

**In the matter of the Chartered Professional  
Engineers of New Zealand Act 2002**

**Appeal 14/24**

**AND**

**In the matter of an appeal to the Chartered  
Professional Engineers Council pursuant to  
Section 35**

**Between**

Mr A

**Appellant**

**Against a decision of**

The Registration Authority under the  
Chartered Professional Engineers of New  
Zealand Act 2002

**Respondent**

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Decision of the Chartered Professional Engineers Council  
Dated 27 August 2025

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## Introduction

1. Mr A (“the Appellant”) has appealed a decision made by the Competency Assessment Board (“the CAB”) of the Registration Authority (“the RA”) to decline his application for re-registration as a Chartered Professional Engineer (“CPEng”), specifically in the practice field of civil and structural engineering.
2. The panel of the Chartered Professional Engineers Council convened to hear this appeal (“the Appeal Panel”) has been provided with three bundles of documents held by the RA in relation to the case, dated 8 May 2024, 27 January 2025 and 15 April 2025. The May 2024 bundle is a copy of what was provided by the RA to the Assessment Panel. The January 2025 bundle was prepared by the RA for this appeal and this bundle was updated in April 2025 to include two additional documents the RA requested, and was given leave by the Appeal Panel, to include. As the result, only the 8 May 2024 (“Reassessment BOD”) and the 15 April 2025 (“Appeal BOD”) are referred to in this decision.
3. References to specific pages within the two referenced bundles are annotated “[Reassessment BOD nn]” and “[Appeal BOD nn]”.
4. The RA was granted leave by the Appeal Panel to be heard and provided submissions in this matter.
5. With the agreement from all parties, the Appeal Panel conducted the hearing of this appeal on the papers.
6. Key correspondence and submissions relating to this appeal are listed in Schedule 3.

## The Legislation

7. Legislation considered by the Appeal Panel is presented in Schedules 1 and 2.
8. The right of appeal in respect of decisions of the RA is established by s 35 of the Chartered Professional Engineers of New Zealand Act 2002 (“the Act”).
9. Appeals to the Chartered Professional Engineers Council (“CPEC”) are by way of rehearing (s 37(2) of the Act).
10. The requirements for the appeal process are contained in the Chartered Professional Engineers of New Zealand (Appeals) Regulations 2002 (“the Regulations”).

11. The Appeal Panel is entitled to confirm, vary or reverse a decision (or part of decision) under appeal (s 37(5)(a)), refer the matter back to the RA for it to reconsider, either generally or in relation to specific matters, the whole or any part of the decision (s 37(5)(b)), and may make any decision that could have been made by the decision authority (s 37(5)(c)).
12. Following *Austin, Nichols & Co Inc. v Stichting Lodestar* [2008] 2 NZLR 141, the Appeal Panel is entitled to take a different view from the CAB, but the Appellant carries the burden of satisfying the Appeal Panel that it should do so.
13. The District Court in *Deo v Chartered Professional Engineers Council* [2024] NZDC 22169 in applying the Court of Appeal’s judgment in *Green v Green*<sup>1</sup>, stated that the application of *Austin, Nichols* means that while it is an appellant decision-maker’s obligation to “form its own independent judgment on the merits of an appeal by way of rehearing”...“it is still axiomatic that the appellant bears the onus of persuading the appellate court to reach a different conclusion. Of necessity, in discharging that onus the appellant must identify the respect in which the judgment under appeal is said to be in error.”
14. The CAB is appointed by the RA under rule 77 of the Chartered Professional Engineers of New Zealand Rules (No 2) 2002 (“the Rules”) and has delegated authority to make registration decisions.

## **Background**

15. The Appellant has a Bachelor of Engineering (Civil), 1992, from the University of Auckland.<sup>2</sup>
16. The Appellant was previously registered as a Chartered Professional Engineer (“CPEng”) in the practice fields of civil and structural engineering. They were removed from the register in 2019 as a result of a disciplinary process and barred from reapplying for a period of two years<sup>3</sup>.
17. Because the Appellant’s disciplinary background forms the basis of argument in relation to the decision under appeal, the Appeal Panels sets out some detail on that background below.
18. Based on the documents provided by the Appellant and the RA, the Appeal Panel understands the following is the relevant sequence of events in relation to the disciplinary process:

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<sup>1</sup> *Deo v Chartered Professional Engineers Council* [2024] NZDC 22169 at [46], citing *Green v Green* [2016] NZCA 486 at [30]

<sup>2</sup> Appeal BOD 3 (noting that in Reassessment BOD 086 it is referred to as a Masters of Engineering)

<sup>3</sup> Reassessment BOD 082

- (a) On 24 January 2013 a complaint was laid about the professional conduct of the Appellant. The complaint was investigated by the RA in line with the disciplinary processes at the time. The Disciplinary Committee issued its decision on 18 February 2014<sup>4</sup> that the Appellant should be censured, an article published in Engineering Dimension (the RA's publication of the time), a Public Notice placed in the Bay of Plenty Times, and a fine imposed.<sup>5</sup>
- (b) On 16 February 2016 a second complaint was laid about the professional conduct of the Appellant by a different party to the first. The complaint was investigated by the RA in line with the disciplinary processes at the time. The Disciplinary Committee issued its decision on 5 July 2018<sup>6</sup> in which it dismissed the complaint but noted that it considered that the Appellant had not displayed good practice with respect to his record keeping and documentation of site visits.<sup>7</sup>
- (c) On 2 December 2016, a third complaint was laid about the professional conduct of the Appellant by a new party. The complaint was investigated by the RA in line with the disciplinary processes at the time. The Disciplinary Committee issued its decision on 25 June 2019<sup>8</sup> in which it ordered that the Appellant's registration as a CPEng be removed and that he could not reapply for a period of two years.<sup>9</sup>
19. In July 2022 the Appellant applied and was reinstated on the Chartered Professional Engineers' Register<sup>10</sup>. This registration was limited to two years.
20. In March 2023 the RA was contacted by Council A which raised concerns about the Appellant's ethical practices and that this had been also raised with the Council A by a third party in relation to how the Appellant had used their documentation<sup>11</sup>. Council A indicated at that time, Council B had similar concerns.
21. The email exchange between the RA and the Appellant regarding this concern is documented in the Reassessment BOD<sup>12</sup>. It began on 15 June 2023, when the RA contacted the Appellant about informal concerns raised with the RA by a third party who claimed the Appellant had made changes to documents not authored by the Appellant, without clear attribution or

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<sup>4</sup> Reassessment BOD 001 to 012

<sup>5</sup> Reassessment BOD 012

<sup>6</sup> Reassessment BOD 012 to 027

<sup>7</sup> Reassessment BOD 027

<sup>8</sup> Reassessment BOD 028 to 083

<sup>9</sup> Reassessment BOD 083

<sup>10</sup> Appellant submissions Attachment A

<sup>11</sup> Reassessment BOD 166 to 206

<sup>12</sup> Reassessment BOD 215 to 221

consent. The Appellant replied on 18 June 2023, noting they were overseas and requesting clarification. Between 18 and 21 June 2023, several emails were exchanged as both parties sought to clarify the nature of the concern. The RA followed up again on 11 July, prompting the Appellant to submit a Privacy Act request for correspondence with Council A, which was subsequently provided. On 16 August, the RA sent another follow-up. The Appellant responded on 21 August with further questions. In an effort to summarise the Appellant's position, the RA sent a detailed email on 31 August 2023, followed by a final reminder on 8 September 2023. The Appellant responded on 14 September 2023 suggesting the RA take the previously supplied response and questions from the Appellant to Council A.<sup>13</sup>

22. Likewise, the email exchange between the RA and the concerned third party is also documented in the Reassessment BOD between 15 June 2023 and 29 September 2023<sup>14</sup>. In the final email provided sent by the RA to the third party it was noted that the RA would "discuss and come back to you as soon as possible." No further correspondence on this matter appears in the Reassessment BOD bundle beyond that date.
23. The RA concluded on the concerns raised in 2023 without progressing them through a disciplinary process. The final email from the RA on the matters raised in 2023 is dated 9 October 2023 and sent to the Appellant, in which the RA stated:<sup>15</sup>

