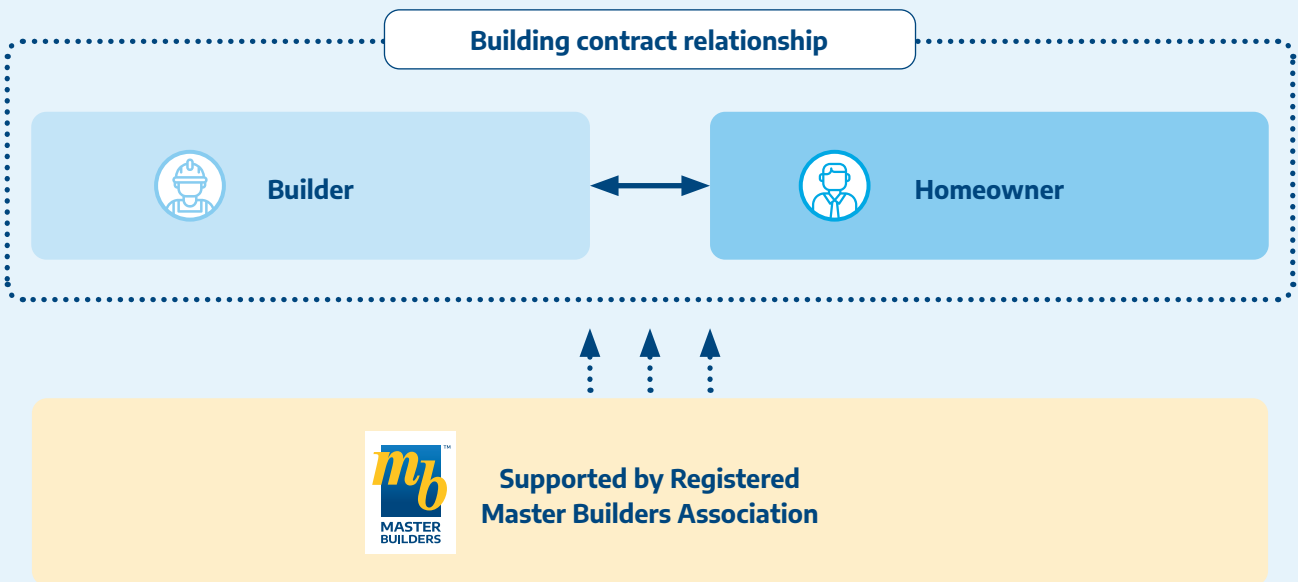


Understanding who your contract is with

The building contract is between the homeowner and builder

Your building contract is a legal document between you and your builder. Registered Master Builders Association and Master Build Services (the subsidiary of Registered Master Builders that manages the Guarantee) are not a party to the contract. It is the responsibility of you and the builder to resolve any contractual disputes.

The role of the Registered Master Builders Association is to provide support to both parties. We do this through providing a standard form contract which, we believe, represents a fair and reasonable allocation of risk between the homeowner and the builder. We also provide our members and their customers with free access to an independent disputes resolution service if something does go wrong. We support our master builders to maintain high levels of business standards with leadership and development opportunities. We also provide homeowners with information and advice about the building process.



The Master Build 10-Year Guarantee contract is between the homeowner, the builder and Master Build Services*

When you are agreeing your contract, your builder must offer you a guarantee if there is one available. A Master Builder will offer you the Master Build 10-Year Guarantee. If you decide not to take up the offer of the Guarantee you will need to sign a waiver which will be sent to Master Build Services. If you choose to take up the Guarantee, your builder must send the documentation to Master Build Services before work starts. If you do not hear from Master Build Services within 14 days of applying for your Guarantee, you must call them immediately.

Once your Guarantee application has been accepted, the Guarantee is a contract between the homeowner, the builder and Master Build Services.

The Guarantee does not cover contractual disputes between you and your builder.



