

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

Appeal 04/25

And

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

Between

Dr A
Appellant

And

Ms 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
Dated 27 February 2026

Introduction

1. Dr 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 Ms B, a Chartered Professional Engineer (**“the Respondent”**), to an Investigating Committee under Rule 57(a) of the Chartered Professional Engineers Rules (No. 2) 2002 (**“the Rules”**).¹
2. The panel of the Chartered Professional Engineers Council (**“CPEC”**) appointed to hear the appeal (**“the Appeal Panel”**) has been provided with a Bundle of Documents held by the RA in relation to the case. References to specific pages within this bundle are annotated **“BOD nn”**.
3. The RA was granted leave by the Appeal Panel to be heard and provided submissions in this matter.
4. When providing their submissions the Appellant, the Respondent, and the RA all agreed to the Appeal being heard on the papers. The Appeal proceeded on that basis.

Legislation and case law

5. Summarised below are:
 - a. legislation and authority on the conduct of the Appeal; and
 - b. legislation and authority considered by the Appeal Panel in deciding the Appeal.
6. The right of appeal in respect of decisions of the RA is established by s35 of the Chartered Professional Engineers of New Zealand Act 2002 (**“the Act”**).
7. Appeals to CPEC are by way of rehearing (s 37(2) of the Act).
8. The requirements for the appeal process are contained in the Chartered Professional Engineers of New Zealand (Appeals) Regulations 2002 (**“the Regulations”**).
9. The Appeal Panel is entitled to:
 - a. confirm, vary or reverse a decision (or part of decision) under appeal (s 37(5)(a)); or

¹ These were the Rules in place at the time of the CIC decision, which have since been repealed and replaced.

- b. 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)); or
 - c. may make any decision that could have been made by the decision authority (s 37(5)(c)).
10. Following *Austin, Nichols & Co Inc. v Stichting Lodestar* [2008] 2 NZLR 141, the Appeal Panel is entitled to take a different view from the decision authority, but the Appellant carries the burden of satisfying the Appeal Panel that it should do so.
11. 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*, stated that the application of *Austin, Nichols* means that while it is an appellate decision-maker’s obligation to:

[46] ...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.²

12. The CIC is appointed by the RA under rule 83 of the Rules and has delegated authority to decide under rule 56 of the Rules as to whether or not to refer a complaint to an investigating committee.
13. The District Court provided a helpful summary of the early stages of RA’s complaints process:³

[10] Under s 20(1) of the Act, any person may complain to the Registration Authority about the Conduct of a Chartered Professional Engineer in accordance with the Rules. Once receiving a complaint, the Registration Authority must carry out an initial investigation and either refer the complaint to an investigating committee or dismiss the complaint on a ground in Rule 57. Rule 58 outlines how the initial investigation will be completed. Essentially, a complaints research officer is appointed to carry out an initial investigation of the complaint. The complaints research officer forms a recommendation of whether the decision should be investigated further or dismiss the complaint. The recommendation is passed to a chairperson of investigating committees who is referred to as “the adjudicator” and who will consider whether the complaint can be resolved via mediation.

[11] The chairperson of investigating committees decides to refer the complaint to an investigating committee. A committee of three is then appointed. The investigating committee will decide again whether to dismiss the complaint or to refer a complaint on to a disciplinary committee.

² Further citation omitted.

³ *Daniel Graeme Williamson v Eoghan O’Neill* [2025] NZDC 16964.

14. In several appeals from CIC decisions on the application of rule 57(a), CPEC applied the principles in *McLanahan v The New Zealand Registered Architects Boards*.⁴ *McLanahan* is relevant as:
15. The disciplinary process at issue in *McLanahan* was also a three-step process, the first step being “preliminary investigation by the Board through a complaints officer”;⁵ and
- a. The grounds for not referring a complaint to an investigation committee in *McLanahan* are virtually identical to those in the Rules, including that there is no applicable ground of discipline.⁶
16. From *McLanahan*, CPEC’s settled approach with respect to considering applicable grounds of discipline for the purposes of Rule 57(a) is:
- a. At this early stage of the disciplinary process, there is no testing of the evidence to establish alleged facts. Rather, the ‘threshold’ applicable at this stage in relation to whether a complaint should be dismissed on ‘no applicable ground of discipline’ following an initial investigation is, “confined to considering whether the circumstances which form the basis of a complaint would, if established, qualify as one of the grounds of discipline specified in [the Act]”.⁷
- b. Therefore, CPEC considers the appropriate question in relation to Rule 57(a) to be whether, if the factual circumstances of the allegation(s) were to be proven, those facts could give rise to an applicable ground of discipline.
17. Finally in this section, to assist readability, we note in this decision we will refer to the powers of CPEC and the powers of the Appeal Panel. We will refer to the powers of CPEC when discussing powers generally, and we will refer to the powers of the Appeal Panel when applying CPEC’s powers in this Appeal.

Background

18. In the background section we generally do not reproduce substantial details of the documents in the BOD. However, we have considered all the documents in the BOD. For completeness, we note we have also considered all documents and their attachments provided to us as set out in paragraph 49.

⁴ [2017] NZCA 458.

⁵ *McLanahan* at [22].

⁶ *McLanahan* at [24].

⁷ *McLanahan* at [66].

19. The Appellant owns a property at Property C (“the Property”).
20. The Property was the subject of a flood in 2023. After the flood the Appellant made an insurance claim.
21. The Appellant’s insurer (“the Insurer”), through a third-party project manager Company D (“the Insurer’s Project Manager”), engaged the Respondent’s engineering firm to carry out a structural assessment of the Property.⁸
22. On 17 May 2023, the Respondent issued a report with their findings (“the Report”) [BOD 9 – 14]. The Report’s conclusions are reproduced in full below [BOD 14]:

■ *The flood event has not compromised the structural integrity of the dwelling.*

■ *The cracking in the plaster over the masonry wall foundations is considered historical damaged due to seasonal shrinkage and swelling of the ground and has not been caused by the recent flood event.*

■ *The cracking to the internal GIB lining appears to have been pre-existing as some areas show that GIB crack repair has taken place. The timber window and door joinery seem to be the cause for the plaster cracking around the windows and doors due to the swelling of the timber from moisture. However, some of the cracks might have opened further in the recent weather event and a GIB crack repair is recommended in the areas highlighted on the plan in Appendix B.*

■ *The levelling compound over timber tongue and groove floorboards in the office area is not constructed as per current code standards. It is recommended to remove and re-instate this floor to the current code standard and to achieve code-compliant GIB lining fixing to the bottom plate in this area.*

■ *Reinstate the removed GIB linings, floor coverings and subfloor insulation once the dwelling shows acceptable moisture readings.*

23. The Report says a representative of the Respondent’s engineering firm visited the Property on 12 May 2023.
24. On 24 July 2023, the Appellant emailed the Respondent [BOD 40]. The Appellant wished to highlight what they considered discrepancies in the Report and asked for the Respondent’s views on the discrepancies.
25. On 25 July 2023, the Respondent replied to the Appellant’s 24 July email [BOD 41 – 42]. Among other things the Respondent’s email said:

The cracking visible in some bearers and on the corner of the timber jack stud is typical for a house that is more than 60 years old and built in a floodplain

⁸ [BOD 221 – 222]

area. The timber soaks up seasonal moisture and cracks when drying out in summer. That is a normal process.

It might also be that the subfloor insulation soaked up moisture over time. Now that the insulation is removed, we can see larger shrinkage cracks that might have been there before but were covered by the insulation. The discolouring of the timber floor joists for example is a sign of moisture held in the insulation:⁹

For the purpose of the report for the insurance company, I can say that the cracking has not been caused by the one-off flood event and is considered historical damage. I have again reviewed my photos and no gaps between the supporting subfloor structure were visible at the time of the inspection.

The moisture in the timber jack stud can be explained by the aged, porous concrete piles soaking up the moisture which is transferred into the timber jack stud if no DPM is in place.

26. Also on 25 July 2023, the Appellant replied to the Respondent's email [BOD 47].

27. The Appellant's email said among other things:

However, I have chronological photos from the event onwards showing significant differences in crack sizes and appearance over that period. Note that you found "Minor splitting of the bearers and timber jack stud to the western side of the dwelling (refer to Figure 2). No other visible structural damage to the foundation piles, braces, connections, timber subfloor and floorboards.", while in reality crack sizes are significant and not represented in any of the photos that you have shared to date. If the bearers are as in the photo you supplied ([Withheld], is this your photo?), I wouldn't waste our time on this discussion. I attach a photo of a bearer where one can put a hand through. Does not look like a minor splitting to me (or the foundation specialist). And the worst is yet to come as some of the jack studs are in the process of drying and still with 30%+ moisture in them.