*The matter was discussed at an internal triage committee meeting on Friday. At this stage, the matter is not being treated as a formal complaint. However, this information will be held on file and will, pursuant to rule 25(1)(d), be provided to the Assessment Panel appointed to evaluate your application for continued registration next year. The Panel may want to discuss this with you during its evaluation of your application.*

24. Sometime in 2024 the Appellant submitted an application to the RA for continued registration as a CPEng in the practice fields of civil and structural engineering with a practice area description of "The design and observation of low rise residential and commercial structures, including related civil engineering and land development activities."<sup>16</sup>
25. Documentation associated with this application, and made available to the Assessment Panel, includes self-assessment, two referees, and evidence records for five work samples.<sup>17</sup>
26. The date this documentation was submitted to the RA has not been able to be confirmed given the shortcomings of the RA system at the time. The download date was inserted into

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<sup>13</sup> Appeal BOD 121

<sup>14</sup> Reassessment BOD 207 to 214

<sup>15</sup> Appeal BOD 121

<sup>16</sup> Appeal BOD 3

<sup>17</sup> Appeal BOD 2 to 107

documentation rather than retaining the original completion date, as outlined by the RA in their submissions<sup>18</sup>. It is assumed to be prior to the RA convening a two-person assessment panel comprised of Lead Assessor [name withheld], and Practice Assessor [name withheld] in May 2024<sup>19</sup> (“the Assessment Panel”). The assessors confirmed they had no conflict of interest in September 2024.

27. The first evidence of interaction between the Appellant and the Assessment Panel in the Appeal BOD is an email from the Lead Assessor, dated 14 May 2024 informing the Appellant that they had been appointed lead assessor together with the name of the Practice Area Assessor and requesting the confirmation of availability for the interactive interview in the last two weeks of May<sup>20</sup>. After some further exchanges, the interactive interview was scheduled for 7 June 2024 and on 31 May 2024 the Lead Assessor requested further information (“RFI”) from the Appellant pertaining to the Appellant’s Application:<sup>21</sup>

1. *As you know, your CPEng reassessment interactive is scheduled for 7 June 2024. In preparation for this, the assessment panel appointed to assess your reassessment has identified several areas where we would like more information.*

#### **July 2022 Reassessment**

2. *We understand that you were reassessed and put on the register on 20 July 2022 for a two-year period. The previous Panel noted in their report to the CAB that you had changed the way you worked following your removal from the register (in reference to Council A v Mr A reference XXX).*
3. *However, **the Panel noted you had not undertaken any continued professional development activities relevant to the issues the Disciplinary Committee made findings on.***
4. *Notes from the previous Panel’s 2022 reassessment state:*

*“We have also recommended some specific **CPD in professional ethics and (technical) driven pile design** be undertaken before his next assessment (and at “ [the Appellant’s] ” earliest opportunity) ... Resulting from the June report review, we also recommend **further training in the area of personal development around dealing with people and collaborative working.***

*The recommendation for a reduced term is to permit “ [the Appellant] ” time to complete necessary and recommended CPD noted.*

*Any ongoing tension in working relationships with the various BCA organisations he works with should **be addressed by further mentoring and training in collaborative working practices.***

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<sup>18</sup> RA Submissions para 21 to 23

<sup>19</sup> Appeal BOD 108

<sup>20</sup> Appeal BOD 114

<sup>21</sup> Appeal BOD 115 to 117

" [the Appellant] " says he now operates in a less confrontational manner and has adjusted his approach to Council A, Council B and MBIE.

We recommend **a more rigorous approach to recording his CPD** and recommend he **undertake some specific training, as noted elsewhere to improve his working relationship with regulatory bodies.**

" [the Appellant] " reports that most of his clients still retain his services. He also believes that his relationships with the BCA's have improved and are no longer an issue. He works to ensure he operates in a strictly professional manner". [sic]

#### **Matters arising since your 2022 assessment**

5. In March 2023 the Council A contacted Engineering New Zealand (ENZ) about difficulties it was encountering with you.
6. Council raised concerns about your work on the building consent application XXX in relation to new commercial premises at Property. Council were concerned that the drawings related to this application were modified by you without the knowledge or consent of the original engineer (LDE).
7. On 14 June 2023 ENZ emailed you raising the issue and inviting you to respond.
8. ENZ made it clear that it was not a formal complaint, and it wanted your "response so that we can better understand what has happened".
9. ENZ emailed you a total of seven times requesting your perspective (15, 18, 21 June 2023, 11 July 2023, 16, 31 August 2023, 8 September 2023).
10. You responded with a Privacy Act request on 13 July 2023. ENZ complied with this and sent you all requested information on 7 August 2023.
11. On 21 August you asked that ENZ put questions back to the Council and LDE.
12. Your questions were:
  - a) How did the building consent amendment that Mr A lodged lack sufficient specificity to distinguish the amendment from the approved building consent?
  - b) Whose authorisation does the Council consider Mr A needed to obtain for use in the amendment of consent documents that are on the public record?

Why is such authorisation required?
  - c) What is expected of an engineer who is asked by a client to correct the mistakes of another, such as in this instance?
13. Despite this correspondence and the Privacy Act information sent to you, ENZ noted it did not receive a substantive response from you to its initial query of 15 June 2022.

#### **Summary of Request for Information (RFI) required by new Reassessment Panel for interview on 7 June 2024.**

14. Please provide your response, including evidence if applicable, on how you have incorporated the findings of the Disciplinary

*Committee ref XXX and the recommendations of the 2022 reassessment Panel, into your practice. These findings and recommendations are highlighted in bold in sections 3 and 4 above.*

*15. Please provide your response to the issue raised by Council in regard to Building Consent application XXX and in light of the matters raised in the findings of the Disciplinary Committee ref XXX and the recommendations of the 2022 reassessment Panel (per sections 5-14 above).*

*16. You will also have the opportunity to comment on these matters during your interactive assessment and, if necessary, provide further information after the interactive.*

*17. The RFI should be completed 5 June 2024*

28. The Appellant responded to the RFI on 4 June 2024.<sup>22</sup> They highlighted participation in several CPD activities, including a webinar on engineering ethics hosted by Engineering New Zealand (“ENZ”) in July 2023, and other sessions covering topics such as professional boundaries, legal risk, and building consent challenges. The Appellant also referenced broader learning through podcasts and readings on professional ethics, particularly around the evolving role of professional codes in regulatory environments. On the technical side, the Appellant outlined having attended webinars and seminars focused on driven pile design, including events hosted by SESOC and ENZ in late 2023.
29. To demonstrate improved collaboration with regulatory bodies, the Appellant provided two recent examples. They said that, in March 2024 they proactively contacted a Council A official to understand the rationale behind a section 73 notice and, in May 2024, they had reached out to a Council A contact to help resolve a client’s rejected building consent. These actions, they suggested, reflected a move to a more constructive and cooperative approach.
30. Regarding the Council issue involving the building consent amendment for Property, the Appellant responded to the Assessment Panel’s query outlining that the amendment was processed without issue and that they were unaware of any concerns until contacted by the RA while they were overseas. They explained that legal and professional advice was sought upon returning and that further clarification was requested from the RA and Council to better understand the allegations. The Appellant stated they believed that the RA’s decision not to pursue the matter further indicated it lacked sufficient substance and expressed a willingness to discuss the issue in more detail during the upcoming interview with the Assessment Panel.
31. The interactive interview was not held on 7 June 2024 as planned due to “a personal matter” (of one of the Assessment Panel) and was rescheduled for 21 June 2024<sup>23</sup>.

