

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

Appeal 15/24

AND

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

Between

Mr and Mrs A
Appellant

And

Mr B
Respondent

Against a decision of

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

Decision of the Chartered Professional Engineers Council on Costs
Dated 19 December 2025

Introduction

1. Mr and Mrs A (“**the Appellant**”) appealed a decision made by the Chair of the Investigating Committee (“**the CIC**”) of the Registration Authority (“**the RA**”) not to refer a complaint made by them against Mr B (“**the Respondent**”), a Chartered Professional Engineer, to an Investigating Committee (“**an IC**”) under Rule 60(a) of the Chartered Professional Engineers Rules (No. 2) 2002 (“**the Rules**”).
2. In a decision dated 21 November 2025, the Appeal Panel of the Chartered Professional Engineers Council (“**CPEC**”) dismissed the Appeal, noted that the Respondent and the RA had indicated they intended to seek costs if the Appeal was dismissed and reserved the issue of costs.
3. CPEC is empowered to “make any order as to the payment of the costs of the appeal that it thinks fit” under s 37(5)(d) of the Chartered Professional Engineers Act 2002 (“**the Act**”).
4. Following requests from the RA and the Respondent seeking costs, the Appeal Panel invited submissions on costs. Submissions received were as follows:
 - (a) The RA provided submissions on 28 November 2025
 - (b) The Respondent provided submissions on 28 November 2025
 - (c) The Appellant provided separate reply submissions to the RA and Respondent submissions on 5 December 2025

Registration Authority submission

5. The Appeal Panel of CPEC requested submissions from the RA to demonstrate why there is something specific to the Appeal that costs should be awarded given the RA’s is not a party to the appeal and its participation in the appeal proceedings was voluntary.
6. In their submission, the RA argued that they are a party to the Appeal under the regulation 3 of the Chartered Professional Engineers of New Zealand (Appeals) Regulations 2002 (“**the Regulations**”) whilst acknowledging they are not compelled to participate in appeals beyond providing information.¹

¹ RA cost submissions para 5 & 9

7. They go on to clarify that in general they participate as "... a responsible regulator should take every opportunity to provide guidance to the decision maker (CPEC)."² and "... In this particular case, the RA had a further compelling reason to participate. At various stages of the appeal, the Appellant made multiple serious allegations relating to the RA's process in the handling of their complaint."³
8. The Appeal Panel finds these arguments curious. First, a responsible regulator providing guidance to CPEC is there to assist CPEC. We also observe that an appellant making serious allegations about a decision maker is an inherent risk of being a decision maker. For example, and as the RA is aware, appellant's from CPEC decisions have made trenchant and strong criticisms of CPEC in those appeals. Accordingly, we do not see the RA being afforded the right to be heard confers on the RA the right to defend its own decision as a full party with all the adversarial implications associated with that.
9. Second, the appeal process is by way of a rehearing and therefore procedural matters are deemed cured as the RA acknowledges.⁴ The Appeal Panel does not agree that this constitutes any specific need to the RA to actively participate in this appeal process. The RA's role in an appeal of a decision they have made is to assist the Appeal Panel, not defend their position.
10. With respect to the costs associated with the Bundle of Documents ("**the bundle**"), the RA submits that although regulation 6 of the Regulations requires the RA to provide all relevant information to CPEC, they take further steps to organise the information into the bundle in the interests of all participants.⁵
11. The Appeal Panel agrees that the organisation of the bundle benefits all parties. However it finds that the RA has not provided sufficient justification to pass the cost of this activity onto the Appellant.
12. For the aforementioned reasons the Appeal Panel does not award any of the RA's cost.

Respondent's submission

13. The Respondent has requested that the Appeal Panel awards costs, preferably on an indemnity basis, but has provided three alternatives, namely:

² RA cost submissions para 10

³ RA cost submissions para 12

⁴ Ibid

⁵ RA cost submissions para 13 to 16

- (a) Indemnity costs due to the meritless nature of the appeal and the Appellant's conduct of \$6,205.00 (legal costs) + \$150.00 (disbursements, GST exclusive)
 - (b) Category 2 scale costs (with uplift) of \$5,730.00 (calculated at \$1,910/day, with a 50% uplift for complexity and conduct) + \$150.00 (disbursements) Total: \$5,880.00.
 - (c) Category 2 scale costs (standard) of \$3,820.00 (calculated at \$1,910/day, standard allocation) + \$150.00 (disbursements) Total: \$3,970.00
14. The Appeal Panel does not agree that just because the Appeal was not successful that it was meritless and therefore does not award indemnity cost.
15. The Appeal Panel does agree that some form of cost award is warranted but does not agree that the Appeal was complex or that the conduct of the Appellant warrants uplift.
16. The Appeal Panel further notes that no justification has been provided for the what the disbursements cover and therefore awards costs on the basis of standard Category 2 scale costs, namely \$3,820.

Decision

17. The Appeal Panel has exercised its discretion under s 37(5) to award costs.
18. Costs of \$3,820 to be paid to the Respondent are awarded.

Dated 19 December 2025

Signed by the Appeal Panel



Simonne Eldridge
Principal



Mark Holland



Manjit Devgun