28. On 31 July 2023, the Appellant submitted a Raising Concerns form to the RA. **[BOD 3 – 8]**.

29. On 29 May 2024 and 4 June 2024, the Appellant emailed the Respondent. The Appellant requested clarifications on the Report **[BOD 184 – 185]**. The Appellant claims there was no reply **[BOD 17]**, and the Respondent did not refute this. There is no reply from the Respondent to these follow up emails in the Bundle.

30. Between 29 December 2024 and 13 January 2025, the Appellant and the RA exchanged emails on the complaint being progressed **[BOD 186 – 190]**.

31. The Appellant prepared a document dated 8 January 2025 detailing their complaint ("Complaint Detail") **[BOD 15 – 24]**. The Appellant provided the Complaint Detail to the RA on 12 January 2025 via a file sharing link **[BOD 186]**, which the RA acknowledged having received on 13 January 2025 *[Ibid.]*

⁹ The Respondent's email includes a photograph with this paragraph [BOD 41].

32. The complaint points are at **[BOD 18 -23]**. Among other points of complaint, the Complaint Detail alleges:
- a. The Respondent “did not physically inspect the subfloor she provided an assessment of but relied on information she received from an unqualified 3rd party” **[BOD 18]**.
 - b. The Report “is inaccurate as it does not report the issues visible on subfloor elements, some of which are clearly structural” **[BOD 19]**.
33. The Complaint Detail has an index of supporting documents **[BOD 24]**. A selection of the supporting documents include:
- a. An internal email from the Insurer dated 19 April 2023 **[BOD 33]**.
 - b. A copy of the Report **[BOD 34]**.
 - c. The emails between the Appellant and Respondent on 24 and 25 July 2023 **[BOD 40 - 42]**.
 - d. Photographs of piles at the Property **[BOD 43 - 46]**.
 - e. The Appellant’s email to the Respondent on 25 July 2023 **[BOD 47]**.
 - f. Two quotes for foundation works at **[BOD 48]** and **[BOD 48 - 49]** respectively. The quote at **[BOD 48 - 49]** is dated 21 August 2023. Both quotes include comments on damage due to water ingress.
 - g. A report dated 18 September 2023 prepared by engineers engaged by the Appellant (“**the Appellant’s Engineers**”). **[BOD 51 - 54]**. That report says the Property was visited on 12 September 2023. Further, the report is signed by a CPEng, and says among other things:

Based on visual inspections only, in our professional opinion the exposure to severe flooding and severe water ingress have been playing the main role in significantly speeded up the deterioration of the timber subfloor.¹⁰
34. A layout diagram at **[BOD 55]**, and a significant number of photographs of the piles under the floor taken by one of the contractors, which provided a quote for foundation work.
- a. A letter from the Appellant’s Engineers to say that design has been completed for “structural design of subfloor foundation and subfloor bracing and bearers to replace

¹⁰ **[BOD 51]**.

the existing damaged subfloor foundation” **[BOD 166 - 167]**. The letter repeats the observation we identified above from the Appellant’s Engineers’ 18 September 2023 report.

- b. A report from the Appellant’s Engineers dated 6 May 2023 which is identical to the 18 September 2023 report **[BOD 168 - 171]**.
 - c. An email from the Appellant to the Respondent on 24 December 2024 **[BOD 172]**. The email appears to be a request for personal information under the Privacy Act.¹¹
35. Between 16 January and 20 January 2025, the RA and the Appellant exchange emails on the Appellant’s approval of the summary of concerns and discussing the Appellant’s concerns about the Respondent’s qualifications **[BOD 191 – 196]**. We return to this point below.
36. On 17 January 2025, the RA emailed the Respondent providing the summary of concerns **[BOD 198 – 199]**.
37. Between 10 February and 18 February 2025, the Respondent’s solicitors and the RA exchanged emails **[BOD 198 - 197]**.
38. Attached to the email from Respondent’s solicitors on 18 February 2025 was a letter in response to the summary of concerns **[BOD 201 – 202]**. Attached to the solicitor’s letter was:
- a. A letter from the Respondent addressing the summary of concerns **[BOD 203 – 205]**.
 - b. A copy of the Report **[BOD 206 – 211]**.
39. On 21 February 2025, the RA provided to the Respondent’s response to the Appellant **[BOD 212 – 213]**.
40. On 23 February 2025, the Appellant emailed the RA to provide a reply to the Respondent’s response **[BOD 214]**. The Appellant’s response is at **[BOD 215 - 222]**.
41. On 24 February 2025, the RA emailed the Respondent and the Respondent’s solicitors **[BOD 223]**. With this email, the RA provided the Appellant’s response.
42. On 25 February 2025, the Respondent’s solicitors emailed the RA **[BOD 224]**. With the email the Respondent’s solicitors provided a further response to the Appellant’s response **[BOD 225]**.

¹¹ We do not identify which version of the Privacy Act applies as it is not relevant for this Appeal.

43. The complaint was then referred to a Chair of the Investigating Committee (“**the CIC**”).¹²
44. On 24 April 2025, the RA issued the decision of the CIC [**BOD 228**].
45. The Initial Assessment Report issued by the CIC is at [**BOD 229 – 233**]. The CIC recommended the case be dismissed, saying [**BOD 231**]:

Recommendation is for the case to be dismissed under grounds 57(a) of the Chartered Professional Engineers Rules (No 2) 2002, as there are no applicable ground for discipline and 28.1 of the Engineering New Zealand Complaints and Disciplinary Regulations, as there is no ground of discipline under rule 11 of the Engineering New Zealand Rules.

The engineer has provided their supporting evidence as to why they have come to the opinion that they have. The engineer has acted competently when completing their review and forming that opinion.

There seems to be a difference in professional opinion between [the Respondent] and the engineer that the complainant engaged but a difference in professional opinion is not grounds for a complaint. Unless both engineers were given the exact same scope and asked to review the exact same information, it is not unexpected that they would come to different conclusions.

[The Appellant] may want to look into the New Zealand Claims Resolution Service as they are able to review the engineering assessment his insurer has provided.

46. The Appellant subsequently commenced this Appeal.

Evidence and submissions received

47. 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.
48. We issued two letters on submissions. Our letter of 10 October 2025 included the initial timetable for submissions. Our letter of 1 December 2025 dealt with matters arising from the submissions. In our second letter, we offered the Respondent and the Appellant the opportunity to supplement their submissions.
49. The evidence and submissions considered by this Appeal Panel in arriving at its decision included:
- a. The Notice of Appeal dated 5 May 2025 (“**Notice of Appeal**”).

¹² Sometimes referred to as an ‘Adjudicator’.

- b. The paginated Bundle of Documents [**BOD 1 to 234**], provided by the RA, referred to hereafter as the **Bundle**.
- c. The Appellant's submissions dated 25 October 2025 ("**Appellant's Submissions**").
- d. The Respondent's submissions dated 11 November 2025 ("**Respondent's Submissions**").
- e. The RA's submissions dated 17 November 2025 ("**RA's Submissions**"). With the other parties' agreement, the RA was afforded an extension of time for its submissions.
- f. The Appellant's submissions in reply to the Respondent's Submissions and the RA's Submissions dated 24 November 2025 ("**Appellant's Reply**").
- g. The Respondent's Statement dated 17 December 2025 ("**Respondent's Statement**"). We asked for a statement from the Respondent for factual assertions in the Respondent's Submissions.
- h. The Respondent's supplementary submissions dated 17 December 2025 ("**Respondent's Supplemental**").
- i. The Appellant's supplementary submissions also dated 17 December 2025 ("**Appellant's Supplemental**").

Grounds of appeal and outcome sought

50. At section 5, the Notice of Appeal has three grounds of appeal:

The RA failed to take into account some relevant material and

The RA took into account some irrelevant material

The RA was plain wrong in some of their conclusions.

51. At section 6, the Notice of Appeal seeks the following outcome:

The decision to dismiss the complaint to be reversed, and the complaint to be referred to an Investigation or Disciplinary committee as applicable.

52. For the Appeal, the applicable step would be referral to an investigating committee as that is the next step in the RA's complaints process.

Discussion – consideration of grounds of appeal

53. In the following sections, we summarise the submissions and evidence. We considered everything submitted even where not referred to in our summaries.
54. To avoid any confusion, we make the following note on our summaries of the submissions. When we list or record a submission, we are recording what is asserted. We are not saying the submission is correct or accepted, only recording what is asserted before us.