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<sup>22</sup> Appeal BOD 118 to 121

<sup>23</sup> Appeal BOD 109 to 111

32. Following the interactive, a second RFI was sent to the Appellant on 1 July 2024 requesting clarification on the Appellant's work samples. The Assessment Panel asked for missing technical details, justification for design choices, and clarification of roles and responsibilities in collaborative projects. They also questioned the use of outdated standards, lack of structural detailing, and the appropriateness of modifying others' drawings. The Appellant was asked to explain how these issues affect design integrity and compliance.<sup>24</sup>
33. On 6 September 2024 the Registrar informed the Appellant by email that the CAB had reviewed the Assessment Panel's recommendation and proposed to decline the Appellant's application for continued registration as a CPEng<sup>25</sup>.
34. The letter of the same date attached to the email outlined the reasons for declining the application as the followings:<sup>26</sup>
  1. *Rule 20(a)(i): Insufficient evidence to demonstrate you are still able to practise competently in your current practice area to the standard of a reasonable professional engineer; specifically:*
    - a. *6(2)(a)(i): Insufficient evidence to demonstrate knowledge of accepted principles underpinning widely applied good practice for professional engineering*
    - b. *6(2)(a)(ii): Failed to demonstrate knowledge of good practice for professional engineering.*
    - c. *6(2)(b): Insufficient evidence to demonstrate you define, investigate, and analyse complex engineering problems in accordance with good practice for professional engineering*
    - d. *6(2)(c): Insufficient evidence to demonstrate you design or develop solutions to complex engineering problems in accordance with good practice for professional engineering*
    - e. *6(2)(d): Insufficient evidence to demonstrate sound professional engineering judgement*
    - f. *6(2)(e): Insufficient evidence to demonstrate responsibility for making decisions on part or all of one or more complex engineering activities*
    - g. *6(2)(f): Insufficient evidence to demonstrate managing part or all of one or more complex engineering activities in accordance with good engineering management practice*
    - h. *6(2)(g): Insufficient evidence to demonstrate how you identify, assess, and manage engineering risk*
    - i. *6(2)(h): Insufficient evidence to demonstrate you conduct their professional engineering activities to an*

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<sup>24</sup> Appeal BOD 122 to 123

<sup>25</sup> Appeal BOD 284

<sup>26</sup> Appeal BOD 285

*ethical standard at least equivalent to the code of ethical conduct*

*j. 6(2)U): Insufficient evidence to demonstrate you communicate clearly to other engineers and others that you are likely to deal with in the course of your professional engineering activities*

*2. Rule 20(b): Insufficient evidence to demonstrate that you have taken reasonable steps to maintain the currency of your professional knowledge and skills within their practice area since your last assessment in 2022.*

35. A copy of the Assessment Report dated 16 August 2024 was also attached to the 9 September 2024 email from the RA<sup>27</sup>. The conclusion on engineering complexity and technical competency from the Assessment Panel provided in the report was:<sup>28</sup>

*Complexity was discussed during the interview related to the applicant's work samples, as well as his CV and additional information provided. However, the evidence was not adequate, nor did it cover the range of areas that the applicant had proposed in his PAD, to demonstrate his competency in complex engineering.*

*Based on the information available, the Panel considers that the applicant has not demonstrated competency in complex engineering as defined by CPEng Rule 7.*

*The Panel concludes that the applicant's evidence does not demonstrate that he is acting at a level of technical competency required of a professional engineer.*

*The Panel was not satisfied that the applicant was able to discuss and demonstrate that he has an understanding of the assumptions and engineering principles applying to his work.*

*The applicant was not able to demonstrate an understanding or application of the relevant NZ standards as would be expected of a professional engineer. Nor was he able to demonstrate his ability in dealing with complex engineering problems that required developing solutions from first principles where there was no obvious solution and required him to develop original methods of analysis and assessment.*

*The work samples also did not provide evidence of the applicant's competency in working across disciplines, stakeholders (such as council consent officers) and clients. This was noted to be a concern in the Disciplinary Committee and Assessors' report to CAB (2022) as previously discussed.*

*Based on the portfolio of evidence provided, the Panel is of the view that the applicant has not demonstrated that he is acting at the competency level expected of a professional engineer.*

36. On 3 October 2024<sup>29</sup> the Appellant wrote to the RA raising concerns about the fairness of their CPEng reassessment. The Appellant questioned the impartiality of the Lead Assessor, citing a potential conflict of interest due to the assessor's professional relationship with a former Council A employee. The Appellant noted that the former employee had been

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<sup>27</sup> Appeal BOD 287 to 310

<sup>28</sup> Appeal BOD 299 to 300

<sup>29</sup> Appeal BOD 314 to 321

involved in legal proceedings, which had previously led to the Appellant's prosecution and which had been subsequently overturned in the High Court<sup>30</sup>. They suggested that this connection may have influenced the reassessment process.

37. The Appellant also disputed the Assessment Panel's conclusion that the Appellant's conduct did not meet the standard of a reasonable professional engineer. They stated that their actions were consistent with professional norms and that they had consulted with other engineers who supported their approach. They further noted that the building consent amendment at issue had been discussed with Council inspectors and followed their guidance.
38. In addition, the Appellant expressed concern that the Assessment Panel had relied on prior allegations and assessments which the Appellant believed were inaccurate and/or biased. They maintained that their work was competent and ethical and challenged the validity of claims made by a Building Consent Authority representative involved in previous legal proceedings<sup>31</sup>.
39. The Appellant also attached a copy of the what they say is the version of the 2022 Assessment Report<sup>32</sup> dated 16 August 2022 that they received and noted, "*I received a copy of the Assessment Report dated 16/08/22 (copy attached), which only contained parts of the 06/09/23 report, and excludes all of the evaluation and assessment sections including the details of the recommendations and conditions imposed for this current reassessment for. [sic] professional development*", having earlier in the letter noted that "*My most recent past Assessment Report dated 06/09/23, that the panel had a copy of and I was evaluated against in regards to its content and recommendations, is quite difference to the report I received and the recommendations suggested to me before this current reassessment. The Assessment Report dated 06/09/23, I received immediately prior to the scheduled interactive assessment interview on the 31/05/24.*"<sup>33</sup>
40. On 30 October 2024, the RA wrote to the Appellant, informing them that:<sup>34</sup>

*At their meeting in October, the CAB carefully reviewed your submission and made the final decision to decline continued registration as a Chartered Professional Engineer for the same reasons stated in the proposed decision. The submission received*

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<sup>30</sup> *Tauranga City Council v Cancian* [2020] NZDC 25470, *Tauranga City Council v Cancian* [2021] NZDC 7606 and *Cancian v Tauranga City Council* [2022] NZHC 556.

<sup>31</sup> *Ibid.*

<sup>32</sup> Appeal BOD 318 to 321

<sup>33</sup> Appeal BOD 315 to 316, the Appeal Panel note that RA Assessment report (Appeal BOD 289) notes the date of the interactive as 21 June 2024 and assumes the date referenced here is the date the Appellant received Reassessment BOD

<sup>34</sup> Appeal BOD 323 to 324

*from you did not adequately address the reasons for the proposed decline and was insufficient to change the original recommendation.*

41. The reasons for declining continued registration were the same as those listed in the letter of 6 September 2024.
42. A copy of the final decision Assessment Report dated 30 October 2024 was attached to the letter.<sup>35</sup>
43. The Appellant lodged a notice of appeal with CPEC against the CAB decision on 30 October 2024.

#### **Evidence received**

44. Under clause 15 of the Regulations, the Council may receive any evidence that the RA would have been entitled to receive on the decision being appealed.
45. On 23 January 2025, the RA sought permission from the Appeal Panel to include two documents in the BOD, namely:
  - (a) A Court of Appeal decision about Mr A and others dated 11 October 2024
  - (b) Review of Assessment Procedures dated 14 January 2025
46. After receiving a submission from the RA as to why these documents should be allowed to be produced in the appeal, and the Appellant confirming it had no objection to their inclusion, the Appeal Panel accepted their inclusion.
47. The evidence considered by the Panel in arriving at its decision in this appeal included:
  - (a) Notice of appeal dated, and received on, 30 October 2025 (“Notice of Appeal”).
  - (b) The paginated 8 May 2024 Bundle of Documents [Reassessment BOD 1 to 221], provided by the RA on 27 January 2025.
  - (c) RA Submission on inclusion of additional documents dated 13 March 2025.
  - (d) The paginated 15 April 2025 Bundle of Documents [Appeal BOD 1 to 391], provided by the RA on 24 April 2025 (which superseded the 27 January Bundle of Documents provided by the RA on 27 January 2025).

