

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

Appeal 13/24

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 on Costs
Dated 10 December 2025

Introduction

1. Mr A (“**the Appellant**”) appealed a decision of the Competency Assessment Board (“**CAB**”) to amend the Appellant’s practice area description and require the Appellant to apply for continued registration within 2 years.
2. In a decision dated 14 November 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 21 November 2025; and
 - (b) The Appellant provided submissions on 28 November 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**”).

Exercising discretion to award costs

6. In our decision on the Appeal, we provided preliminary views on costs¹. The RA’s submissions and the Appellant’s submissions address our preliminary views among other points.
7. We considered the costs submissions from the RA and the Appellant in full. Below, we briefly summarise the costs submissions.

The RA’s submission

8. In summary, the RA submits:
 - (a) CPEC has the discretion to award costs under the Act.
 - (b) The District Court Rules provide a useful framework for determining costs, even though the CPEC is not bound by these rules.

¹ Paragraphs 129 to 130 of our decision on the Appeal.

- (c) The RA cites several previous costs decisions where the CPEC has used the District Court Rules as a guide for awarding costs.
- (d) The RA has calculated the costs based on the District Court scale, categorising the proceeding as Category 2 (average complexity) and applying the appropriate daily recovery rate.
- (e) The total costs claimed by the RA amount to \$4,584, which includes preparation of the hearing bundle, written submissions, and appearance at the hearing.

The Appellant's submission

9. In summary, the Appellant submits:
- (a) The costs of the Appeal should lie where they fall.
 - (b) It is incorrect to exclude the Appellant's successful application for a stay from the assessment of costs. The Appellant says section 36 of the Act, which deals with appeals, includes applications for a stay as part of the appeal process.
 - (c) The Appellant submits costs should be principled, predictable, and consistent, with guidance from the High Court's standard approach. The principle that costs follow the event is highlighted, meaning the losing party should pay costs to the winning party.
 - (d) The Appellant submits their partial success should be recognised in the costs assessment, and as the inputs from both parties for the appeal and stay hearings were broadly commensurate, the costs cancel each other out.
 - (e) The Appellant submits their previous successful appeal and stay application, where no costs were awarded, should be considered for consistency.
 - (f) The Appellant submits CPEC's reliance on unpublished District Court cases disadvantaged the appellant and breached natural justice.
 - (g) If costs are awarded against the Appellant, a time payment arrangement is requested due to financial constraints.

Discussion on the submissions

10. We begin with the RA. We observe the RA referred to several CPEC decisions using the names of persons involved.² The RA is aware CPEC publishes anonymised decisions only. It is disappointing the RA referred to prior CPEC decisions in this way.
11. Subject to the points that follow, we broadly agree with the RA's submissions. First, while consistency regarding costs is desirable, CPEC must retain its discretion on costs. Many scenarios appear before CPEC, and these must be considered in deciding costs.
12. Second, we maintain our view the RA is not entitled to costs of preparing the Bundle. In our section 36 decision we gave reasons for an adjournment. Among those reasons, we said we do not consider the Bundle to be analogous to the bundle in court.³ We maintain that view. Further, the RA being awarded costs for fulfilling its obligations under regulation 6⁴ would create a tariff for parties to an appeal.
13. The RA providing the Bundle in a CPEC Appeal is analogous to CPEC's obligation to provide documents in an appeal to the District Court.⁵ We do not see it as part of the cost of conducting the Appeal.
14. Where CPEC has permitted an allowance for preparing the Bundle, that is because there was something outside the ordinary required. That has not occurred here.
15. In conclusion, for all appeals to CPEC, the RA must send CPEC the information mandated in regulation 6, which is known colloquially as the Bundle. In this case, there was nothing specifically unique in preparing the Bundle. We therefore do not agree to the time allocation for bundle preparation.
16. Finally, other than for identifying that costs were on a 2B basis we do not see the relevance of the reference to *Williamson v Eoghan O'Neill and IPENZ [2025] NZDC 23021*.⁶ It is axiomatic the District Court can award costs after an appeal from CPEC.
17. We turn to the Appellant's submission. First, we address the section 36 application. We do not consider the section 36 application forms part of the Appeal. It did not advance the

² RA Cost Submissions at [8].

³ Decision of the Chartered Professional Engineers Council on Application for Order under Section 36 at [16(b)].

⁴ Regulation 6 of the Chartered Professional Engineers of New Zealand (Appeals) Regulations 2002.

⁵ District Court Rule 18.14(1).

⁶ RA Cost Submissions at [18].

Appeal. The section 36 order permitted the Appellant maintain his desired Practice Area Description while the Appeal was decided.

18. Further to the section 36 application point, we observe the Appellant made no attempt to quantify the competing scale costs other than to say, “inputs from the parties in respect of each of the appeal hearing and the stay hearing, ... was broadly commensurate”.⁷ Even if we did accept the point in principle, we would not have accepted this as a calculation that the costs effectively cancel each other out.
19. Next, we do not accept the position on the District Court cases. Regarding *Deo*, this was a case to which the RA referred in detail in its appeal submissions, including with its District Court citation.⁸ The Appellant could have asked for a copy of that Judgment at that time.
20. On *Nowak*, we cannot see how the Appellant was disadvantaged. We relied on *Nowak* as authority for the proposition:

That CPEC can consider issues such as procedural matters, errors of law or issues of natural justice does not mean appeals on a technicality would succeed as a matter of course. The error **must materially affect the result**.⁹

21. This is an established proposition, which *Nowak* confirmed applied to appeals to CPEC. We also observe the District Court in *Nowak* was applying the High Court authority of *Wojciech Klepacki (Voytek Klepatski) v Institution of Professional Engineers New Zealand* [2017] NZHC 3300.
22. Before leaving this point on District Court cases we correct a submission by the Appellant. The Appellant submits CPEC was a party to *Nowak* and *Deo*.¹⁰ CPEC was not a party to either case. In both cases, CPEC was the decision maker appealed from. In *Deo*, CPEC was incorrectly named as the Respondent.¹¹
23. Finally, we consider we cannot make an order on a payment arrangement. We have no power to monitor a payment arrangement and no power to sanction if the payment arrangement is not complied with. We consider this is a matter which is best dealt with between the RA and the Appellant.

⁷ Appellant’s Costs Submissions at [9].

⁸ RA submissions for the Appeal at [7] to [9].

⁹ Appeal Decision at [16], emphasis in the original.

¹⁰ Appellant’s Costs Submissions at [12].

¹¹ District Court Rule 18.9(3).

Conclusion

24. For the foregoing reasons, we apply our discretion to award the RA costs of \$3,820. This is calculated using the table at paragraph 17 of the RA's Costs Submissions less the allowance for "preparation of bundle for hearing".

Dated 10 December 2025

Signed by the Appeal Panel



Mark Holland

Panel Principal



Simonne Eldridge



Dr Carron Blom