Dispute between the Appellant and their Insurer

55. There is a dispute between the Appellant and their Insurer. That is obvious from the BOD's documents and is referred to in submissions. To be clear, we make no comment on that dispute; nor could we make any comment on that dispute. Our role is only to address an appeal pertaining to a professional complaint.

The Appellant's Summary of Concerns

56. One issue in the Appeal is whether the CIC considered all the Appellant's concerns. Therefore, before addressing the grounds of appeal, we record the Appellant's concerns, which we take from the BOD as follows; the RA sent the Appellant an email with a summary of concerns on 16 January 2025 [**BOD 194 - 195**], to which (in a reply email on 16 January 2025 [**BOD 194**]) the Appellant added some words (highlighted in yellow in the email in the BOD) to the RA's summary and raised three further concerns.
57. We record below the summary of concerns as they are set out in the BOD. The text in bold are the concerns and additional words added by the Appellant in their email of 16 January 2016:

Your name is Dr A and you are the owner of the property at Property C (property).

Sometime before May 2023, the property flooded and you started a claim with Vero insurance as a result of the flood. (January 2023)

Vero insurance engaged Ms B CPEng CMEngNZ (engineer) of Company E to carry out a structural assessment of the property and provide a report (report).

The report is dated 17 May 2023

The report states that a representative from Company E visited the site on the 12th of May 2023 to check the structure.

The report also states that it covers structural damage only.

Ms B stated in her report that she observed “minor splitting of the bearers and timber jack stud to the western side of the dwelling. No other visible structural damage to the foundation pile, braces, connections, timber subfloor and floorboards.

You believe that the damage to subfloor area is visibly more than what was described by Ms B.

As a result, you engaged a foundation specialist, Person F to inspect the property and their views in the extent of the damage are quite different to what was stated in the report.

Person F believes that some subfloor elements are severely damaged, and the structural integrity of the building is significantly reduced with replacement of subfloor foundation, bracing and bearers to be required.

*You also engaged a Licensed Building Practitioner and foundation specialist to provide their views on the property in question and they have stated that the subfloor is structurally damaged, likely due to long exposure to water. **(2 separate Licensed Building Practitioners and both with official specialisation in Foundations)***

You believe that Ms B has provided an incorrect assessment, which has affected your chances for a fair settlement with the insurance company.

You also believe that the report is endangering the property and future tenant of the property.

*You believe Ms B has breached the Chartered Professional Engineers of New Zealand act by performing engineering services in a negligent or incompetent manner. **(I assume that issuing a report on a subfloor that she hasn't personally inspected falls under this category)***

You believe Ms B has breached the Engineering New Zealand Code of Ethical conduct by failing to act competently.

-I believe that Ms B acted recklessly when accepted to act as an assessor on the task that she didn't have skills and experience to undertake. This is unless CPEng status provides individuals with ability to act as experts on any engineering topic, even if they had no experience nor education background that prepared them for that (I need an official confirmation on this).

-I believe that Ms B failed to act with honesty, objectivity, and integrity when failed to provide evidence of visiting the subfloor when requested

-I have reasons to believe that Ms B misrepresents her education background in public (e.g., her LinkedIn profile and her web site show that she completed Bachelor of Science – Structural Engineering at the university that does not offer that course). If the same was claimed when she applied for the CPEng status, she has breached 27(1)(d) of the Act and her current work presents a serious threat to the safety of New Zealanders, considering the projects that she is involved in (powerplants, bridges, etc.). I ask ENZ to check this asap for that reason. That would have consequences on my case too.

58. After these emails, the RA's complaints officer emailed the Appellant on 17 January 2025, saying among other things **[BOD 193]**:

I will make those slight edits to the summary and it will be sent through to the engineer later today with a deadline for them to respond to me by.

59. The RA's original summary of concerns emailed to Appellant are reproduced almost verbatim as the summary of concerns in the Initial Assessment Report **[BOD 229 - 230]**. The summary of concerns in the Initial Assessment Report **does not** include the further points raised by the Appellant.
60. We will return to the summary of concerns as appropriate in our decision.

First ground of appeal - the RA failed to take into account some relevant material

Appellant's Submissions

61. We have considered but not included in this decision a summary of the Appellant's description of the background to the Appeal.¹³
62. In summary, the Appellant's submission is: ¹⁴
- a. The Appellant identifies several pieces of evidence that were not considered by the Registration Authority (RA) in their decision.
 - b. Evidence E2 **[BOD 33]**: An email from the Insurer's senior management instructing their contractor to engage a structural engineer to "quash" the Appellant's concerns. This suggests possible collusion between the Insurer, its contractors, and the Respondent.
 - c. Evidence E6 **[BOD 43 - 46]**: Contradictory evidence showing that a Damp Proof Membrane (DPM) was installed, which invalidates the Respondent's theory that water ingress from porous concrete piles caused the damage.
 - d. Evidence E10 **[BOD 55 - 165]**: Photographic evidence showing significant structural damage to more than twenty subfloor timber members, which was not reported by the Respondent.
63. Evidence E20 **[BOD 203 – 205]**: The Respondent's email¹⁵ stating that they spent only one hour inspecting the house, which raises questions about the thoroughness of their inspection.
- a. Evidence E15 **[BOD 174]**: External photos showing that the window joinery is aluminium, not timber as stated in the Report, suggesting either a failure to visit the site or a lack of competence.

¹³ The description of the background is at paragraphs 4 to 9 of the Appellant's Submission.

¹⁴ At paragraph 11, including sub-paragraphs, of the Appellant's Submission.

¹⁵ The document in the BOD appears to be a letter but nothing turns on this description by the Appellant.

- b. Evidence RE1 **[BOD 221 - 222]**: The engineering brief given to the Respondent, which did not include instructions to assess flood-related damage, yet the Report deviated significantly from this brief. The brief was:

1. Please contact the Project Manager and the Insured to arrange a site visit, attend site to review the damage at the above address,

2. Provide a 1 page damage summary/letter for consenting purposes, outing [sic] the structural damage, and proposed repair for the Project Manager to review.

3. Please provide a Fee Proposal to complete the necessary design works for consenting (if applicable) and reinstatement works, including a PS1 and PS4,

4. Provide review [sic] the identified due date and confirm this can be achieved

64. The Appellant argues that the RA's failure to consider this relevant material undermines the integrity of the decision-making process and calls into question the validity of the conclusions reached.

Respondent's Submissions

65. We summarise the Respondent's Submission holistically for all three grounds of appeal. In the following paragraphs, we explain why we do this.
66. Neither the Respondent's Submission nor the Respondent's Statement were structured to address the three grounds of appeal separately. Further, the Respondent's Submission principally relied on letters previously provided to the RA.¹⁶ These letters are at **[BOD 201 - 211]**¹⁷ and at **[BOD 225]**.
67. The preceding paragraph is not a criticism of the Respondent or their legal representative. The preceding paragraph explains why we summarise Respondent's Submission holistically for all three grounds of appeal, and on a document-by-document basis. Our summary of the Respondent's submissions follows.

The Respondent's Submission

68. The Respondent's Submissions comprises new material and incorporates earlier correspondences to the RA. These earlier correspondences to the RA were:
- a. The Respondent's solicitors' letter to the RA dated 18 February 2025 **[BOD 201 - 202]**.

¹⁶ At paragraph 2 of the Respondent's Submissions.

¹⁷ This includes a letter written by the Respondent, appending a copy of the Report **[BOD 203 – 211]**.

- b. The Respondent's letter to the RA dated 18 February 2025 [**BOD 203 - 205**].
 - c. The Respondent's solicitors' second letter to the RA dated 26 February 2025 [**BOD 225**].
69. First, we summarise the new material in the submissions in the Respondent's Submissions as follows:
- a. The Appellant must have a reasonable and probable cause for their allegations. The Appellant relies on an email from one loss adjuster at the Insurer to a contracted project manager to support their claims of cartel behaviour and collusion at a senior management level. However, there is no evidence that the Respondent received any direction or was involved in such behaviour.
 - b. The Appellant alleges that the Respondent's report poses risks to public health and safety. However, there is no evidence to support this claim. The Appellant's own expert states that the deterioration has accelerated the subfloor's deterioration, but there is no risk to safety if it is not replaced.
 - c. The Appellant claims that engineering professionals they have spoken with will sway towards the person paying their bills. This is troubling, but it is hearsay and not representative of the Respondent's views or approach. The Respondent provided independent expert advice and would not be swayed in the manner the Appellant suggests. If an engineer has stated otherwise, it raises concerns about their professional ethics.
 - d. The Appellant questions the recency of the Respondent's registration as a Chartered Professional Engineer and their experience with New Zealand conditions and materials. The Respondent was registered as CPEng in 2022 but has been working as a structural engineer in New Zealand since 2016. The Respondent is competent and has sufficient experience with New Zealand conditions.
 - e. The Appellant points out the Respondent referred to timber joinery when the joinery is aluminium. The Respondent acknowledges the incorrect terminology but explains that the windows have aluminium joinery with timber architraves and was raised in the context of damage to GIB. The cracking referred to was visible in the architraves, and the underlying logic of the Report remains valid.
 - f. The Appellant believes that the Respondent only inspected 20-30% of the total subfloor or did not inspect it at all. The Respondent confirms they accessed all areas

they could reasonably reach, given the height clearance and visibility. While it was not possible to access all areas, the inspection was sufficient for the purposes of the Report.