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<sup>35</sup> Appeal BOD 325 to 355

- (e) Submissions for the Appellant dated 7 April 2025
- (f) Submissions for the RA dated 24 April 2025
- (g) Submissions for the Appellant in reply dated 2 May 2025.

### Grounds of appeal and outcome sought

48. The Appellant's Notice of Appeal cites the following grounds of appeal:<sup>36</sup>

*This appeal is based on the grounds that the decision of the RA failed to follow the specified procedure required of the RA by the Chartered Professional Engineers of New Zealand Act 2022 [sic] s.25(c), for making the decision in observance of the rules of natural justice required of decision authorities by s.25(b), and also the RA failed to give written notice of reasons for the RA's prior (2022) decision at the conclusion of the registration application in 2022 as required under s.25(a).*

*At the conclusion of the successful registration application on the 20 July 2022, I obtained a copy of the Assessment Report dated 16 August 2022. This report was obtained in response to a specific Privacy Act 2020 request to Engineering New Zealand (ENZ), for the assessment panel's report to the CAB, plus any further information relating to the registration application between ENZ, the Assessment Panel and the CAB.*

*The Assessment Report dated 16 August 2022 along with the other information provided by ENZ in reply to the Privacy Act 2020 request, contained no reasons for the RA's decision to grant the CPEng registration term for only two years, with reassessment for continued registration required in 2024. Nor did the Assessment Report dated 16 August 2022 provided, contain any recommendations or advice for continued professional development (CPD) in professional ethics and (technical) driven pile design be undertaken before the next assessment. Or any other recommendations or reasons for the decision to grant a limited term of registration, such that I may be aware of and so advised to take the opportunity to meet any recommended requirements for continued registration in 2024.*

*In this application for continued registration I was provided on the 31 May 2024 from the current assessment panel, a copy of the prior 2022 Assessment Report dated 6 September 2023. This latest copy (6 September 2023) of the 2022 Assessment Report contained the sections of the 16 August 2022 version of the Assessment Report which I only obtained via the Privacy Act 2020 request. But the 16 August 2022 version provided by ENZ did not contain any of the reasons and recommendations along with advice provided for the purposes of moderating between assessments for continued registration which is contained in the 6 September 2023 version, and which the RA had and so provided to the current assessment panel for considering the current application. I understand ENZ claim the Assessment Report dated 6 September 2023 provided to the recent assessment panel for consideration, has not been edited since (?) July 2022.*

*Therefore the RA failed to comply with the specified procedure to give written notice and reasons for the 2022 decision to grant the CPEng registration term for only two years, along with compliance under the Privacy Act 2020 for the relevant information requested.*

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<sup>36</sup> Notice of Appeal Section 5

*This failure by the RA has disadvantaged my recent application for continued registration and in addition to a breach of the RA requirement in the performance and exercise of its decision-making functions and power to observe the rules of natural justice, is also a breach of the Privacy Act 2020.*

*Additionally during the interactive assessment with the assessment panel, I became aware that the lead assessor had a conflict of interest by way of a close working relationship with a colleague whom I have an unpleasant and destructive legal dispute with, that in the words of MBIE was operating beyond their statutory responsibilities, and so lost their employment at the time.*

*This undisclosed conflict of interest I consider has resulted in the assessment panel being tainted and so influenced their recommendations to not be considered fair and impartial. A conflict of interest by this relationship with the Lead Assessor is recognised even by the perception, in the guide by the Auditor-General in managing conflict of interest.*

*I find it implausible that in the two years since the previous competency assessment, and after over 30 years practicing as a professional engineer with numerous reassessments, that now I am unable to demonstrate to this is panel acting impartial based on the evidence, to practice competently to the standard required of a reasonable CPEng Engineer.*

*This conflict of interest in the assessment panel and resulting impartially which has influenced the RA in its decision to decline the application for continued registration, is considered a breach of the rules of natural justice required of decision authorities by s.25(b).*

49. The Appellant is seeking to have the decision of the CAB to decline their application for continued registration reversed<sup>37</sup>.

### **Discussion – Consideration of grounds of appeal**

50. For the Appellant's application for continued CPEng registration to have been successful, they needed to demonstrate to the Assessment Panel, and ultimately to the CAB, that they meet the minimum standard for continued registration<sup>38</sup> as set out in rules 20 and 6 of the Rules (see Schedule 2 to this decision).<sup>39</sup>
51. Based on consideration of the grounds of appeal and submissions from the Appellant and the RA, the following aspects have been identified by the Appeal Panel as core to the grounds of appeal:
- (a) **Procedural failures in 2022:** The Appellant claims the RA failed to follow proper procedures in 2022 and breached s 25(a), (b) and (c) of the Act by failing to provide written reasons for its 2022 decision, denying them a fair chance to fully comply with any specified conditions or requirements for continued registration and to appeal the

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<sup>37</sup> Notice of Appeal Section 6

<sup>38</sup> Section 11 of the Act

<sup>39</sup> The Chartered Professional Engineers of New Zealand Rules (No 2) 2002

decision within the specified timeline. In response, the RA maintains that the correct report with reasons was sent in July 2022 and to their knowledge they did not provide the reduced report (dated 16 August 2022) to the Appellant.<sup>40</sup> The RA go on to argue that they “... find it implausible that, on supposedly receiving this report, Mr A did not notice these omissions and think to query them with the RA.”<sup>41</sup>

- (b) **Impact on 2024 reassessment:** The Appellant argues that not receiving the full 2022 report hindered their preparation for the 2024 reassessment, leaving them unaware of CPD expectations and unfairly judged against undisclosed criteria. The RA counters that the correct report was provided in July 2022, clearly outlining CPD requirements, and asserts that the 2024 reassessment identified substantive professional deficiencies and ethical concerns unrelated to procedural issues. They go on to claim that the Appellant “... had ample opportunity to raise this matter during the 2024 assessment period, including when he was provided with the 20 July 2022 report in advance of the interactive, during the interactive meeting, or immediately afterwards. Instead, “[the Appellant] “waited until he was provided with the 2024 provisional report to raise this matter with the RA.”<sup>42</sup>
- (c) **Conflict of interest:** The Appellant alleges a perceived conflict of interest due to the lead assessor’s sharing an employer with an individual involved on the other sides of previous legal proceedings to the Appellant (described in more detail below), potentially compromising the impartiality of the 2024 reassessment. The RA denies any conflict of interest, citing the lack of a direct relationship, legal precedent, and the involvement of a multi-member panel and CAB review as safeguards against individual influence.
- (d) **Impartiality and competence:** The Appellant challenges the conclusion that they did not meet the required competency standards, citing decades of engineering experience and arguing that some expectations, such as collaboration with Building Consent Authorities, were unrealistic given their professional context. The RA maintains that the Appellant did not sufficiently demonstrate capability across several key areas and emphasises that the reassessment reflected substantive gaps in professional practice, not procedural flaws.

