

**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

Decision of the Chartered Professional Engineers Council
Dated 29 September 2025

Introduction

1. Mr A (“the Appellant”) appealed a decision made by the Competency Assessment Board (“CAB”) of the Registration Authority (“RA”) to decline their application for re-registration as a Chartered Professional Engineer (“CPEng”), specifically in the practice field of civil and structural engineering.
2. In a decision dated 27 August 2025, the Appeal Panel of the Chartered Professional Engineers Council (“CPEC”) dismissed the Appeal.
3. The Appeal Panel reserved the issue of costs inviting submission from the RA and the Appellant in turn.
 - (a) The RA provided submissions on 3 September 2025; and
 - (b) The Appellant provided submissions on 12 September 2025.
4. Having considered the submissions, we determine costs as follows.

The framework for determining Costs.

5. Both parties agree that CPEC has the discretion to award costs under s37(5)(d) of the Chartered Professional Engineers Act 2002 (“the Act”).
6. The Appeal Panel considers the award of costs on a case-by-case basis considering any unintended consequences that may arise from exercising this discretion.
7. Without fettering future CPEC costs decisions, it is useful to provide the framework we used to determine costs in this appeal. Our framework draws heavily on *IPENZ v Nowak*¹. We also considered Appeal 03/17², 10/21³ and 06/23⁴ which are the appeals to which the RA refers in submission.
 - (a) The Act confers a broad discretion on CPEC with respect to costs⁵.

¹ *IPENZ v Nowak* District Court.

² Numbered Appeal 53 on the CPEC website.

³ Numbered Appeal 60 on the CPEC website.

⁴ Attached to RA cost submission

⁵ *IPENZ v Nowak* at [96].

- (b) In exercising its discretion, CPEC can look to the District Court Rules (“the DCR”) for guidance but is not bound by the District Court Rules.⁶
- (c) In *IPENZ v Nowak*, the District Court held CPEC’s “adoption of a two thirds approach was, in all those circumstances, rational, appropriate and justified”.⁷
8. The Appeal Panel notes that all cost decisions, including those referenced by the RA in their submissions, are particular to the facts of the Appeal.

Exercising discretion to award costs

9. The RA has argued that:⁸

As the Appellant did not succeed on any of the four grounds he raised and the CAB’s decision stands, the CPEC should exercise its discretion and award costs to the RA. The RA submit that applying the District Court’s scale costs regime will result in an outcome that is appropriate, proportionate and will serve the interests of justice.

It is in the interests of public safety that the RA decline candidates who do not meet the minimum statutory requirement for CPEng. From this, it is in the interests of justice that the RA, and thus the profession, are [sic] not entirely burdened with the costs of defending such decisions.

10. The Respondent has argued that:⁹

While CPEC has discretion to award costs, doing so is a disincentive to seeking just outcomes and ultimately ensures reduced accountability of the RA by silencing dissent. Which could be taken as an intended outcome.

11. We note that we do not consider the RA as the successful party, only that the Appeal was unsuccessful. In registration appeals, the binary civil law concept of a successful party and an unsuccessful party is not greatly applicable.
12. Whilst acknowledging the argument that the RA should not be entirely liable for costs incurred in the appeal process, it may well not always follow the RA is entitled to costs where a registration appeal is not successful.
13. For this appeal we are exercising our discretion to award costs to the RA. Principally, we considered the RA’s submissions were of assistance in deciding the Appeal.

⁶ *IPENZ v Nowak* at [97].

⁷ *IPENZ v Nowak* at [97].

⁸ RA cost submission at [11 and 12].

⁹ Respondent cost submission at [1].

Quantum of Costs

14. The Respondent has not commented on the RA's cost proposal directly but rather argues that the RA's actions have complicated the matter and increased costs, namely:¹⁰

This change in the RA position, which, in addition to deflecting and covering their mistake, has resulted in their own increase in costs to properly resolve the matter.

The amount of the written submissions that required preparation is a result of the RA raising further matters other than those succinctly and clearly articulated in the application of the appeal.

15. The RA has calculated the quantum of costs based on the DCR based on a category 2 proceeding. We agree that Category 2 is the appropriate category for the Appeal.
16. Category 2 proceedings attract a daily recovery rate of \$1,910.¹¹ The RA has then applied the same time allocation for preparation of the bundle and preparation of written submissions to that awarded by CPEC under Appeal 06/24 to come up with a total award of \$6,494, namely:¹²

Step	Time Allocation	Daily rate	Amount
Prep. of bundle for hearing	Band B 0.4 days	\$1,910	\$764
Prep. of written submissions	Band C 3 days	\$1,910	\$5,730
Total			\$6,494

17. For all appeals to CPEC, the RA must send CPEC the information mandated in regulation 6, known colloquially as the bundle. In this case there was nothing specifically unique in preparing the bundle and therefore the allowance made in 06/23 for extra activity is not applicable. We therefore do not agree to the time allocation for bundle preparation.
18. However, we agree the RA is entitled to a time allocation for preparation of the written submissions and that application of Band C, under DCR rule 14.5. We do not agree that the actions of the RA have resulted in significant additional time required to prepare its submissions. We therefore agree that the allocated time allowance is appropriate.

¹⁰ Respondent cost submission at [4 and 8]

¹¹ District Court Rules, Schedule 5.

¹² Respondent cost submission at [18]

Conclusion

19. For the foregoing reasons, we exercise our discretion to award costs.

20. Costs of \$5,730 are awarded.

Dated 29 September 2025

Signed by the Appeal Panel

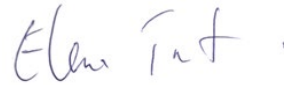


Simonne Eldridge

Principal



Megan Neill



Elena Trout