- g. The Appellant claims that the Respondent stated there was no damage to the roof. The Respondent's statement is based on their expert opinion from a visual inspection. The Respondent inspected the roof from the sides and the underside of the soffits and found no visible movement or cracking caused by the flood event. Additional photographs from the inspection are provided as Appendix 1 to the Submission.

The Respondent's solicitors' letter to the RA dated 18 February 2025 [BOD 201 - 202]

- 70. As we note above, the Respondent's Submissions rely on earlier responses to the RA. The first earlier response was a solicitors' letter dated 18 February 2025 which we summarise as follows:
 - a. The Respondent was engaged by the Insurer to inspect the Property, which was affected by floods. The Respondent conducted a site visit on 12 May 2023 and issued a structural damage assessment on 17 May 2023 (the Report referred to in this decision).
 - b. The Respondent conducted a visual inspection of the Property, including the subfloor area. The Respondent concluded that while there was some damage from the flood event, there was no structural damage. The Respondent believed the cracking in the subfloor was not caused by the flood but was likely a pre-existing issue.
- 71. The Respondent states that they have the appropriate expertise to provide a structural engineering opinion and their Chartered Professional Engineer (CPEng) registration confirms their competence. The Respondent asserts they carried out a careful, visual inspection of the house, including the subfloor—which formed the basis of their report.
 - a. The Respondent addresses the Appellant's concern about the time spent on the inspection and report, explaining that around seven hours for both the site visit and reporting is standard practice. The Respondent also argues that comparing their work to that of a Licensed Building Practitioner (LBP) is inappropriate because the LBP had a different scope of engagement and, unlike a CPEng, is not qualified to determine causation.
 - b. The Respondent states that their conclusions about the cause of the subfloor issues are based on the building materials, the property's location, and how such damage

typically occurs. The Respondent says they did not need to inspect every individual crack to form a causation opinion and was aware of the damp-proof membrane, which they consider ineffective due to the age of the house.

- c. The Respondent explains that their report was a shortform assessment prepared for the Insurer—not the Appellant—and limited to identifying structural damage caused by the flood. For that reason, it does not list every visible issue in the subfloor.
- d. The differences between the Respondent’s conclusions and those of the Appellant’s Engineer may arise from scope differences rather than error. The Respondent also notes that the Appellant’s Engineer did not say the required repairs were directly caused by the flood but rather that pre-existing deterioration was accelerated by water ingress.
- e. Finally, the Respondent notes Appellant’s underlying disagreement appears to relate to a dispute with the Insurer, not with the Respondent’s conduct.

The Respondent’s letter to the RA dated 18 February 2025 [BOD 203 - 205]

72. Accompanying the 18 February 2025 solicitors’ letter was a letter of the same date from the Respondent responding to the complaint which we summarise as follows:
- a. They have the relevant skills and experience to complete a structural damage assessment. The RA has copies of all records underlying their registration as a Chartered Professional Engineer. They have significant experience completing investigative and forensic structural damage assessments, particularly in relation to structures that have been impacted by natural disasters.
 - b. They undertook a careful inspection of the Property.
 - c. They were engaged by the Insurer’s Project Manager and the Report was for the Insurer’s sole benefit. The Report’s scope was limited to addressing structural damage caused by the flood event. It excluded weathertightness issues.
 - d. They conducted a site visit on 12 May 2023 and visually inspected all areas of the house including the sub-floor. The full inspection took around 1 hour.
 - e. The subfloor height varied from around 1.2m at the entrance, down to 0.5m. As there was no major contamination present, they were able to access the subfloor down to 0.8m height which required some crawling. They used a torch to assist with visibility.

- f. The Respondent provided a “small sample” of photographs of the sub-floor area.¹⁸
- g. They took about 6 hours to review/consider the evidence from the visual inspection and drafting the Report.
- h. Their independent expert opinion is the cracking damage was not caused by the flood event. The subfloor area was affected by a slow inundation, with sitting water being present for several hours before slowly receding. They do not consider that the cracking could have been caused by this damage mechanism. It is inconsistent with this and is likely to be a pre-existing issue.
- i. The flood did cause some damage to the dwelling, but it did not compromise the structural integrity of the dwelling. There was non-structural damage caused to the dwelling because there was sitting water that was present for a short time in other areas, as is reflected in the Report. They recommended several repairs to address the non-structural damage that had occurred in the event.
- j. The Appellant compares the time it took to complete the Report to the time it took their licensed building practitioner to complete a full scope of works. These are not comparable tasks.

The Respondent’s solicitors’ second letter to the RA dated 26 February 2025 [BOD 225]

73. The second earlier response was a solicitors’ letter dated 26 February 2025 which we summarise as follows:
- a. The Appellant has mischaracterised the initial response.
 - b. The Respondent’s views on causation are based on the nature of the subfloor materials, the location of the property in relation to the creek, and the mechanisms of damage. The Respondent is not required to inspect all cracks to form a view on causation.
 - c. The allegations the Respondent either inspected only 5% of the subfloor, or did not inspect it at all, have no basis and are false.
 - d. The Respondent formed an expert opinion on the likely damage mechanism based on a full visual inspection of the subfloor area and considered what the observed cracking showed as a whole.

¹⁸ [BOD 204]

- e. The Respondent reviewed the photos of specific cracks sent by the Appellant and maintains their view.

74. To assist readers, we note this concludes our summary of the Respondent's Submissions received on 11 November 2025 including the earlier correspondence incorporated into Respondent's Submissions.

The Respondent's Statement

75. Our 1 December 2025 letter requested, among other things, a statement from Respondent to underpin assertions of facts made by the Respondent's solicitors in the Respondent's Submission. The Respondent provided a statement on 17 December 2025.

76. We summarise the Respondent's Statement dated 17 December 2025 as follows:

- a. They were engaged to provide an independent expert opinion on the extent of structural damage to a residential home resulting from the flood event. The engagement was straightforward, involving an inspection of a single-storey home, and the Insurer requested a short-form report.
- b. On 17 May 2023, after issuing the Report, the Appellant questioned the Report's findings. The Respondent addressed the concerns immediately. The Appellant engaged their own experts, but their scope of assessment remains unclear. It seems the Appellant's experts may have been assessing general damage rather than damage specifically from the flood event.

77. On 24 December 2024, the Appellant informed the Respondent that they were in a dispute with the Insurer which had reached a deadlock. The Respondent says the Appellant said they were collecting information for proceedings before the Ombudsman, the Courts, and Engineering New Zealand. Shortly after, in January 2025, the Appellant filed the complaint.

RA's Submissions

78. The RA's submissions on the first ground of appeal are at paragraphs 6.1 to 6.4 of the RA's Submissions, which we summarise as follows:

- a. The RA says the Appellant raises concerns that the Adjudicator failed to consider relevant evidence in their decision. The Appellant believes that the Adjudicator did not

act or react as expected to the evidence presented, leading to the conclusion that relevant information was not taken into account.

- b. The RA goes on to say the Appellant highlights several pieces of evidence, including an email exchange (E2), the Respondent's response to the complaint (E6), an appendix to a consultant's report (E10), photographs of window joinery (E15), and the Respondent's shortform report (E20). The Appellant argues that the Adjudicator's failure to consider this evidence led to an incorrect decision.

79. The RA concludes the Adjudicator is entitled to draw their own conclusions and that the decision was not "wrong" in this regard.

Appellant's Reply

80. The Appellant's Reply has general and background submissions at sections 1 to 3 which we have considered but for brevity do not summarise in this decision.