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<sup>40</sup> RA submission para 31

<sup>41</sup> RA submission para 35

<sup>42</sup> ibid

## The 2022 Assessment Panel Report versions

52. Before turning to each aspect of the grounds of appeal in turn, the Appeal Panel first addresses the question of whether the Appellant was provided with the full 2022 report.
53. The evidence before the Appeal Panel includes the two versions of the 2022 Assessment Panel report, namely:
1. **Version provided at Reassessment BOD 084 to 104:** Provided by the RA to the Assessment Panel on 8 May 2023 and provided to the Appellant in May 2024, dated 18 March 2024 however the RA notes on page 1 of the bundle that the correct date is 20 July 2022.
  2. **Version provided at Appeal BOD 318 to 321:** Provided by the Appellant to the RA in response to the proposed 2024 Assessment Report, dated 16 August 2022.
54. A side-by-side review of these documents shows that they are not the same document. Specifically, the front-page table and holistic statement have not been completed in the Appeal BOD 318 to 321<sup>43</sup>, nor the Evidence statement section<sup>44</sup>.
55. Neither party has been able to provide a clear reason as to why there are different versions of the report.
56. The Appellant has not offered a reason; just that it is a procedural failure, and states section 5 of the notice of appeal that:

*At the conclusion of the successful registration application on the 20 July 2022, I obtained a copy of the Assessment Report dated 16 August 2022. This report was obtained in response to a specific Privacy Act 2020 request to Engineering New Zealand (ENZ), for the assessment panel's report to the CAB, plus any further information relating to the registration application between ENZ, the Assessment Panel and the CAB.*

57. The Appellant further states in their submissions at paragraphs 2.2 and 2.7 that:

2.2 *I received the 2022 assessor's report via a link in an email dated 20 July 2022, (Attachment A). This email advised in writing the outcome of the CPEng assessment. It included a link to the Assessor's report, which details the reasons for the RA decision regarding the 2022 CPEng assessment, including notification of the two-year period between assessments.*

2.17 *This 16 August 2022 copy of the Assessor's report is the only copy of the report I was provided with and was aware of being available to me until 2024, during the 2024*

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<sup>43</sup> Reassessment BOD 084 to 090 of Appeal BOD 318

<sup>44</sup> Reassessment BOD 094 to 104

*reassessment, some two years following the conclusion of the 2022 assessment.*

58. The RA asserts that the Appellant had access to the correct version of the 2022 Assessment Report via a link in an automatically generated email on 20 July 2022. If the Appellant had downloaded the report available via the link, according to the RA, they would have received a copy which included the necessary reasons and recommendations.
59. The RA denies knowledge of the 16 August 2022 version and claims it only became aware of it when the Appellant submitted it in October 2024. They dispute<sup>45</sup> that it was attached to the response to the Privacy Act request as stated by the Appellant<sup>46</sup>.
60. This recollection of events is supported by the letter from RA on 16 August 2022 which states: *"... I understand that you were provided with a copy of the report following the conclusion of the assessment last month..."*<sup>47</sup> indicating that the link to the 2022 Assessment Report was supplied in July 2022 and not resupplied in August 2022, which is consistent with the RA's account.
61. The RA also argues that the Appellant had ample opportunity to raise any concerns about the report during the 2024 assessment period or within the 28-day statutory appeal window in 2022 but failed to do so.
62. The Appeal Panel notes that both the Appellant and the RA state that the date on the version of the report provided to the 2024 Assessment Panel and the Appellant as part of the 2024 Assessment process was 6 September 2023<sup>48</sup> rather than the document included in the Reassessment BOD of 18 March 2024<sup>49</sup>. This inconsistency is not explained in the documents supplied but is not material to this Appeal and has not been considered further.
63. Based on the evidence before this Appeal Panel it is not possible to establish beyond doubt how the two versions of the 2022 Assessment Report came to be and when the Appellant first had the opportunity to review the complete version (Reassessment BOD 084 to 104). However, the Appeal Panel acknowledges that the two versions are significantly different, specifically in relation to the reasons for the two-year term and key recommendations on what the Appellant should do prior to their next assessment.
64. The Appeal Panel now turns to each of these aspects of the grounds of appeal in turn.

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<sup>45</sup> RA Submissions 31 to 32

<sup>46</sup> Appellant Submission para 2.5 to 2.6

<sup>47</sup> Appellant Submission Appendix C

<sup>48</sup> Appellant Submissions para 2.10 and 2.12 and RA Submissions para 20 and 22

<sup>49</sup> Reassessment BOD 084

**(a) Procedural failures in 2022**

65. The Appeal Panel agrees with the Appellant that all applicants are entitled to a full account of the Assessment Process and that provision of an incomplete report, if it occurred, is not a satisfactory conclusion to a time consuming and often stressful assessment process. However, the Appeal Panel notes that, if the incomplete report was accessed via the link, the RA has subsequently changed its processes to send a complete report as an attachment, and that such a situation is unlikely to arise again.
66. However, the 2022 Assessment decision does not fall within the jurisdiction of this Appeal as it would have had to have been appealed within the 28-day timeframe of the 2022 decision and if that had been the case it would have followed a separate appeal process. Therefore, this particular aspect of the grounds for this Appeal relating to procedural matters in 2022 is not within this Appeal Panel's jurisdiction under s 35 of the Act and s 4 of the Appeals Regulations and is not considered further.

**(b) Impact on 2024 reassessment**

67. Setting aside the whether the Appellant had, or had not, access to the full report in 2022, the question relevant to this Appeal is, if the Appellant did not receive the complete report until part way through the 2024 Assessment Process, did that provide sufficient disadvantage to influence the 2024 outcome such that the decision of the CAB in 2024 is 'wrong'.
68. As previously stated, in the version the Appellant claims to have received (16 August 2022) the direct link to the reasons for the two-year term and the recommendations on what the Appellant should do prior to their next assessment were not provided, specifically the 16 August 2022 version did not contain the following passage: <sup>50</sup>

*We have also recommended some specific CPD in professional ethics and (technical) driven pile design be undertaken before his next assessment (and at ..." the Appellant's "... earliest opportunity); see below (Engineering Knowledge). Resulting from the June report review, we also recommend further training in the area of personal development around dealing with people and collaborative working. .... The recommendation for a reduced term is to permit Mr A time to complete necessary and recommended CPD noted.*

*We also recommend further training in the area of personal development and soft skills in dealing with people and collaborative working to improve his interaction with others.*

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<sup>50</sup> Reassessment BOD 090 and 102

69. There were however recommendations within the information contained in the reduced report, namely:<sup>51</sup>

*The Panel also recommends that ...” [the Appellant] “... consider undertaking some personal development by attending a current EngNZ Code of Ethics training course as a refresher. Similarly, the Panel recommends a Pile Design Workshop (to overcome a problem we noted in his assessment of the founding levels of driven piles)... The Panel recommends that ...” the Appellant “... take up more network events to gain more peer interaction, training and interchange ideas and experience... we recommend a more rigorous approach to recording his CPD and recommend he undertake some specific training, as noted elsewhere to improve his working relationships with regulatory bodies*

70. Furthermore, the Appellant states that: “At the conclusion of the 2022 CPEng assessment, I was verbally advised by the then Lead Assessor of their recommendation that I undertake some additional training regarding codes of ethics before my 2024 reassessment.”<sup>52</sup>
71. Therefore, it is clear that the Appellant was aware that there were recommendations that he needed to undertake specific CPD prior to his next reassessment.
72. The 2024 Assessment Panel drew on the more complete version of the 2022 Assessment report (Reassessment BOD 084 to 104). Specifically, the first RFI from the 2024 Assessment Panel quoted:<sup>53</sup>

*Notes from the previous Panel’s 2022 reassessment state:*

*“We have also recommended some specific **CPD in professional ethics and (technical) driven pile design** be undertaken before his next assessment (and at ...” the Appellant’s “... earliest opportunity) ... Resulting from the June report review, we also recommend **further training in the area of personal development around dealing with people and collaborative working.***

*The recommendation for a reduced term is to permit Mr A time to complete necessary and recommended CPD noted.*

*Any ongoing tension in working relationships with the various BCA organisations he works with should **be addressed by further mentoring and training in collaborative working practices.***

*...” the Appellant “... says he now operates in a less confrontational manner and has adjusted his approach to Council A, Council B and MBIE.*

*We recommend a **more rigorous approach to recording his CPD** and recommend he **undertake some specific training, as noted elsewhere to improve his working relationship with regulatory bodies.***

*...” the Appellant “... reports that most of his clients still retain his services. He also believes that his relationships with the BCA's have*

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<sup>51</sup> Appeal BOD 319

<sup>52</sup> Appellant Submissions para 2.1

<sup>53</sup> Appeal BOD 115

*improved and are no longer an issue. He works to ensure he operates in a strictly professional manner*[sic].