Master Build 10-Year Guarantee contract relationship



Your master builder

+



Master Build Services

+



Homeowner



What you get with a Master Build 10-Year Guarantee

- ✓ The most comprehensive cover on the market, including cover for loss of deposit and non-completion. It also provides stronger protection than the Building Act and Consumer Guarantees Act for structural defects, workmanship and materials.
- ✓ The Guarantee provides cover for your build if it is established that your builder is unable or unwilling to finish the project or address defects.
- ✓ We will either find you a replacement Master Builder to finish the uncompleted work and/or pay you any money due to you under your claim.

*Master Build Services is the subsidiary of Registered Master Builders. Master Build services manages the Master Build 10-Year Guarantee.

Talk to us

At any point during your Guarantee cover, we'd be happy to hear from you.



Phone:

0800 762 328 or
(04) 385 8999



Email:

help@masterbuilder.org.nz

Guides for homeowners

For more information and assistance, check out our other guides for homeowners at [masterbuilder.org.nz](https://www.masterbuilder.org.nz)



Master Build 10-Year Guarantee



What to consider before you start renovating



How to make a claim on your Master Build 10-Year Guarantee



What to do if something goes wrong when building

About this guide

This guide is intended to provide practical tips for homeowners before proceeding with their build. It is not intended as legal advice. We recommend homeowners discuss any concerns they may have about the particular building contract with their builder and, where unsure, seek legal advice.

Glossary

Building Code	Sets out the minimum standards a builder must work to. The Code is contained in regulations under the Building Act 2004. The Act governs the building sector and also sets out the rules for the construction, alteration, demolition and maintenance of new and existing buildings in New Zealand.
Defects	It is normal for there to be minor issues that need to be resolved during the build process. Your builder will address these at key stages in the project. Some of these may require co-ordination with subcontractors. It is important you understand what constitutes a defect. MBIE issues a guide to tolerances which outlines the acceptable levels of workmanship in New Zealand.
Disputes resolution service	A voluntary process which brings the builder and homeowner together for a facilitated discussion. The facilitator is a neutral external party and does not take sides with either the homeowner or the builder. They do not make decisions or provide legal advice, rather they encourage both homeowner and builder to provide options and solutions to reach resolution. This process can help resolve contract and construction issues such as communication, quality, payment, and design.
Guide to tolerances	Outlines acceptable levels of workmanship. This guide is developed by the Ministry of Building, Innovation and Employment (MBIE) and it covers aesthetic issues rather than issues of non-compliance with the Building Code.
Independent legal advice	All homeowners should seek independent legal advice when entering into a building project. Ideally your lawyer should have experience with construction projects, as they will be best placed to explain the contracts and identify the key risks. Your lawyer should review your building contract and your guarantee.
Insolvency cover	Cover for your build if it is established that your builder goes into liquidation during or after your project.
Master Build Services	Master Builder Services is a limited liability company, which is 100% owned by Registered Master Builders. It manages the Guarantee.
Notice of Practical Completion	Practical completion is where the building work on your home is finished, except for minor defects or incomplete work that doesn't prevent you from moving in and living in your home. A Notice of Practical Completion is the document that you and your builder sign agreeing that the build has reached practical completion.
Payment schedule	Your contract should include a payment schedule, which means you pay for work as it is completed.
Substitutions	When a product is changed from what was originally specified. Your builder should get written confirmation and agreement to any substitution from what is in the contract. You should discuss the process for managing substitutions with your builder, and this should be included in your building contract.
The Master Builders Contract (RBC1)	The Master Builders Contract (RBC1) is the market leading building contract in New Zealand. It is long-standing, and regularly reviewed by an independent, expert lawyer to ensure it remains relevant for local conditions and is transparent and fair. RBC1 is in line with other contracts in New Zealand, including the Standards New Zealand 3910 contract, and the New Zealand Institute of Architects contract.
Variations	Any changes that are made to the original contract. This could be because you change your mind, or an unforeseen issue arises, or a product is unavailable. Your builder should get written confirmation and agreement to any variation to the contract or costs. You should discuss the process for managing variations with your builder, and this should be included in your building contract.