81. The Appellant's Reply to the RA's Submissions are at sections 4.1 to 4.4, which we summarise as follows:

- a. The RA submits that the Respondent took a "representative approach" to assessing damage. However, this concept is undefined, unsupported, and not an accepted engineering methodology in this context. The RA has not explained how a chemical engineer, and subsequently a legal representative, determined that such a method was valid. This raises concerns that the RA is repeating unsupported terminology rather than critically assessing the Respondent's claims.
- b. The RA rephrased the Respondent's justification for misidentifying aluminium joinery as timber but failed to address the central issue. The Respondent used a false factual statement to justify property damage in an official report. The RA's repetition of the Respondent's explanation, rather than examining the accuracy and integrity of the statement, shows bias and advocacy rather than impartial assessment.
- c. The RA attempted to reinterpret sections of the Insurer contractor's report and provided its own definitions, unsupported by evidence. The RA then diminished the value of the Respondent's engineering brief as evidence by suggesting it is "likely one among dozens" produced after the flood. This assertion is speculative and improperly undermines relevant evidence.

- d. The RA submitted that the CIC is "entitled" to give an overall conclusion without addressing specific evidence. This position is incorrect. Even High Court judges are required to justify determinations with reference to the evidence before them. The RA's position suggests a standard inconsistent with fundamental decision-making principles.
82. The Appellant's Reply to the Respondent's Submissions are at sections 4.1 to 4.4, which we summarise as follows:
- a. Paragraph 3 – Mischaracterisation of Relief Sought: The Respondent incorrectly states that the Appellant seeks a technical review of the Report. The Appellant is actually seeking an assessment of the Respondent's conduct, with the Report being just one piece of evidence demonstrating substandard practice.
 - b. Paragraph 3.1 – Reference to Insurer's Senior Manager: The Respondent claims that no senior manager was copied into an email. However, the email explicitly refers to the senior manager by name as the initiator, making the Respondent's statement misleading.
 - c. Paragraph 3.1 – "Quash" Email: The Respondent argues that they need not disprove an alleged illegal act. The Appellant submitted the "quash" email to support referral to the Police, not for CPEC or RA to make criminal findings. The involvement of a Chartered Professional Engineer (CPEng) in potentially unlawful instructions warrants further investigation.
 - d. Paragraph 3.2 – Misleading Representation of Expert Findings: The Respondent claims that the Appellant's Engineer agreed the house posed no danger. In reality, the Appellant's Engineer found significant structural damage and recommended the replacement of subfloor foundation, bracing, and bearers. The Respondent's statement is therefore misleading.
 - e. Paragraph 4.1 – Misrepresentation of Experience: The Respondent claims to have worked as a structural engineer since 2016. Public records show that they held roles as Engineering Technician and Engineer until February 2022, when they first described themselves as a Structural Engineer. This statement is inaccurate and misleading.
 - f. Paragraph 4.1 – Lack of Relevant Experience: The Respondent asserts competence to inspect a flooded timber subfloor but has never demonstrated experience in assessing

such structures. Their findings were based solely on visual inspection, raising questions about their ability to identify flood damage without prior experience.

- g. Paragraph 4.2 – Misidentification of Joinery: The Respondent admits referring to aluminium joinery as timber, claiming they meant “doors and windows together.” This explanation is implausible as the property contains only one wooden door, two aluminium doors, and ten aluminium windows. The Report attributes plaster cracking to swelling of non-existent timber joinery, indicating either incompetence or dishonesty.
 - h. Paragraph 4.3 – Limited Inspection of Subfloor: The Respondent states they inspected all areas they could “reasonably reach,” effectively confirming they inspected only 20–30% of the subfloor. The Report did not disclose the limited inspection area, potentially intentionally given the “quash” instruction. CPEC’s view on whether such limited inspection is acceptable for a CPEng is essential for public clarity.
83. Paragraph 4.4 – Structural “Pass” Based on External Observation: The Respondent gave the roof structure a structural “pass” based solely on observing soffits and the roof exterior. They have now provided two photographs that were not supplied to the RA during assessment. The Appellant questions their authenticity and requests that CPEC disregard them. External visual inspection alone is not a valid method for issuing a structural pass. CPEC’s position on this matter will be highly instructive to the profession and the public.

Supplemental submissions

84. In our 1 December 2025 letter we offered the Appellant and the Respondent the opportunity to supplement their submissions after the RA provided a copy of a previous CPEC decision on which the RA relied on in submission.

Respondent’s Supplemental

85. We summarise the Respondent’s Supplemental dated 17 December 2025 as follows:
- a. In accordance with rule 57(c), the complaint can be dismissed as frivolous, vexatious or not made in good faith. The Appellant is using the process to gather evidence they believe exists. The Appellant is seeking to discredit the Respondent to improve their position in the dispute with the Insurer.
86. The Appellant does not have reasonable grounds to hold an honest belief in the existence of the circumstances underpinning the complaint. The Appellant wants the

investigating committee to undertake an inquisitorial exercise for the ulterior purpose of discrediting the Respondent to further the insurance claim.

- a. From paragraph 8.1 to 8.2 the Respondent asserts a summary of the Appellant's allegations. The Respondent says considering the "bare nature of [the] allegations", and the ongoing dispute with the Insurer, the complaint can be dismissed under rule 57(c) as frivolous, vexatious or not made in good faith.
- b. The Respondent says the complaint can be dismissed as insufficiently grave¹⁹. The allegations about the Respondent's independence and credentials are defamatory. The alleged errors in the Report would not justify disciplinary action.

Appellant's Supplemental

- 87. We considered the introductory statements and conclusions in the Appellant's Supplemental, but again for brevity these are not summarised.
- 88. Otherwise, we summarise all the Appellant's Supplemental dated 17 December 2025 below. Our summary is not broken over the grounds of appeal. However, we considered the Appellant's Supplemental as appropriate for each ground of appeal.

Allegations of frivolous or vexatious conduct

- a. The Appellant rejects the Respondent's assertion that the complaint is frivolous, vexatious, or not made in good faith. The Appellant maintains that all allegations are supported by documentary evidence and have been provided honestly and in good faith.
- b. The Appellant also rejects the claim that they are seeking an inquisitorial exercise to discredit the Respondent for an insurance claim. This allegation is deemed incorrect, unsupported, and inappropriate.

Academic qualifications

- c. The Respondent acknowledges that the university from which they graduated does not offer a Bachelor of Structural Engineering, which aligns with the Appellant's longstanding position.

¹⁹ Rule 57(ba) of the Rules.

- d. The Respondent's assertion that the university offers a Bachelor of Civil Engineering is factually incorrect. The university offers a three-year Bachelor of Science with a specialisation in Civil Engineering.
- e. The Appellant requests that the RA revisit the translation and interpretation of the Respondent's academic transcript, acknowledging the rigour of the RA's assessment processes but suggesting that the evidence warrants reconsideration.

Roof inspection

- f. The Respondent asserts that the Appellant complains about their findings relating to the roof structure without submitting any evidence of roof damage. The Appellant's concern is that the Respondent recorded "no visible structural damage to the roof structure" without having inspected the roof prior to making that finding.

Experience with flooded residential properties

- g. The Respondent continues to provide no evidence of prior experience assessing flood-damaged residential properties. The Appellant submits that the Respondent relied primarily on their CPEng status as justification for undertaking this commission, which the Appellant maintains was reckless.

Subfloor inspection photographs

- h. The Respondent asserts that they provided photographic evidence of having inspected the subfloor. However, they provided only one photograph in the Report and a further image comprising four thumbnails in their submission to the RA. None of these images are of evidential quality.
- i. The Respondent has repeatedly declined to provide the full set of photographs taken during the inspection, which the Appellant maintains undermines their assertions.

Appeal Panel discussion

- 89. We conclude the first ground of appeal is not proven.
- 90. We conclude there is no evidence that the CIC did not consider the evidence to which the Appellant refers. While the Initial Assessment Report did not refer to every document, that does not mean it was not considered by the CIC.

91. If we are wrong and the CIC did not consider the evidence to which the Appellant refers that defect in procedure is remedied in this Appeal. We have the power to make any decision the CIC could have made. We have considered all the evidence before us in the Bundle and in the submissions. This is relevant to our consideration of the third ground of appeal, that the decision was wrong.
92. We conclude some of the Appellant's concerns were not considered by the CIC. At paragraph 57 we recorded the Appellant's summary of concerns. Several of the concerns are not included in the summary of concerns in the Initial Assessment Report. That is why we conclude some of the Appellant's concerns were not considered by the CIC.
93. Again, this defect in procedure is remedied in this Appeal. We have considered all the Appellant's concerns. This is also relevant to our consideration of the third ground of appeal, that the decision was wrong.