73. As noted above, the last four paragraphs quoted in the first RFI appear in both versions<sup>54</sup>. However, the first two paragraphs only appear in Reassessment BOD 084 to 104 version<sup>55</sup>.
74. The Appellant was given the opportunity by the 2024 Assessment Panel to provide evidence of their commitment to CPD and improving their work practices. In the Appellant's response to the first RFI, they did not raise that the requirement was new to them but rather stated that: "... As per the recommendations noted I have paid particular attention to the CPD area of professional ethics and collaborative relationships..."<sup>56</sup>
75. Furthermore, the RA notes that the 2024 Assessment Report comments that:<sup>57</sup>

*Alongside this submission, Mr A provided a copy of the 2022 report he received. We read this copy of the 2022 report and note the 2022 Panel made the following comments and recommendations (emphasis added):*

*At the interactive, we discussed Mr. A learning efforts and his records. We expressed concern that he did not appear to have attended any specific training to address the issues highlighted by the Disciplinary Panel (lack of communications, ethics, or refresher work).*

*The Panel also recommends that ..." the Appellant "... consider undertaking some personal development by attending a current **EngNZ Code of Ethics training course** as a refresher. Similarly, the Panel recommends a **Pile Design Workshop** (to overcome a problem we noted in his assessment of the foundling levels of driven piles).*

*Any ongoing tension in working relationships with the various BCA organisations he works with should be **addressed by further mentoring and training in collaborative working practices**. (See additional comment below)*

*The Panel **recommends** that ..." the Appellant "... take up **more network events** to gain more peer interaction, training and interchange ideas and experience.*

*... we recommend a **more rigorous approach** to recording his CPD and **recommend he undertake some specific training, as noted elsewhere to improve his working relationships with regulatory bodies**.*

*The 2022 report Mr A states he received and the CPD the 2024 assessment panel enquired about are materially the same in relation to CPD. From this, we consider Mr A was informed of the CPD expectation placed on him by the 2022 panel and he cannot reasonably claim he was unaware of the CPD requirements. The CAB considers the applicant's claims regarding incomplete reporting do not constitute a valid justification for his failure to meet CPD requirements.*

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<sup>54</sup> Reassessment BOD 0091 to 093 and Appeal BOD 319 to 320

<sup>55</sup> Reassessment BOD 090

<sup>56</sup> Appeal BOD 118

<sup>57</sup> RA Submissions para 40 and Appeal BOD 352 to 353

76. The Appeal Panel agrees that the essence of the recommendations was provided in the shorter version of the 2022 Assessment Report (Appeal BOD 318 to 321) with only the direct link to both the 2 year term and the recommendations on what the Appellant should do prior to their next assessment missing.
77. Furthermore, the Appeal Panel agrees that a complete report should be provided as part of the conclusion of the assessment process. However, given there was sufficient information on what was expected of the Appellant in the shorter version, even if they were not provided the complete report they have not been disadvantaged in the 2024 assessment process.
78. The Appeal Panel now turns to how these recommendations were dealt with by the 2024 Assessment Panel and if due process was followed by the 2024 Assessment Panel.
79. Rule 25(d) stipulates that when undertaking a reassessment the assessment panel must evaluate “... *any relevant information that the Registration Authority has about the candidate...*”. In this case, the 2024 Assessment Panel has access to the circumstances under which the Appellant was removed from the Register, the 2022 Assessment Report (Reassessment BOD 084 to 104) which reinstated him for a 2 year period and an account of the concerns raised by Council in March 2023.
80. The 2024 Assessment report states that:

*Given the background described above, the criteria of particular relevance to this assessment required the Panel to enquire whether the applicant is able to:*

- *Exercise sound professional engineering judgement.*
- *Conduct his professional engineering activities to an ethical standard at least equivalent to the code of conduct; and*
- *Communicate clearly to other engineers and others that he or she is likely to deal with in the course of his or her professional engineering activities.*

*In undertaking this assessment, the Panel considered:*

- *Whether the information disclosed raise any issues with the applicant’s behaviour that appear to form patterns of behaviour that may reflect poorly on his competence and/or conduct.*
- *Whether the applicant has done anything to prevent a recurrence of these issues; and*
- *Whether the applicant has undertaken any professional development recommended to him, whether via disciplinary committee decisions or following the previous CPEng assessment decision.*

81. The RFI from the Assessment Panel specifically referenced the 2022 Assessment Panel findings and gave the Appellant the opportunity to provide additional information.

82. Therefore, this aspect of the ground is not proven and there is no basis to vary or reverse the CAB's decision.

**(c) Conflict of interest**

83. The Appellant argues that an individual, involved in the previous complaints about them by Council A, was working with the Lead Assessor at the time of the 2024 Assessment and this led to a conflict, or perceived conflict, of interest. Specifically, they state, "...The 2024 reassessment report exhibits actual evidence of conflict of interest, as warned against by the Auditor-General."<sup>58</sup> However, they do not point to any part of the 2024 Assessment Report that they say supports this statement.

84. The RA denies that a conflict of interest occurred noting "...It must also be noted that a number of safeguards exist in the continued registration process. The lead assessor was one of a panel of two, and Mr A's report went to the CAB also, negating the possibility that a conflict had by one person could dominate the entire continued registration process."<sup>59</sup>

85. The Appeal Panel has not found any reference in either of the BODs supplied by the RA to the individual other than in correspondence initiated by the Appellant. Furthermore, the Appeal Panel agrees with the statement in the Review of Assessment Procedures undertaken on behalf of the RA that:<sup>60</sup>

*While the Applicant states both parties started working there at around the same time, there is no evidence or information as to how long they have worked at the same organisation, what their respective roles are or, indeed, whether there is any cross-over in their roles and responsibilities. Even if there was, it would be difficult to envisage how a professional work association or relationship could, without more, give rise to a reasonable perception of bias. As such, there is no basis on which I can conclude that the 2024 Assessment Panel was afflicted by an actual or perceived conflict of interest.*

86. No evidence has been provided by the Appellant that there has been any interaction between the individual and the Lead Assessor that may have influenced the outcome of the 2024 assessment process. No evidence has been provided that the Lead Assessor "... looks like..." they "...might be influenced by personal interests or ulterior motives ...". The relationship between the individual and the Lead Assessor has not been proven and only inferred by the fact that they work at the same organisation. The Appeal Panel agrees with the RA that the

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<sup>58</sup> Appellant Reply Submissions para 33

<sup>59</sup> RA Submissions para 59

<sup>60</sup> Appeal BOD 386

right checks and balances are included in the assessment process with multiple pairs of eyes and robust challenge.

87. Therefore, this aspect of the ground is not proven and there is no basis to vary or reverse the CAB's decision.

**(c) Impartiality and competence**

88. The Appellant states that *"I find it implausible that in the two years since the previous competency assessment, and after over 30 years practicing as a professional engineer with numerous reassessments, that now I am unable to demonstrate to this is panel acting impartial based on the evidence, to practice competently to the standard required of a reasonable CPEng Engineer."*<sup>61</sup>
89. The RA argues that the Appellant failed to provide evidence that the CAB decision in relation to the Appellant's competence should be overturned, specifically the Appellant *"... failed to demonstrate the vast majority of the 12 factors. In addition, there was insufficient evidence to demonstrate he had taken reasonable steps to maintain his professional knowledge and skills (CPD per Rule 20(b))"*<sup>62</sup> and *"... additionally, the shortcomings in two of the work samples provided by Mr A prompted the assessment panel to recommend to the RA that the apparent design deficiencies for XXX projects be notified to the Building Control Authority and be peer reviewed."*<sup>63</sup>
90. The Appellant has not provided any evidence to suggest that the findings of the Assessment Panel in relation to his work samples is incorrect. His argument appears to be based on he was previously found to be competent so how could he not be now and the inference that the Lead Assessor was compromised by a work colleague.
91. The Appeal Panel has no reason to question the credibility and capability of the Assessment Panel. The Appellant has not provided any evidence that the competency assessment should be overturned. Therefore, this aspect of the grounds of appeal is not proven and there is no basis to vary or reverse the CAB's decision.