Second ground of appeal - The RA took into account some irrelevant material

Appellant's Submissions

94. In summary, the Appellant's submission is:²⁰
- a. The engineering and LBP reports the Appellant submitted with the complaint were not intended to serve as the primary evidence for the complaint. This led the adjudicator to focus on irrelevant material.

Respondent's Submissions

95. For the reasons addressed above, there is no summary here.

RA's Submissions

96. The RA's submissions on the second ground of appeal are at paragraphs 6.1 to 6.4 of the RA's Submissions, which we summarise as follows:
- a. The RA says the Appellant alleges that the Adjudicator took into account irrelevant information when considering the reports he commissioned.
 - b. The RA says the Appellant argues that these reports were not intended to be the primary evidence for his claims of negligence and incompetence against the

²⁰ At paragraph 12, including a sub-paragraph, of the Appellant's Submission.

Respondent. However, the Appellant does not clarify what the reports were submitted for if not to support his claims.

97. The RA submits that it was reasonable for the Adjudicator to consider the evidence provided by the Appellant in support of his complaint and that the decision was not "wrong" in this regard.

Appellant's Reply

98. The Appellant did not reply to RA's submissions on the second ground of appeal.

Respondent's Supplementary Submissions

99. For the reasons addressed above, there is no summary here.

Appellant's Supplementary Submissions

100. We summarised all the Appellant's supplementary submissions in our summaries for the first ground of appeal.

Appeal Panel discussion

101. We conclude the second ground of appeal is not proven.
102. We deal with this ground of appeal quickly. The Appellant placed the reports in their supporting information. The Appellant referred to the reports in making and seeking to support their complaint.
103. It follows this was not irrelevant material. The CIC was not wrong in considering the reports.
104. This brings us to the substantive ground of appeal, whether the decision was plain wrong.

Third ground of appeal - The RA was plain wrong in some of their conclusions.

Appellant's Submissions

105. In summary, the Appellant's submission²¹ is:

- a. The Appellant highlights several instances where the RA made incorrect conclusions:

²¹ At paragraph 13, including sub-paragraphs, of the Appellant's Submission.

- b. Evidence E16 **[BOD 175 - 180]**, E17 **[BOD 181]**, and E18 **[BOD 182 - 183]**: The Appellant argues that the Respondent's professional portfolio does not include experience with residential timber-framed structures or flood-damaged properties, supporting the claim that the Respondent lacked the requisite knowledge and expertise to competently undertake the assessment.
 - c. Supporting Evidence: The RA accepted the Respondent's competence without proper evidence. The Respondent did not disclose any substantive evidence to the RA, only providing letters from their legal representatives with no supporting technical material.
 - d. Adjudicator's Qualifications: The adjudicator, a chemical engineer, is not suitably qualified to judge the competence of a structural engineer.
 - e. Reporting on Damage: The adjudicator incorrectly concluded that the Respondent was not expected to report on pre-existing or other causes of damage. The engineering brief instructed **[BOD 221 - 223]**. The Respondent to provide a damage summary, and engineers have an obligation to report potential threats to public health and safety.
106. Contractual Obligations: The adjudicator incorrectly stated that the Respondent had no contractual obligations to the Appellant. The Report explicitly instructed that queries should be directed to the Respondent's engineering firm.
- a. Scope and Purpose of Reports: The adjudicator incorrectly stated that the scope and purpose of the Appellant's Engineer's report were unclear. The report clearly stated its purpose as assessing flood damage to the subfloor.
 - b. Material Error: The adjudicator made a material error in assessing Evidence E11 **[BOD 166 - 167]**, incorrectly concluding that the Appellant's Engineer did not state that repairs were required as a direct result of flood damage.
107. The Appellant argues that these incorrect conclusions undermine the validity of the RA's decision and calls for a thorough reassessment of the evidence.
108. For completeness, we also summarise the Appellant' submission called discussion and conclusion:²²

²² At paragraphs 14 to 16 of the Appellant's Submission.

- a. The appellant raises several concerns about the conduct and qualifications of the Respondent and the adjudicator's handling of the case:
- b. The Respondent's Qualifications and Conduct: The Appellant argues that the Respondent, who was recently registered as a CPEng and educated in Germany, lacked the necessary experience with New Zealand's residential timber-framed structures and flood-damaged properties. The Appellant suggests that the Respondent either did not visit the site or was manipulated by a possible cartel to produce a report that deviated significantly from the engineering brief.
- c. Adjudicator's Qualifications and Conduct: The Appellant criticises the adjudicator, a chemical engineer, for assessing and commenting on structural engineering issues without seeking input from a suitably qualified structural engineer. The Appellant believes this constitutes a material procedural error and undermines the reliability and fairness of the decision-making process.
- d. Concerns About Engineering Practices: The Appellant says several engineering professionals told him in confidence that some engineers, particularly those in smaller organizations or individual practices, may sway towards the side that funds their work. The Appellant requests that these concerns be properly investigated to protect the New Zealand public from such practices within the profession.

Respondent's Submissions

109. For the reasons addressed above, there is no summary here.

RA's Submissions

110. The RA's submissions on the third ground of appeal are at paragraphs 6.8 to 6.8.7 of the RA's Submissions, which we summarise as follows:

- a. The RA says the Appellant alleges seven errors, and the Appellant's main argument is that they disagree with the conclusions reached by the Adjudicator. The RA provided responses to the seven alleged errors:
 - i. First Error: The Appellant presents screenshots from LinkedIn and the Respondent's university website, questioning the Respondent's competence. The Adjudicator found this information to have questionable probative value and concluded that the Respondent acted within their competence as a Chartered Professional Engineer.

- ii. Second Error: The Appellant argues that the Adjudicator's statement was immaterial. The Adjudicator believed that the Respondent's response adequately addressed the allegations.
- iii. Third Error: The Appellant questions the Adjudicator's background. The Adjudicator's expertise was deemed immaterial, as the primary concern was adherence to the common Code of Ethics.
- iv. Fourth Error: The Appellant raises health and safety concerns. The Adjudicator found that the Respondent's assessment did not align with the Appellant's view, and there was no evidence of a breach of professional obligations.
- v. Fifth Error: The Appellant explains why they contacted the Respondent directly. The Adjudicator noted that the Respondent had no contractual obligation to respond.
- vi. Sixth Error: The Appellant questions the scope of another report. The Adjudicator found that the title of the report was not confirmation of its exact scope.
- vii. Seventh Error: The Appellant questions the title of the report. The Adjudicator found that the title was indicative but not confirmation.

Appellant's Reply

111. The Appellant's reply to RA's submissions on the third ground of appeal are at sections 4.5 to 4.8, which we summarise as follows:
- a. Lack of Experience in Flooded Timber Structures: The RA claims there is insufficient evidence to question the Respondent's experience with flood-damaged native timber subfloors. However, the Respondent's portfolio does not contain any such experience, and no evidence has been provided to support this claim. This implies that the RA considers CPEng status sufficient to practice in fields where the engineer has no experience, which is concerning given past engineering failures in New Zealand.
 - b. Scope of Engagement: The RA criticises reliance on the report title but does not provide a standard for determining scope communication. The titles of the Appellant's Engineers' reports clearly identify the scope, making the RA's criticism unfounded.
 - c. Unsupported Flooding Assumptions: The RA asserts that the property "conceivably" experienced previous floods due to its proximity to a creek, but there is no evidence of

any prior flooding. The flood event was a 1-in-200-year event, making the RA's assumption speculative and unreasonable.

- d. Respondent's Qualifications: The RA claims there is insufficient evidence that the Respondent misrepresented their qualifications. However, the Appellant provided screenshots confirming that the institution the Respondent attended never offered a Bachelor of Structural Engineering, despite the Respondent claiming such a degree. This is clear evidence of public deception, and the RA appears to require an impossible standard of proof before investigating potential registration fraud, which is unacceptable for a registration body.

Respondent's Supplementary Submissions

112. For the reasons addressed above, there is no summary here.

Appellant's Supplementary Submissions

113. We summarised all the Appellant's supplementary submissions in our summaries for the first ground of appeal.

Appeal Panel discussion

There is no applicable ground of discipline under section 21(1)(a) to (d) of the Act

114. We observe the Appellant says they are not seeking a technical review of the Report, but an assessment of the Respondent's conduct with the Report only one piece of evidence demonstrating substandard practice.²³ The only conduct of which the Appellant could be aware is in relation to the Respondent preparing the Report (including subsequent emails from the Appellant to the Respondent), and the allegations about the Respondent's qualifications.
115. We record here that on an initial investigation we see no merit in the allegations the Respondent was involved in any plan to "quash" the Appellant's insurance claim.
116. Further, we record we place no weight on the Appellant's alleged "evidence" that professionals provide opinions that sway towards those that engage them. We address here the issue of hearsay evidence raised by the Respondent. CPEC is not bound by the Evidence Act 2006.²⁴ Nonetheless, CPEC is cognisant of the principle underpinning the hearsay rule,

²³ Appellant's Reply at [4.1 to 4.4].

²⁴ Section 5 of the Evidence Act 2006 provides that Act applies to proceedings, which are proceedings before a court.

which is the unreliability of second-hand statements. That is why we say we place no weight on the Appellant's alleged "evidence".

117. Therefore, having considered all the material before us, we conclude the applicable grounds of discipline **could only** be:

- a. That the Respondent "has performed engineering services in a negligent or incompetent manner";²⁵ or
- b. That the Respondent has, "for the purpose of obtaining registration or a registration certificate (either for himself or herself or for any other person)" ... "either orally or in writing, made any declaration or representation knowing it to be false or misleading in a material particular".²⁶

118. We take these in turn. First, whether the Respondent "has performed engineering services in a negligent or incompetent manner".

Negligence and incompetence

119. No definition of "engineering services" is provided in the Act. Rule 42A defines "engineering activities" as "activities for which a chartered professional engineer uses the engineer's engineering knowledge and skills". We conclude that the Respondent was providing engineering services when they were engaged by the Insurer's Project Manager to prepare the Report for the Insurer.²⁷

120. In disciplinary processes, "negligence" is a more restrictive concept than it is in the civil context of the performance of contracts and tortious negligence".²⁸ In *Beattie v Far North District Council*²⁹ Judge McElrea provided guidance on the interpretation of the terms "negligent or incompetent manner". While *Beattie* concerned an appeal 330(2)(b) of the Building Act 2004 against a decision of the Building Practitioners Board, Judge McElrea noted "the phrase [in a negligent or incompetent manner] appears to have been taken from s 21 of the Chartered Professional Engineers of New Zealand Act 2002".³⁰ At paragraph 42, having

²⁵ Section 21(1)(c) of the Act.

²⁶ Section 21(1)(d)(i) of the Act.

²⁷ For brevity, we refer to engagement "by the Insurer".

²⁸ *Joseph Roger Heslop v The Building Practitioners Board* [2018] NZDC 21096 at [52].

²⁹ *Beattie v Far North District Council* (Whangarei District Court, CIV-2010-088-000109, 26 November 2010).

³⁰ *Beattie* at [43].

considered *Collie v Nursing Council of New Zealand*³¹ Judge McElrea said in a general observation on disciplinary processes:

....this is a timely reminder that disciplinary sanctions should not be applied unless there is a serious issue being addressed.

Underlining added.

121. Below, we set out in full Judge McElrea's guidance on interpretation of the terms negligent or incompetent manner:

[43] Section 317 of the Act uses the phrase "in a negligent or incompetent manner", so it is clear that those adjectives cannot be treated as synonymous.

[44] In my view a "negligent" manner of working is one that exhibits a serious lack of care judged by the standards reasonably expected of such practitioners while an "incompetent" manner of working is one that exhibits a serious lack of competence.

[46] The approach I have adopted recognises that the terms "negligent" and "incompetent" have a considerable area of overlap in their meanings, but also have a different focus – negligence referring to a manner of working that shows a lack of reasonably expected care, and incompetence referring to a demonstrated lack of the reasonably expected ability or skill level.

Underlining added.

122. To consider the performance of engineering services, for two reasons, we must consider the scope of the Respondent's engagement by the Insurer. First, the scope of the engagement defines the engineering services to be provided. Second, a narrow scope of engagement to carry out a quick desktop analysis will be very different from a broad scope of extensive investigation.
123. To date, the Respondent's engineering services from their engagement by the Insurer have not gone beyond providing the Report. The Insurer's Project Manager issued the brief to the Respondent [**BOD 221 - 222**]. The relevant parts of the brief say:

What happened: Water went in the sub floor about 5 cm - under floor insulation is wet . Electricals have been hanging. Various tiles destroyed. Kitchen lining, bathroom linings swollen. Cracks in the bathroom, structural issues. AC units submerged during rains. Laminated floor in the study damaged **from flood damage from 0521**.

Damage summary: Flood - Inundation Less than 100mm (ankle deep)

Repair summary: Reinstate damaged elements.

³¹ *Collie v Nursing Council of New Zealand* [2000] NZAR 74, which said at paragraph 21, "Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness".

1. Please contact the Project Manager and the Insured to arrange a site visit, attend site to review the damage at the above address,

2. Provide a 1 page damage summary/letter for consenting purposes, outlining³² [sic] the structural damage, and proposed repair for the Project Manager to review.

124. For this Appeal, we conclude that the Respondent's scope of engagement was narrow involving:
- a. Attending the Property.
 - b. Reviewing the flood damage at the Property.
125. Preparing a short [one page] summary outlining the structural damage and proposed repair. The summary prepared was for two purposes. For the Insurer's Project Manager to review and for consenting purposes (which given the context we take to mean building consent purposes).
126. It's important to observe some of what was outside the Respondent's engagement from the brief. The engagement **did not include** design work for reinstating the Property.³³ We are not engaging in strained hypotheticals to say that design work for reinstating the Property would involve greater examination of the damage than was required to prepare a short [one page] summary outlining the structural damage and proposed repair.
127. Bringing together the principles set out by the Courts in *McLanahan* and *Beattie*, we now consider whether the information before the CIC demonstrates factual circumstances which if proven would prove a serious lack of care and/or a serious lack of competence. We approach this consideration in the manner mandated in the Rules, an "initial investigation".³⁴
128. We want to be clear our process from here. The *McLanahan* principles occasionally require us to assume the Appellant can demonstrate factual circumstances, after which we consider those factual circumstances under the *Beattie* test. Therefore, in the following parts of this decision we **are not making** determinations of fact, only adopting assumptions as to what factual circumstances could be proven.
129. First, the engagement required the Respondent to visit the Property to conduct a review of the damage. The Appellant asserted that the Respondent had not visited the Property. We conclude that the Respondent visited the Property. This is obvious to us from an initial

³² We assume this should read "outlining".

³³ Item 3 of the brief records the Respondent was to provide a fee proposal for design work [BOD 221].

³⁴ The term "initial investigation" is in rule 58.

investigation. For example, the Respondent provided photographs they took at the Property including in the underfloor area.

130. Put another way, the Appellant cannot demonstrate this asserted factual circumstance.
131. It's artificial to consider the Respondent's review of the damage and preparation of the Report as separate matters as they overlap. We do so to structure our decisions.
132. Secondly, the engagement required the Respondent to conduct a review of the damage. On an initial investigation, we conclude the Respondent did conduct a review of the damage. The Respondent did inspect the underfloor area (including areas where they had to crawl) and did inspect the property. The Respondent was at the Property for an hour.
133. On the review of the damage, the Appellant's principal complaints are that the Respondent was at the Property for only one hour, and the Respondent only inspected 20 to 30% of the subfloor. Even if these circumstances are proven they do not prove a serious lack of care and/or a serious lack of competence, because:
 - a. The Respondent was engaged to provide a report on damage from flood inundation and to produce a short [one page] summary outlining the structural damage and proposed repair; and
 - b. In the context of that engagement, the duration and extent of the review of the damage appear appropriate, and far from demonstrating a lack of care or incompetence.
134. Finally, we turn to the Report. We start with introductory comments. There were some sterile submissions as to whether the Appellant is seeking a technical review of the Report. However, that could not be the outcome of the disciplinary process. The disciplinary process is not concerned with whether a report is merely wrong but whether a report shows a serious lack of care and/or a serious lack of competence.
135. Further to this, we observe the CIC, the Respondent and the RA all said words to the effect of "a difference in professional opinion is not grounds for a complaint". To be clear, the point of a disciplinary process is not whether one engineering opinion is right or wrong, but rather whether an engineering opinion shows a serious lack of care and/or a serious lack of competence.
136. Finally, in these introductory comments, we conclude that despite their protestations to the contrary, the Appellant's true grievance is the content of the Report. That is the only

conclusion we can reach from considering all documentation and submissions. The Report triggered their original email to the Respondent and the deadlock with their Insurer triggered their complaint to the RA. The other complaints orbit the Respondent's position that the Report is wrong.