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<sup>61</sup> Notice of Appeal Section 5

<sup>62</sup> RA Submission para 16

<sup>63</sup> RA Submissions para 19 which refers to Appeal BOD 17

## Findings

92. The Appeal Panel has considered the grounds of appeal cited by the Appellant, the Appellant's Submissions, the RA Submissions and the Appellant's Submissions in reply, and the contents of the two BODs.
93. The Appeal Panel finds that none of the grounds for appeal were proven. The Appeal Panel therefore dismisses the appeal and the CAB's decision to decline continuation of the Appellant's CPEng registration is upheld.

## Costs

94. CPEC is empowered to make an order as to the payment of costs on determining an appeal.<sup>64</sup> If the RA wishes to seek costs, it must make submissions to the Appeal Panel within 5 working days of this decision including a schedular breakdown of the costs sought. The Appellant may make submissions in reply within a further 5 working days.
95. Any submissions on costs are to be no longer than five pages including any schedules or appended information.
96. If application is made, the Appeal Panel will decide whether to make an order as to costs on the papers.

## Right of appeal

97. In accordance with s35 of the Act either party may appeal this decision to the District Court within 28 days.

**Dated 27 August 2025**

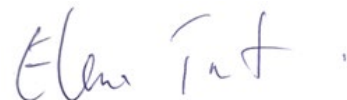
Signed by the Appeal Panel



Simonne Eldridge  
Principal



Megan Neill



Elena Trout

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<sup>64</sup> Section 37(5)(d) of the Act.

## Schedule 1 – Legislation

1. The right of appeal is contained in s35 of the Chartered Professional Engineers Act 2002 (“the Act”). S37 of the Act sets out the scope of the Chartered Professional Engineers Council’s (the Council) jurisdiction which is to deal with the matter by way of rehearing.
  1. The requirements for the appeal process are contained in the Chartered Professional Engineers of New Zealand (Appeals) Regulations 2002.
  2. The Rules are the Chartered Professional Engineers of New Zealand Rules (No.2) 2002 (“the Rules”) and were enacted pursuant to s 40 of the Act.
  3. Part 2 of the Rules (Rules 6 to 42) outlines the process for registration of chartered professional engineers. Subpart 1 (Rules 6 to 15), Subpart 2 (Rules 20 to 30) relate to the assessment of initial registration and continued registration respectively.
  4. Rule 6 defines the minimum standards for registration as a Chartered Professional Engineer.
  5. The overriding consideration is that expressed in Rule 6(1), that a Chartered Professional Engineer should be able to practise competently in his or her practice area to the standard of a reasonable professional engineer.
  6. The matters listed in Rule 6(2) must be taken into account in making an overall assessment required by Rule 6(1). However, the Rules do not provide for a mandatory “pass mark” for these matters, and nor could they. Ultimately, taking the matters in Rule 6 (2) into account, an objective decision still needs to be made as to whether an applicant meets the overall standard prescribed in Rule 6(1).
  7. The onus in rule 6 (1) is on the applicant demonstrating competence. The Rules do not provide for a mandatory “pass mark” for these matters. Ultimately, taking the matters in rule 6(2) into account, an objective decision still needs to be made as to whether an applicant meets the overall standard prescribed in rule 6(1).
  8. Rule 7 which addresses complex engineering activities and complex engineering problems.
  9. Rules 8, 9 and 9A outline the requirements for an initial application for registration.
  10. Rules 10 to 15 outline the way in which an application for registration must be evaluated

and decisions made and implemented.

11. Rule 20 outlines the minimum standards for continued registration as a chartered professional engineer.
12. Rule 21 specifies the frequency of reassessment to determine continued registration.
13. Rule 22 requires the RA to notify a person that a reassessment before starting the process.
14. Rule 23 details the information a candidate must provide to the RA for demonstrate current competence.
15. Rules 24 to 34 outline the way in which continued registration must be evaluated and decisions made and implemented.
16. Section 45 of the Act states one of the functions of the Council is to hear appeals from decisions of the RA.
17. The Council must deal with an appeal by way of a rehearing, as described in Section 37 of the Act, conducted in accordance with regulations made under Section 65.
18. The Council can confirm, vary or reverse the decision, or parts of the decision to which the appeal relates. The Council may refer the matter back to the decision authority for it to reconsider, either generally or in relation to specific matters, the whole or any part of the decision (together with any direction on that whole or part that the Council thinks fit.
19. The Council may make any decision that could have been made by the Registration Authority.
20. The Council does not have the power to review any part of the decision other than the part to which the appeal relates.

**Part 2**  
**Registration of chartered professional engineers**

Subpart 1—Assessment for initial registration

*Minimum standard for registration*

**6 Minimum standard for registration as chartered professional engineer**

- (1) To meet the minimum standard for registration, a person must demonstrate that he or she is able to practise competently in his or her practice area to the standard of a reasonable professional engineer.
- (2) The extent to which the person is able to do each of the following things in his or her practice area must be taken into account in assessing whether or not he or she meets the overall standard in subclause (1):
  - (a) comprehend, and apply his or her knowledge of, accepted principles underpinning—
    - (i) widely applied good practice for professional engineering; and
    - (ii) good practice for professional engineering that is specific to New Zealand; and
  - (b) define, investigate, and analyse complex engineering problems in accordance with good practice for professional engineering; and
  - (c) design or develop solutions to complex engineering problems in accordance with good practice for professional engineering; and
  - (d) exercise sound professional engineering judgement; and
  - (e) be responsible for making decisions on part or all of 1 or more complex engineering activities; and
  - (f) manage part or all of 1 or more complex engineering activities in accordance with good engineering management practice; and
  - (g) identify, assess, and manage engineering risk; and
  - (h) conduct his or her professional engineering activities to an ethical standard at least equivalent to the code of ethical conduct; and
  - (i) recognise the reasonably foreseeable social, cultural, and environmental effects of professional engineering activities generally; and
  - (j) communicate clearly to other engineers and others that he or she is likely to deal with in the course of his or her professional engineering activities; and
  - (k) maintain the currency of his or her professional engineering knowledge and skills.

**7 Definitions for purpose of minimum standard for registration**

For the purposes of [rule 6](#),—

**complex engineering activities** means engineering activities or projects that have some or all of the following characteristics:

- (a) involve the use of diverse resources (and, for this purpose, **resources** includes people, money, equipment, materials, and technologies);
- (b) require resolution of significant problems arising from interactions between wide-ranging or conflicting technical, engineering, and other issues;
- (c) have significant consequences in a range of contexts;
- (d) involve the use of new materials, techniques, or processes or the use of existing materials, techniques, or processes in innovative ways

**complex engineering problems** means engineering problems that have some or all of the following characteristics:

- (a) involve wide-ranging or conflicting technical, engineering, and other issues;
- (b) have no obvious solution and require originality in analysis;
- (c) involve infrequently encountered issues;
- (d) are outside problems encompassed by standards and codes of practice for professional engineering;
- (e) involve diverse groups of stakeholders with widely varying needs;
- (f) have significant consequences in a range of contexts;
- (g) cannot be resolved without in-depth engineering knowledge.

## 20 Minimum standard for continued registration as chartered professional engineer

To meet the minimum standard for continued registration, a person must demonstrate that—

- (a) he or she—
  - (i) is still able to practise competently in his or her current practice area to the standard of a reasonable professional engineer; or
  - (ii) if the person's practice area has changed materially since the last assessment, meets the minimum standard for registration within his or her current practice area; and
- (b) he or she has taken reasonable steps to maintain the currency of his or her professional engineering knowledge and skills within his or her current practice area since the last assessment.

## 23 Information that must be provided to demonstrate current competence

- (1) Each candidate who receives a notice under [rule 22](#) must provide to the Registration Authority, by the specified date,—
  - (a) a form containing the information set out in [Schedule 1](#); and
  - (b) the supporting information set out in subclause (2); and
  - (c) a statement signed by the candidate to the effect that all the information is accurate and any evidence provided is genuine; and
  - (d) consent from the candidate for the candidate's name to be published on the Registration Authority's Internet site for a period not exceeding 21 days, along with an invitation to the public to provide evidence about whether the candidate meets the minimum standard for continued registration.
- (2) A candidate must provide the following supporting information:
  - (a) evidence of the following (if applicable):
    - (i) academic and other relevant qualifications obtained since his or her last assessment; and
    - (ii) current registration on other professional engineering registers; and
    - (iii) results from other relevant competency assessments since his or her last assessment; and
    - (iv) professional development activities undertaken since his or her last assessment; and
  - (b) a chronological summary of the candidate's work history since his or her last assessment (including a description of employment positions and professional engineering activities in that period); and
  - (ba) any evidence provided by the public in response to the invitation described in subclause (1)(d), along with any statement by the candidate in reply; and
  - (bb) 2 or more work samples from recent engineering activities with annotations explaining how the samples demonstrate that the candidate meets the minimum standard for continued registration; and
  - (c) any other information that the candidate wishes to be considered.
  - (d) *[Revoked]*
- (3) The candidate may provide information in hard copy (in which case 3 copies must be provided) or in electronic form.

Rule 23(1)(c): amended, on 1 January 2012, by [rule 11\(1\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 23(1)(c): amended, on 1 January 2012, by [rule 11\(2\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 23(1)(d): inserted, on 1 January 2012, by [rule 11\(2\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 23(2)(ba): replaced, on 1 January 2012, by [rule 11\(3\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 23(2)(bb): inserted, on 1 January 2012, by [rule 11\(3\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 23(2)(c): amended, on 1 January 2012, by [rule 11\(4\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 23(2)(d): revoked, on 1 January 2012, by [rule 11\(5\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 23(3): replaced, on 1 January 2012, by [rule 11\(6\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

## 24 Assessment panel must evaluate continued registration

- (1) An assessment panel must evaluate each candidate for continued registration to assess—
  - (a) whether or not the candidate has demonstrated that he or she meets the minimum standard for continued registration; and
  - (b) if so, whether the candidate's continued registration should next be assessed by the end of the sixth year from 31 December of the year of this assessment, or in an earlier year; and
  - (c) if not, whether the candidate's registration should be suspended or removed.
- (2) However, if the candidate does not provide the information required under [rule 23](#) by the specified date,—
  - (a) only 1 assessor must evaluate the candidate's continued registration; and
  - (b) this subpart applies as if the assessor were the assessment panel (with any necessary modifications).

Rule 24(1)(b): amended, on 1 January 2012, by [rule 12](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

## 25 Way in which assessment panel must evaluate continued registration

- (1) The assessment panel must evaluate the candidate's continued registration in the following way:
  - (a) carry out a preliminary evaluation of the information provided and assess whether or not the panel needs more information to complete the assessment; and
  - (aa) conduct an interactive assessment with the candidate by any meeting method; and
  - (b) if the panel thinks it necessary, do both of the following or only a further interactive assessment:
    - (i) require the candidate to pay the further interactive assessment charge set out in [Schedule 2](#) and carry out a further interactive assessment with the candidate by any meeting method;
    - (ii) require the candidate to carry out a written assignment; and
  - (c) if the panel thinks it necessary, invite the candidate to provide, within a specified period, any or all of the following information:
    - (i) other information (which may include a statement of self-review explaining how the candidate meets the minimum standard for continued registration);
    - (ii) the candidate's information in another form;
    - (iii) the contact details of up to 2 further independent referees; and
  - (d) evaluate the information provided and any relevant information that the Registration Authority has about the candidate; and
  - (e) have regard to any advice provided by a member of the Competency Assessment Board for the purposes of moderating between assessments.
  - (f) *[Revoked]*
- (2) The assessment panel may take these steps in a different order, repeat or combine any steps, or take additional steps to carry out the assessment.
- (3) After completing the actions required by subclause (1), the assessment panel must make a recommendation to the Competency Assessment Board on the candidate's continued registration.

Rule 25(1)(aa): inserted, on 1 January 2012, by [rule 13\(1\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 25(1)(b): amended, on 1 January 2012, by [rule 13\(2\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 25(1)(b)(i): amended, on 1 January 2012, by [rule 13\(3\)\(a\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 25(1)(b)(i): amended, on 1 January 2012, by [rule 13\(3\)\(b\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 25(1)(c): replaced, on 1 January 2012, by [rule 13\(4\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 25(1)(d): replaced, on 1 January 2012, by [rule 13\(5\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 25(1)(e): amended, on 1 January 2012, by [rule 13\(6\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2011 (SR 2011/408).

Rule 25(1)(f): revoked, on 1 January 2005, by [rule 8\(2\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

Rule 25(3): added, on 1 January 2005, by [rule 8\(3\)](#) of the Chartered Professional Engineers of New Zealand Amendment Rules 2004 (SR 2004/413).

### Schedule 3 - Key correspondence and submissions

- (a) Notice of Appeal by email (30 October 2024).
- (b) Email from the CPEC Executive Officer to the Appellant, acknowledging receipt of Notice of Appeal and outlining the appeal process (2 December 2024).
- (c) Email from RA requesting for two documents, a Court of Appeal decision about Mr A and others dated 11 October 2024 and a Review of Assessment Procedures dated 14 January 2025, to be included in the bundle (23 January 2025).
- (d) Email from the CPEC Executive Officer naming Panel members, identifying RA contact, and addressing and communications. (27 January 2025).
- (e) Email from RA containing link to BOD and BOD provided to the Assessment Panel dated 8 May 2024 (27 January 2025)
- (f) Email from the CPEC Executive Officer confirming receipt of link to both BODs. (27 January 2025).
- (g) Email from Appeal Panel to the parties requesting a submission from the RA on their view on how the proposed inclusion of the documents attached to their email of 23 January 2025 complies with the requirements of Regulation 15 and if the Appellant had any objection to the documents being included (25 February 2025).
- (h) Email from Appeal Panel to the parties following up the 25 February correspondence (11 March 2025).
- (i) Email from RA providing submission on inclusion of additional documents (13 March 2025)
- (j) Email from Appellant confirming they have no objection to inclusion of the documents (17 March 2025)
- (k) Letter from Appeal Panel confirming the inclusion of the two additional documents in the BOD, the appeal process, grounds of appeal, relief sought, establishing submissions schedule, the hearing process and communications (24 March 2025).
- (l) Email from RA acknowledging receipt of the letter from the Appeal Panel dated 24 March 2025 (24 March 2025).

- (m) Email from Appeal Panel acknowledging receipt of the email from the RA dated 24 March 2025 (24 March 2025).
- (n) Submissions from the Appellant (7 April 2025).
- (o) Email from RA acknowledging receipt of the Appellant's submissions (8 April 2025).
- (p) Email from Appeal Panel acknowledging receipt of the Appellant's submissions (8 April 2025).
- (q) Email from RA requesting that the Appellant provide a copy of the 2022 assessor's report referred to in paragraph 2.2 of their submission (10 April 2025).
- (r) Email from Appellant confirming location of report in BOD (11 April 2024).
- (s) Email from RA providing a link to an updated copy of the BOD including the additional documents (24 April 2025).
- (t) Submissions from the RA (24 April 2025).
- (u) Email from Appeal Panel acknowledging receipt of the RA Submissions (24 April 2025).
- (v) Submissions from the Appellant in response to the RA Submissions (2 May 2025).
- (w) Email from Appeal Panel acknowledging receipt of the Appellant Submissions (2 May 2025).
- (x) Email from RA acknowledging receipt of the Appellant Submissions (2 May 2025).
- (y) Letter from the Appeal Panel Principal proposing to decide the appeal on papers in week commencing 30 June and seeking input from the Appellant and the RA to this approach (27 May 2025).
- (z) Email from the RA confirming that they agree to the appeal being decided on papers (30 May 2025).
- (aa) Email from the Appellant confirming that they agree to the appeal being decided on papers (2 June 2025).
- (bb) Email from the Appeal Panel confirming that the appeal will be decided on the papers (3 June 2025).