137. Stating the obvious, the issue is whether the Appellant's asserted factual circumstances would, if proven, demonstrate a serious lack of care or a serious lack of competence. In summary, Appellant's asserted factual circumstances are:

- a. That the Report was not thorough, as it did not identify all structural damage the Appellant asserts exists.
- b. The Report has incorrect conclusions due to the presence of damp proof membrane.
- c. That the engineering brief did not instruct the Respondent to assess flood related damage.
- d. That the Report referred to timber not aluminium joinery.
- e. That the Report gave the roof structure a structural pass based on external observations.
- f. That the Report did not report on pre-existing or other causes of damage.
- g. That the Appellant's expert reports contradict the conclusions in the Report.

138. We start by reiterating the Respondent was engaged to assess damage **from** the flood event. This is obvious from the brief to Respondent [**BOD 221 - 222**]. The Appellant could never establish a factual circumstance that the Respondent's brief was broader than this. Therefore, the allegations the Respondent did not carry out a full structural assessment can never form the basis of grounds for discipline.

139. We consider the expert reports provided by the Appellant do not contradict the Report. The expert reports say "water ingress has caused significant damage to the sub floor" [**BOD 48**]³⁵, "severe exposure of water during flooding has significantly speeded up deterioration of the timber floor" [**BOD 49**]³⁶, and "the exposure to severe flooding and severe water ingress have

³⁵ from an LBP.

³⁶ from an LBP.

been playing the main role in significantly speeded [sic] up the deterioration of the timber subfloor” [BOD 51]³⁷.

140. A further expert report for the Appellant says “some subfloor elements are severely damaged, and the structural integrity of the building is significantly reduced, and replacement of the subfloor foundation, bracing and bearers are required” [BOD 166].³⁸
141. We place very little weight on the expert views of the Appellant’s Licenced Building Practitioners (“LBPs”). Not because they are not engineers, CPEng or otherwise, but because the expert views are expressed on quotes for anticipated work. This creates a substantial apparent conflict of interest for that LBP’s views, which means we could only attach little weight to their view.
142. Nonetheless, the LBPs do not say the damage was caused was the flood event. That was the task before the Respondent, to provide an outline of the damage from the flood event.
143. In a similar vein, the Appellant’s Engineer does not say the flood event caused the damage. They say severe flooding **and** water ingress significantly speeded deterioration.
144. The Appellant’s experts’ views are not comparable such as to form any baseline to say the Report shows a serious lack of care or serious lack of competence. At best, these experts’ views are equivocal on the damage caused by the flood event.
145. As is clear from the brief to the Respondent, they were asked to review damage from **the flood event**. Clearly, the Report is (among other things) in relation to “damage to the structure as a result of the flood” [BOD 10]. Further to this, the Report says “The flood event has not compromised the structural integrity of the dwelling” [BOD 10].
146. The Report was not a general condition report. Put another way, the Report was not into the overall structural condition of the dwelling considering its age and all events and environmental conditions to which the dwelling had been subject. That was not the brief to the Respondent.
147. Pulling the threads together, we conclude that the Respondent performing engineering services in a negligent or incompetent manner cannot be a ground for discipline because:
 - a. Considering the scope of the Respondent’s engagement;

³⁷ from the Appellant’s Engineer.

³⁸ also from the Appellant’s Engineer.

- b. Even if the Appellant's alleged factual circumstances were proven, they would not demonstrate a serious lack of care or serious lack of competence.

148. On this matter, it follows that we do not have to consider whether there are other applicable grounds for not referring the complaint to an investigating committee.

False or misleading declaration

149. We approach the issue of alleged false or misleading declaration differently. Whereas the *McLanahan* principle applies, the principles in *Beattie* principles do not apply³⁹.

150. There is a crucial point on this issue and the CIC. As we already addressed, we conclude this issue was not put before the CIC, specifically the concern that:

-I have reasons to believe that Ms B misrepresents her education background in public (e.g., her LinkedIn profile and her web site show that she completed Bachelor of Science – Structural Engineering at the university that does not offer that course). If the same was claimed when she applied for the CPEng status, she has breached 27(1)(d) of the Act and her current work presents a serious threat to the safety of New Zealanders, considering the projects that she is involved in (powerplants, bridges, etc.). I ask ENZ to check this asap for that reason. That would have consequences on my case too.

151. No fault is levelled at the CIC for this. In any event, this Appeal cures any deficiency in process, and we now consider this concern.

152. Applying an initial investigation approach, the Appellant appears to have identified an apparent disparity between the courses offered at the Respondent's university and the university qualifications the Respondent maintains they hold. If this were proven, it could be a ground for discipline under section 21(1)(d) of the Act.

153. While the RA has questioned the probative value of the information provided by the Appellant⁴⁰ in a *McLanahan* assessment, that misses the point. An initial investigation does not mandate questioning the probative value of information.

154. Therefore, the initial outcome is that this matter should be referred to an investigating committee.

155. Having reached that conclusion, we must consider whether there are other applicable grounds for not referring the complaint to an investigating committee. For the reasons that

³⁹ that is because the *Beattie* principles are only relevant to an issue involving performing engineering services in a negligent or incompetent manner.

⁴⁰ RA Submission at 6.8.1.

follow, we consider this matter can be dismissed on the basis the “alleged misconduct is insufficiently grave to warrant further investigation”.⁴¹

156. The minimum standards for registration as a Chartered Professional Engineer are contained in the Rules and an initial application for registration must be supported by, amongst other requirements:⁴²

“evidence ... (if applicable):

(i) academic and other relevant qualifications; ...”

157. The assessment process for initial registration is robust and is set out in the Rules. It also appears to us that the issue at hand is one of nomenclature. There appears no suggestion the Respondent does not have tertiary engineering qualifications; merely how it is recorded in some locations may be inaccurate.
158. This is an issue from which we, and the other parties, would have greatly benefitted from the RA providing constructive input such as information from the Respondent’s initial application for registration. Alas, that was not forthcoming.
159. In that context, we consider that the CIC would have been entitled to rely on the robustness of the registration process, and that the Respondent was entitled to use the CPEng marque having met the minimum and other applicable registration requirements within the Rules.
160. Accordingly, we consider the allegations pertaining to the Respondent’s qualifications are “in relation to conduct insufficiently grave to warrant further investigation”.

Findings

Observations

161. Before we present our findings, we have observations pertaining to our Decision and the conduct of the Appeal.
162. We did not see the existence of a parallel dispute or proceedings as counting towards or against investigating a complaint against a CPEng. The Respondent and the RA suggested this was an information gathering exercise by the Appellant. That is no moment to us. It is not a reason to dismiss an appeal or a complaint that a complainant may use information

⁴¹ rule 57(ba) of the Rules.

⁴² Rule 9(1)(a)

elsewhere. Having said this, the Appellant would do well to pause and think if they were considering using information from this disciplinary process in another forum.

163. We did not see the lack of a contract between the Appellant and Respondent as counting towards or against investigating a complaint. For example, the Code of Ethics does not focus only on clients.
164. Our final observation is on the conduct within the Appeal. All positions were advanced robustly. We consider both the Appellant, and the Respondent crossed the line at times in how robustly their positions were advanced. The Appellant will consider they had a point to make but at times they crossed into hyperbole, insult and conspiracy.
165. The RA was adversarial in its approach to the Appeal. It's not usually the role of a decision maker given permission to be heard on appeal to enter the fray to defend their decision.
166. How the Appeal was conducted did not influence our Decision. However, it did increase the effort required to get to the core issues. This was an Appeal from a decision of the CIC, an "initial investigation"⁴³ stage.
167. We make this final observation on conduct to assist participants in future appeals that they might consider their approach and how it best assists the panel before them.

Decision.

168. For the reasons set out in this decision, we dismiss the Appeal. We find that:
 - a. In relation to the preparation of the Report, there is no applicable ground of discipline.
 - b. In relation to allegations on the Respondent's qualifications, we conclude this is conduct insufficiently grave to warrant further investigation.

Costs

169. CPEC is empowered to award costs on determining an appeal.⁴⁴
170. No party sought costs. Therefore, we make no order as to costs.

⁴³ To use the words from Rule 58.

⁴⁴ Section 37(5)(d) of the Act.

Right of appeal

171. In accordance with s 35 of the Act either party may appeal this decision to the District Court within 28 days.

Dated 27 February 2026

Signed by the Appeal Panel



Mark Holland

Panel Principal



Dr Carron Blom



Daniel Kennett